



AGENDA
ELGIN CITY COUNCIL
REGULAR MEETING
TUESDAY, MARCH 5, 2019
CITY ANNEX COUNCIL CHAMBERS, 310 NORTH MAIN STREET
7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. PUBLIC HEARING

VI. PUBLIC COMMENT

Individuals may request to speak on items on the agenda, and items not on the agenda, by requesting to speak during the meeting and under "PUBLIC COMMENT" and will be required to fill out a "PUBLIC COMMENT FORM" and present it, along with any material, handouts or information for Council, to the City Secretary prior to commencement of the Council meeting. Speaker comments are limited to three (3) minutes.

No formal action can be taken by the City Council on items not posted on the agenda. Items requiring a Public Hearing will allow a member of the public an opportunity to speak during the Public Hearing and does not require submission of a "PUBLIC COMMENT FORM." Speakers must address their comments to the Mayor or Presiding Officer rather than to an individual Council Member or member of Staff. All speakers must limit their comments to the specific subject matter noted on the "PUBLIC COMMENT FORM" and refrain from personal attacks or derogatory comments directed at any Council Member, member of Staff, other individual or group.

VII. PRESENTATION

1. Report By The Sustainable Food Center (Austin) On A Study For Regional Food Hub Issues

Documents:

[EX SUMMARY - TCLF.PDF](#)

VIII. CITY MANAGERS REPORT

1. Presentation Of 2018 Elgin Police Department Racial Profiling Report - EPD Chief Patrick South

Documents:

[EXSUMMARY COVER SHEET RACIAL PROFILING.PDF](#)
[ELGINPDREPORT2018 - FINAL.PDF](#)
[RACIAL PROFILING REPORT 2018 - COUNCIL.PDF](#)

2. Elgin Receives National Accreditation For Main Street Program.

Documents:

[EXECUTIVE SUMMARY NATIONAL ACCREDITATION MAIN STREET .PDF](#)
[MAIN STREET NATIONAL ACCREDITATION 19.PDF](#)

3. Recognition Of City Parks & Recreation Department's Receipt Of The 2019 Lone Star Recreation Programming Achievement Award By The Texas Recreation And Park Society (TRAPS)

Documents:

[EX SUMMARY - TRAPS AWARD.PDF](#)
[TRAPS11619.PDF](#)
[PRTRAPSAWARD22519.PDF](#)

4. Departmental Monthly Reports - January

Documents:

[EXSUMMARY SUMMARY REPORTS - JANUARY.PDF](#)
[COMMUNITY DEVELOPMENT - FEBRUARY 2019.PDF](#)
[LIBRARY REPORT - JANUARY 2019.PDF](#)
[MAIN STREET - FEBRUARY 2019.PDF](#)
[OCA REPORT JANUARY 2019.PDF](#)
[PARKS REPORT - JANUARY.PDF](#)
[PLANNIN DEPT REPORT - JANUARY.PDF](#)
[POLICE MONTHLY REPORT - JAN 2019.PDF](#)
[PUBLIC WORKS REPORT - JANUARY.PDF](#)
[UTILITY BILLING - JANUARY 2019.PDF](#)

5. General Activity Report And/Or Project Update

Documents:

[EXSUMMARY - GENERAL ACTIVITY REPORT.PDF](#)

IX. CONSENT AGENDA

All of the items on the consent agenda are considered to be self-explanatory by the Council and will be enacted with one motion, one second, and one vote. There will be no separate discussion of these items unless a council member removes an item from the Consent Agenda and places it on the New Business section for Discussion and action.

1. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CLOSURE OF CERTAIN BANK ACCOUNTS IN PROSPERITY BANK AND TRANSFERRING ACCOUNT BALANCES TO CORRESPONDING ACCOUNTS IN FIRST NATIONAL BANK AND MAKING CERTAIN FINDINGS THERETO.

Documents:

[EX SUM CLOSE BANK ACCOUNTS.PDF](#)
[RES NO TO CLOSE BANK ACCOUNTS.PDF](#)

2. Request By The Elgin Volunteer Fire Department To Waive The Open Container Ordinance And Park Curfew In Elgin Memorial Park For The 31st Annual BBQ Cook-Off.

Documents:

[EXSUMMARY - ELGINVFD.PDF](#)
[EFD LETTERHEAD.PDF](#)

3. AN ORDINANCE ACKNOWLEDGING RECEIPT OF "CERTIFICATE OF UNOPPOSED STATUS" PURSUANT TO SECTION 2.052 TEXAS ELECTION CODE; DECLARING UNOPPOSED CANDIDATES TO BE ELECTED TO THEIR RESPECTIVE OFFICES AND CANCELLING THE MAY 4, 2019 GENERAL ELECTION FOR WARDS 1, 2, AND 4; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES

Documents:

[EXSUMMARY COVER SHEET ELECTION.PDF](#)
[ORD CANCELLING ELECTION UNOPPOSED.PDF](#)
[EXHIBIT A CERTIFICATE OF UNOPPOSED STATUS.PDF](#)

4. City Council Regular Meeting Minutes - February 5, 2019

Documents:

[EXSUMMARY SHEET MINUTES.PDF](#)
[CITY COUNCIL MINUTES 2-5-19.PDF](#)

X. NEW BUSINESS

1. DISCUSSION AND CONSIDERATION OF A POLICY TO ESTABLISH AND CODIFY OBJECTIVES AND BEST PRACTICES FOR DETERMINING THE TARGETED-MINIMUM LEVELS OF UNRESTRICTED CASH BALANCES FOR THE CITY AND TO ASSIST ALL CONCERNED PARTIES IN UNDERSTANDING THE CITY'S APPROACH TO FUND BALANCE MAINTENANCE.

Documents:

[EX SUM FUND BALANCE POLICY.PDF](#)
[FUND BALANCE POLICY.PDF](#)

2. AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ELGIN, TEXAS COMBINATION TAX AND LIMITED REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019A; LEVYING AN AD VALOREM TAX AND PLEDGING CERTAIN SURPLUS REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES

Documents:

[EX SUM ORD AUTHORIZING ISSUANCE OF BONDS CO 2019A.PDF](#)
[ORDINANCEA CO 02.25.19 A.PDF](#)

3. AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ELGIN, TEXAS COMBINATION TAX AND TAX INCREMENT REINVESTMENT ZONE NUMBER ONE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019B; LEVYING AN AD VALOREM TAX AND PLEDGING CERTAIN TAX INCREMENT REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES

Documents:

[EX SUM ORD AUTHORIZING ISSUANCE OF TIRZ CO 2019B.PDF](#)
[ORDINANCEB TIRZ CO 02.25.19.PDF](#)

4. (Discussion Only) Staff Report On Various Issues Associated With An Area In The Southeast Quadrant Of The City Annexed In 2015 ("Annexed Area") And Related Matters

Documents:

[EX SUMMARY - ANNEXED AREA3.PDF](#)

5. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING A MASTER SIGN PLAN FOR SOUTHSIDE CENTER LOCATED AT SOUTHSIDE MARKET SUBDIVISION, BLOCK A, LOTS 1-4.

Documents:

[MASTER SIGN PLAN EXSUMMARY.PDF](#)
[ORD2012-11-06-25 MASTER SIGN PLAN.PDF](#)
[SOUTHSIDE CENTER MASTER PLAN 2-28.PDF](#)
[SOUTHSIDE MARKET SIGN VARIANCE 2008.PDF](#)
[SUMMARY AND RECOMMENDATIONS FOR SOUTHSIDE CENTER MASTER SIGN PLAN.PDF](#)
[RESOLUTION MASTER SIGN PLAN.PDF](#)

6. 7:30 PM A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING AN ENCROACHMENT AGREEMENT BETWEEN EDDIE AND MARIA RODRIGUEZ AND THE CITY OF ELGIN FOR THE PROPERTY LOCATED AT 405 NORTH AVENUE E AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE TO EXECUTE THE AGREEMENT.

Documents:

[RODRIGUEZ EXSUMMARY.PDF](#)
[EDDIE AND MARIA RODRIGUEZ ENCROACHMENT AGREEMENT.PDF](#)
[405 N AVE E EXHIBIT A \(002\).PDF](#)
[RESOLUTION RE- ENCROACHMENT \(00419334XA08F8\).PDF](#)

XI. EXECUTIVE SESSION

The City Council may announce that it will adjourn the public meeting at any time during the meeting and convene in Executive Session pursuant to Chapter 551 of the Texas Government Code to discuss any matter as specifically listed on the agenda and/or as permitted by Chapter 551 of the Texas Government Code.

XII. RECONVENE

The City Council will return to open session for possible discussion and action as a result of the Executive Session

XIII. ANNOUNCEMENTS

XIV. ADJOURMENT

1. GENERAL DISCUSSION

Notice of Assistance at Public Meetings, the City of Elgin is committed to compliance with the Americans with Disabilities Act. Elgin City Hall and Council Chambers are wheelchair accessible and special marked parking is available. Persons with Disabilities who plan to attend this meeting and who may need assistance are requested to contact the City Secretary's Office at (512)229-3222. Please provide forty-eight hours notice when feasible.

I, Amelia Sanchez, City Secretary for the City of Elgin, hereby certify this notice was posted at the City Hall Annex of the City of Elgin, Texas on or before Friday, March 1, 2019, in accordance with Chapter 551 of the Texas Government Code.

Amelia Sanchez, City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Report by the Sustainable Food Center (Austin) on a study for regional food hub issues

DEPARTMENT: Economic Development/Texas Center for Local Food

PROPOSED ACTION:

No Council action is requested or anticipated at this time. This item is to allow for an update by Texas Center for Local Food to Council regarding the report as described.

BACKGROUND:

To comply with a requirement of their current grant funding, the Sustainable Food Center (Austin) will be presenting a report to City Council on a recently completed study for a regional food hub. The Elgin Local Food Center is one of the recommendations in the study.

Sue Beckwith “has been working with the project team for 18 months to complete the study and will be (in attendance) to explain what a food hub is and how the Elgin Local Food Center (ELF) fits in.”

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION:

No Council action is requested or anticipated at this time

ATTACHMENTS:

None

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Presentation of 2018 Elgin Police Department Racial Profiling Report – EPD Chief Patrick South.

DEPARTMENT: Elgin Police Department

PROPOSED ACTION: Presentation and consideration of the 2018 Elgin Police Department Racial Profiling Report by the Del Carmen Consulting, LLC.

BACKGROUND: This annual report is submitted pursuant to State Law and covers the required aspects of reporting under the Racial Profiling Act.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION: Consideration of the 2018 Elgin Police Department Racial Profiling Report as presented

ATTACHMENTS:

Report PD Final, Racial Profiling Report

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- {X} Staff will provide brief comments and answer questions on this item at the meeting.
- { } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

The Elgin Police Department Annual Report 2018

PREPARED BY:

Alex del Carmen, Ph.D.



January 31, 2019

Elgin City Council
310 N. Main Street
Elgin, Texas 78621

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001, the Texas Racial Profiling Law. During the past year, the Elgin Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Moreover, in 2017, the Sandra Bland Act was passed and signed into law (along with HB 3051 which introduced new racial and ethnic designations). The Sandra Bland Law requires that law enforcement agencies in the state collect additional data and provide a more detailed analysis. All of these requirements have been met by the Elgin Police Department and are included in this report.

This particular report contains three sections with information on motor vehicle- related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Elgin Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074); which later became the Texas Racial Profiling Law. Further, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling as well as the Sandra Bland Act. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation which demonstrates compliance by the Elgin Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report includes statistical data relevant to contacts, made during the course of motor vehicle stops and in accordance with the law, between 1/1/18 and 12/31/18. In addition, this section contains the TCOLE Tier 2 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Elgin Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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- f) Designations for Racial and Ethnic Categories (H.B. 3051)
- g) The Sandra Bland Act (S.B. 1849)

(II) Responding to the Texas Racial Profiling Law

- a) Institutional Policy on Racial Profiling
- b) Public Education on Filing Compliments and Complaints—
Addressing Allegations of Racial Profiling Practices
- c) Racial Profiling Training of Law Enforcement Personnel
- d) Report on Compliments and Racial Profiling Complaints Filed on Officers
(includes outcome of investigation)
- e) Tier 2 Tables, Known Ethnicity and Race and TCOLE Form
- f) Comprehensive Analysis and Interpretation of Data

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- a) Checklist
- b) Contact Information

TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an "agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

The article further defines race or ethnicity as being of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American." The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained;
and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual

who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop;
and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax

effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;
- (4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;
- (5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;
- (6) whether a search of the vehicle was conducted and whether consent for the search was obtained;
- (7) the plea, the judgment, and whether bail was forfeited;
- (8) ~~(7)~~ the date of conviction; and
- (9) ~~(8)~~ the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as

added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 200

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

Modifications to the Original Law (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle [~~traffic~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle [~~traffic~~] stops in which a citation is issued and to arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual [~~person~~] detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency,

regardless of whether the administrator is elected, employed, or appointed, to submit [to the governing body of each county or municipality served by the agency] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [traffic] stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [traffic] stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle [traffic] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [TRAFFIC AND PEDESTRIAN] STOPS. (a) In this article, "race[÷

~~[(1) "Race]~~ or ethnicity" has the meaning assigned by Article 2.132(a).

~~[(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]~~

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance ~~[regulating traffic or who stops a pedestrian for any suspected offense]~~ shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [each] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [traffic law or ordinance alleged to have been violated or the suspected offense];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the

search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description ~~[the type]~~ of the contraband or evidence ~~[discovered]~~;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle ~~[existed and the facts supporting the existence of that probable cause]~~;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop~~[, including a description of the warning or a statement of the violation charged]~~.

SECTION _____. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle~~[, "pedestrian]~~ stop" has the meaning assigned by Article 2.132(a) ~~[means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest]~~.

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each ~~[local]~~ law enforcement agency shall submit a report containing the incident-based data ~~[information]~~ compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency ~~[in a manner approved by the agency]~~.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities ~~[determine the prevalence of racial profiling by peace officers employed by the agency]~~; and

(B) examine the disposition of motor vehicle

~~[traffic and pedestrian]~~ stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from ~~the~~ stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic or pedestrian]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b) (1) .

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle ~~[traffic and pedestrian]~~ stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle ~~[traffic and pedestrian]~~ stop

for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or

municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION _____. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 ~~[\$5]; [and]~~

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;

(7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~[and]~~

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and

(9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal

Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;

~~[and]~~

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION _____. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

(1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or

(3) a commission rule.

SECTION _____. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051

AN ACT

relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino [Native American, or Middle Eastern descent].

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino [~~, or Native American descent~~].

SECTION 3. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following
vote: Yeas 143, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following
vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

The Sandra Bland Act (S.B. 1849)

S.B. No. 1849

AN ACT

relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the

Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR
PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL
DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is
amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF
HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL

RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving

credible information that may establish reasonable cause to believe

that a defendant committed to the sheriff's custody has a mental

illness or is a person with an intellectual disability [mental

retardation], including observation of the defendant's behavior

immediately before, during, and after the defendant's arrest and

the results of any previous assessment of the defendant, the

sheriff shall provide written or electronic notice of the

information to the magistrate. On a determination that there is

reasonable cause to believe that the defendant has a mental illness

or is a person with an intellectual disability [mental

retardation], the magistrate, except as provided by Subdivision

(2), shall order the local mental health or intellectual and

developmental disability [mental retardation] authority or another

qualified mental health or intellectual disability [mental

retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision

(1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a

facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as

described by Subsection (a)(2), the trial court may, as applicable:

- (1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;
- (2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

- (3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article:

- (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

- (2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental

health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(b) Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than

100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been

arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability

[mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas] Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the indictment [same] to the accused or the accused's [his] counsel[,] at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may

demand a copy, which shall be given as early as possible

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(a) The commission shall:

- (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
- (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
- (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
- (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
- (5) revise, amend, or change rules and procedures if necessary;
- (6) provide to local government officials consultation on and technical assistance for county jails;
- (7) review and comment on plans for the construction and major modification or renovation of county jails;
- (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
- (9) review the reports submitted under Subdivision (8)

and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;

(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;

(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;

(12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;

(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;

(15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;

(16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail

administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; [and]

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

(21) [(20)] require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans

Reentry Search Service (VRSS) operated by the United States

Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(22) [(20)] adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section

511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding

month of any of the following incidents involving a prisoner in the county jail:

- (1) a suicide;
- (2) an attempted suicide;
- (3) a death;
- (4) a serious bodily injury, as that term is defined by

Section 1.07, Penal Code;

- (5) an assault;
- (6) an escape;
- (7) a sexual assault; and
- (8) any use of force resulting in bodily injury, as

that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection (a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of

executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position.

The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows:

commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

(1) topics selected by the agency; and
(2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity;

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]

(C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and

(D) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and

sexual assault; and

(ii) issues concerning sex offender

characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; [and]

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Texas Commission on Law Enforcement; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops.

The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is

amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic

law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; [and]

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; [and]

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)]. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [the] amount not to exceed \$5,000 [of \$1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report

covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and

(B) a glossary of terms relating to the information to make the information readily understandable to the public.

this Act takes effect September 1, 2017.

President of the Senate Speaker of the House

I hereby certify that S.B. No. 1849 passed the Senate on May 11, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on May 20, 2017, by the following vote: Yeas 137, Nays 0, one present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

Date

Governor

Chief Clerk of the House

(II) Responding to the Law

Institutional Policy on Racial Profiling

4/2.07.04 Bias-based Profiling

DEFINITIONS

Bias-based Profiling

The selection of an individual(s) based solely on a trait common to a group for enforcement action. This includes but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.

Racial Profiling

Law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior, or on information identifying the individual as having engaged in criminal activity, CCP Art. 3.05.

Race Or Ethnicity

A person of a particular descent, including White, Black, Hispanic or Latino, Asian or Pacific Islander, or Alaska Native or American Indian descent, Texas House Bill 3051 (2017-2018).

LAW

Articles 2.131 through 2.138 and Article 3.05 of the Texas Code of Criminal Procedures defines racial profiling and provides the bulk of applicable law regarding racial profiling regulations and monitoring requirements. Other applicable law regarding racial profiling may be found in Section 96.641 of the Education Code, Sections 1701.253 and 1701.402 of the Occupations Code, and Section 543.202 of the Transportation Code.

POLICY

Bias-based profiling in motor vehicle contacts, field contacts, and asset seizure and forfeiture is prohibited. The race, ethnicity, gender, sexual orientation, religion, economic status, age or cultural group of an individual shall not be the sole factor in:

1. Determining the existence of probable cause to take into custody or arrest an individual, or
2. In constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a motor vehicle.

This policy is established to comply with the requirements of Texas CCP Articles 2.131 – 2.138 (effective 9/1/01). The Department will strive to maintain capabilities of video/audio recording that meet the standards for an exemption to the reporting requirements in accordance with CCP Art. 2.135.

COMPLIMENTS

If citizens want to give feedback in the form of a compliment with respect to each ticket, citation, or warning issued by an officer they may do so by calling us (512-285-5757), by mailing your compliment to 202 Depot St., Elgin, Texas 78621, or e-mailing us at chiefofpolice@pd.ci.elgin.tx.us. Complimenting an Elgin Police department employee may also be done by going to <http://www.elgintx.com/241/Police-Department>, completing and submitting the form.

Verbal commendations may also be given to any department supervisor.

COMPLAINTS

Citizens who wish to file a complaint alleging an act of bias-based profiling will utilize the current complaint process as defined in Section 4/1.02.05 of the Department Manual. Officers who are the subject of a complaint will be provided a copy of any audio and/or video records pertaining to the occurrence on which the complaint is based, if a video and/or audio record was made. Other materials related to the complaint will be provided in accordance with Department policy.

Citizens may also contact the Elgin Police Department if it is believed that the conduct of an employee was inappropriate. This can be done by phone (512-285-5757), by mailing the complaint to 202-Depot St., Elgin, Texas 78621, or e-mailing it to chiefofpolice@pd.ci.elgin.tx.us. The complaint process is slightly more involved to comply with state law regarding complaints on police personnel. The complaint form may be downloaded at <http://www.elgintx.com/241/Police-Department>.

PUBLIC EDUCATION

The Office of the Chief of Police, will establish a program to provide citizens with information regarding the process for filing complaints against officers that they suspect of engaging in profiling practices. This program should include written materials explaining the process in English and Spanish.

CORRECTIVE ACTIONS

Officers who are found to be prohibiting in practices that may indicate bias-based profiling practices will be investigated in accordance within the Department Policy Manual, 4/1.02.05.

DATA COLLECTION

The Department will capture and report all data required under CCP Art. 2.132 pertaining to all Motor vehicle tickets, citation, or warning is issued and to arrests made as a result of those stops. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual; whether the officer used physical force that resulted in bodily injury, as that term is

defined in Section 1.07, Penal Code (“means physical pain, illness, or any impairment of physical condition), during the stop;

- a. The location of the stop; and
- b. The reason for the stop.

OFFICER RESPONSIBILITIES

Officers will engage in motor vehicle stops in a manner consistent with state law and Departmental policy. It ultimately is the officer’s responsibility to insure the collection and internal reporting of all required data. Communications system overload or failure does not preclude the responsibility of data collection under the law.

Motor Vehicle Stops

1. Officers will continue to conduct motor vehicle stops in accordance with Department procedures and will maximize officer safety over data-collection concerns. All information will be transmitted in a manner that minimizes radio congestion.
2. Officers will initially provide Communications with the location of the stop, license plate number, or if not available, vehicle description. (The order of this information is not mandated by this policy.)
3. If the officer conducts a vehicular or individual search, the officer will advise Communications that such a search is being made, whether the search is by consent or involuntary.
4. Officers will advise if an arrest is made as a result of the search and will make a written report in accordance with Department procedures, stating the offense charged, the probable cause for the search, (i.e. odor, plain view, furtive movements), and whether contraband was seized.

COMMUNICATIONS RESPONSIBILITIES

The Communications Unit will maintain a system of procedures to collect all data as described in *Officer Responsibilities* section above, and it will provide the necessary equipment and training to its personnel to effectively complete this process. The Communications Supervisor will coordinate with the Patrol Division Commander to establish or amend any procedures necessary to simplify data-collection methods without compromising officer safety and data-collection integrity.

The Department will ensure all Department personnel receive the TCOLE training concerning bias-based profiling mandated by Section 1701.253, Occupation Code, as well as the Department’s policy regarding racial profiling in general, as well as its information collection and reporting requirements.

PATROL DIVISION RESPONSIBILITIES

The Patrol Division Commander will insure all sworn personnel comply with the provisions of this policy and state law. These responsibilities include developing and incorporating procedures for training and conducting motor vehicle stops that support the data-collection requirements of this policy, as well as procedures that support an in-car video/audio tape recording system that complies with CCP Art. 2.135. Patrol Division supervisors will be responsible for monitoring officers assigned to them to identify potential profiling practices and provide interdictory guidance, or disciplinary referral as required. Each patrol officer's immediate supervisor will randomly review the video for at least one of his/her motor vehicle stops on a monthly basis to confirm video usage and compliance with profiling law. Each patrol officer's supervisor shall evaluate and compare the number of searches resulting from motor vehicle stops and whether contraband or other evidence was discovered in the course of those searches (SEARCH ANALYSIS), which complies with CCP Art. 2.133.

OFFICE OF THE CHIEF RESPONSIBILITIES

The Office of the Chief will be responsible for oversight of the reporting process. The office of the Chief of Police is responsible for auditing reports to ensure that the race and ethnicity of the person operating the motor vehicle is being reported. This office will conduct an annual administrative review of data collected, to include community and personnel input, in order to amend Department policies and procedures as necessary to insure compliance with bias-based profiling legislation and policy. The Department may identify other training needs based on administrative reviews of data. The office of the chief will coordinate to offer additional training related to bias-based profiling as required. This office is required to publish not later than March 1 of each year an annual report that contains information compiled during the previous year; The Office of the Chief is required to submit an annual report of the information collected to:

- i. The Texas Commission on Law Enforcement; and
- ii. The City Council in accordance with CCP Art. 2.134 (c)

Public Education on Filing Compliments and Complaints

Informing the Public on the Process of Filing a Compliment or Complaint with the Elgin Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a compliment or racial profiling complaint. In an effort to comply with this particular component, the Elgin Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a compliment and complaint on a racial profiling violation by an Elgin Police officer. In addition, each time an officer issues a citation, ticket or warning, information on how to file a compliment or complaint is given to the individual cited. This information is in the form of a web address (including in the document issued to the citizen), which has instructions and details specifics related to the compliment or complaint processes.

It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

Racial Profiling Training

Racial Profiling Training

All Elgin Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Elgin Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Elgin has been included in this report.

It is important to recognize that the Chief of the Elgin Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Elgin Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

**Racial Profiling
Course Number 3256
Texas Commission on Law Enforcement
September 2001**

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle

4. The officers visually check all observable parts of the vehicle

5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside

6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Compliments and Racial Profiling Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/18---12/31/18, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

☒ X

A check above indicates that the Elgin Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/18 ---- 12/31/18.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case

Additional Comments:

Tables Illustrating Motor Vehicle- Related Contacts

Tier 2 Data

Total stops: 2,578

1. Gender

1.1 Female: 994

1.2 Male: 1,584

2. Race or ethnicity

2.1 Black: 440

2.2 Asian/Pacific Islander: 65

2.3 White: 1,008

2.4 Hispanic/Latino: 1,065

2.5 Alaska Native/American Indian: 0

3. Was race or ethnicity known prior to stop?

3.1 Yes: 45

3.2 No: 2,533

4. Reason for stop?

4.1 Violation of law: 246

4.2 Pre-existing knowledge: 23

4.3 Moving traffic violation: 1,697

4.4 Vehicle traffic violation: 612

5. Street address or approximate location of the stop

5.1 City street: 1,022

5.2 US highway: 1,367

5.3 County road: 25

5.4 State Highway: 98

5.5 Private property or other: 66

6. Was a search conducted?

6.1 Yes: 166

6.2 No: 2,412

7. Reason for Search?

7.1 Consent: 12

7.2 Contraband in plain view: 0

7.3 Probable cause: 75

7.4 Inventory: 5

7.5 Incident to arrest: 74

8. Was Contraband discovered?

8.1 Yes: 75

8.2 No: 91

9. Description of contraband

9.1 Drugs: 62

9.2 Currency: 0

9.3 Weapons: 0

9.4 Alcohol: 3

9.5 Stolen property: 3

9.6 Other: 7

10. Result of the stop

10.1 Verbal warning: 1

10.2 Written warning: 1,149

10.3 Citation: 1,333

10.4 Written Warning and Arrest: 18

10.5 Citation and Arrest: 12

10.6 Arrest: 65

11. Arrest based on

11.1 Violation of Penal Code: 37

11.2 Violation of Traffic Law: 4

11.3 Violation of City Ordinance: 0

11.4 Outstanding Warrant: 54

12. Was physical force resulting in bodily injury used during stop?

12.1 Yes: 3

12.2 No: 2,575



**Table 1. (Motor Vehicle Contacts Including Tickets, Citations and Warnings)
(1/1/18-12/31/18)**

Race/Ethnicity	All Motor Vehicle Contacts*		Tickets or Citations		Verbal Warnings		Written Warnings	
	N	%	N	%	N	%	N	%
White	1,008	39	487	37	0	0	500	44
Black	440	17	206	15	1	100	208	18
Hispanic or Latino	1,065	41	599	45	0	0	417	36
Asian or Pacific Islander	58	2	38	3	0	0	20	2
Alaska Native or American	0	0	0	0	0	0	0	0
Middle Eastern**	7	.2	3	.2	0	0	4	.3
Other**	0	0	0	0	0	0	0	0
Total	2,578	100	1,333	100	1	100	1,149	100

*Includes stops for alleged violation of a law or ordinance, tickets/citations, and verbal and written warnings

"N" represents "number" of all motor vehicle-related contacts

**Race/Ethnicity is defined by HB 3051.

**Not Required Racial/Ethnic Components

Tier 2 Data (Motor Vehicle Contacts in Percentages)

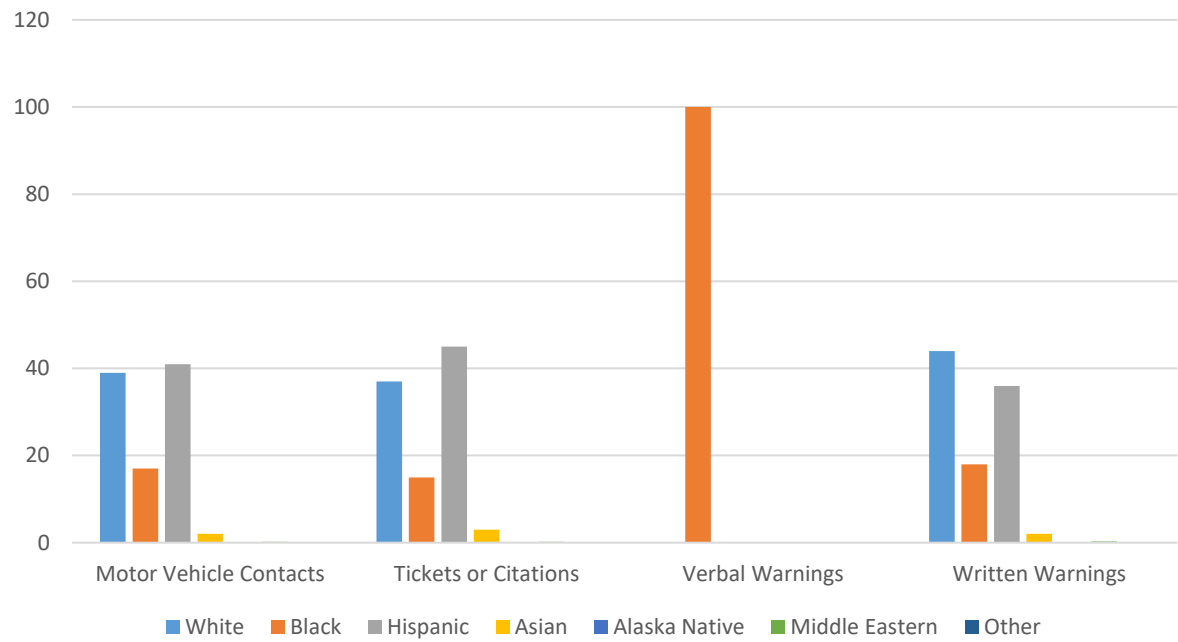


Table 2. Motor Vehicle-Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households in Elgin that have vehicle access (in percentages). (1/1/18—12/31/18)

Race/Ethnicity*	Contacts (in percentages)	Households with vehicle access (in percentages)
White	39	65
Black	17	7
Hispanic or Latino	41	23
Asian or Pacific Islander	2	4
Alaska Native or American Indian	0	.5
Middle Eastern**	.2	N/A
Other**	0	N/A
Total	100	99**

“N” represents “number” of all motor vehicle-related contacts

**Race/Ethnicity is defined by HB 3051.

**Not Required Racial/Ethnic Components

Motor Vehicle Contacts and Households
(Percentages) 2018

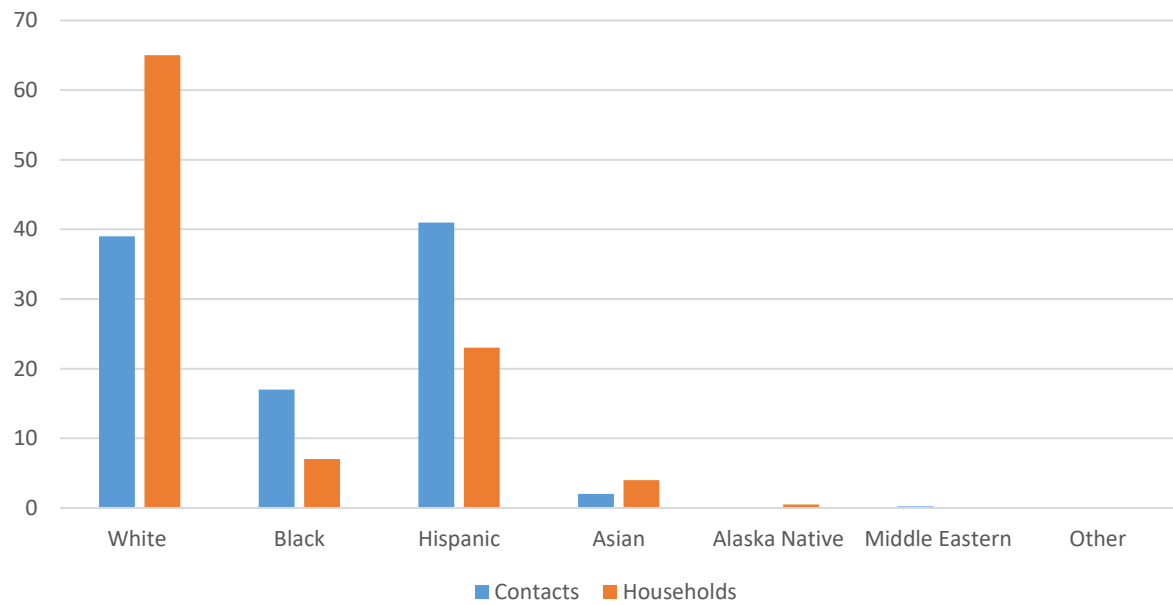


Table 3. (Motor Vehicle Searches and Arrests)
(1/1/18-12/31/18)

Race/Ethnicity*	Searches		Consensual Searches		Custody Arrests	
	N	%	N	%	N	%
White	44	27	2	17	21	22
Black	46	28	4	33	25	26
Hispanic or Latino	76	46	6	50	49	52
Asian or Pacific Islander	0	0	0	0	0	0
Alaska Native or American Indian	0	0	0	0	0	0
Middle Eastern**	0	0	0	0	0	0
Other**	0	0	0	0	0	0
Total	166	100	12	100	95	100

“N” represents “number” of all motor vehicle-related contacts

**Race/Ethnicity is defined by HB 3051.

**Not Required Racial/Ethnic Components

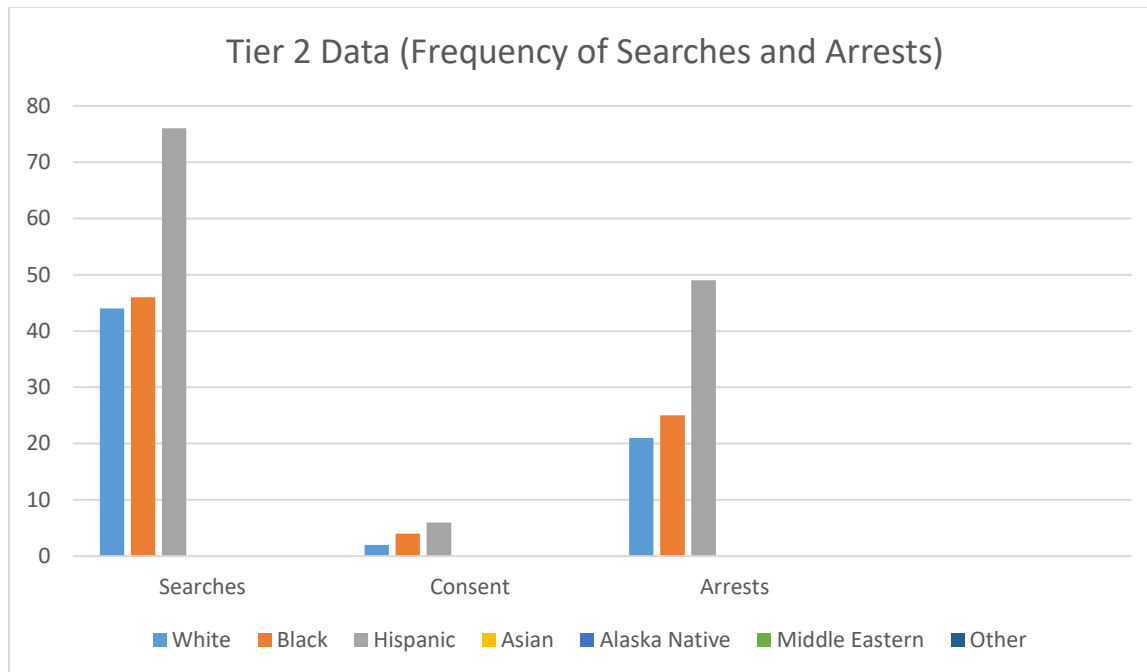


Table 4. Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/18-12/31/18)

Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained	Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained
45	2,533

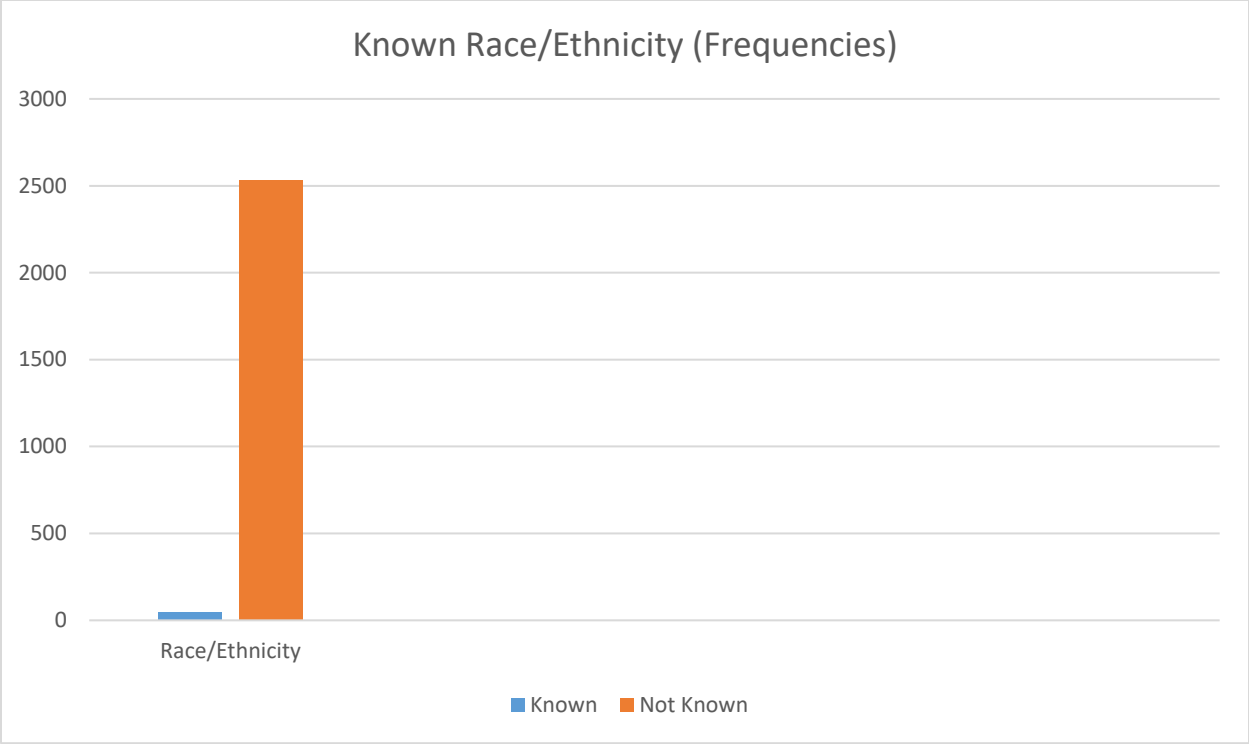


Table 5. Instances Where Peace Officers Used Physical Force that Resulted in Bodily Injury (1/1/18-12/31/18)

Instance Where Peace Officer Used Physical Force that Resulted in Bodily Injury	Location of the Stop	Reason for the Stop
Traffic Stop 4/22/18	100 Blk. N. Main	Moving Violation
Traffic Stop 9/28/18	14000 County Line Rd.	Violation of Law-DOC
Traffic Stop 9/28/18	14000 County Line Rd.	Violation of Law-DOC

**Table 6. Search Data
(1/1/18-12/31/18)**

Race/Ethnicity*	Searches		Contraband/ Evidence Found		Contraband/Evidence Not Found		Arrests	
	N	%	N	%	N	%	N	%
White	44	26	20	27	24	26	21	22
Black	46	28	19	25	27	30	25	26
Hispanic or Latino	76	46	36	48	40	44	49	52
Asian or Pacific Islander	0	0	0	0	0	0	0	0
Alaska Native or American Indian	0	0	0	0	0	0	0	0
Middle Eastern*	0	0	0	0	0	0	0	0
Other**	0	0	0	0	0	0	0	0
Total	166	100	75	100	91	100	95	100

*"N" represents "number" of all motor vehicle-related contacts

**Race/Ethnicity is defined by HB 3051.

**Not Required Racial/Ethnic Components

Table 7. Report on Audits

The following table contains data regarding the number and outcome of required data audits completed during the period 1/1/18---12/31/18.

Data Audits on Racial Profiling Data (1/1/18—12/31/18)

Number of Data Audits Completed	Date of Completion	Outcome of Audit
3	2018	Data reviewed is valid and reliable

Additional Comments:

Analysis and Interpretation of Data

Analysis

In order to understand the analysis provided in this report, it is imperative that the evolution of the Texas Racial Profiling Law and its requirements, is discussed. That is, in 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. Thus, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it was required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

The Texas Racial Profiling Law also requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if individual police officers are engaging in racial profiling, from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic or motor vehicle-related contacts.

As stated previously, in 2009, the Texas Legislature passed House Bill 3389, which modified the Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These changes included, but are were not limited to, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it required police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the 2009 law required adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year.

In 2017, the Texas Legislators passed H.B. 3051 which removed the Middle Eastern data requirement but standardized the racial and ethnic categories relevant to the individuals that came in contact with the police. In addition, the Sandra Bland Act (S.B. 1849) was passed and became law. Thus, the most significant legislative act in Texas history regarding data requirements on law enforcement contacts, became law and took effect on January 1, 2018. The Sandra Bland Act not only requires the extensive collection of data relevant to police motor vehicle contacts, but it also mandates for the data to be analyzed while addressing the following:

1. *A comparative analysis of the information compiled (under Article 2.133):*
 - a. *Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;*
 - b. *Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;*
 - c. *Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches.*
2. *Information related to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.*

In an effort to comply with The Texas Racial Profiling/Sandra Bland Law, the Elgin Police Department commissioned the analysis of its 2018 contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2018 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Whites, Blacks, Hispanics or Latinos, Asians and Pacific Islanders, Alaska Natives and American Indians (Middle Easterners and individuals belonging to the “other” category, as optional categories), that came in contact with the police in the course of a motor vehicle related contact, and were either issued a ticket, citation, warning were issued or an arrest was made. Also, included in this data were instances where a motor vehicle contact took place for an alleged violation of the law or ordinance. The Tier 2 data analysis included, but was not limited to, information relevant to the number and percentage of contacts by race/ethnicity, gender, reason for the stop, location of stop, searches while indicating the type of search performed, result of stop, basis of an arrest and use of physical force resulting in bodily injury,

The additional data analysis performed was based on a comparison of the 2018 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Elgin Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Elgin Police Department in 2018 but live outside city limits. In

some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Elgin Police Department accepted the recommendation to utilize this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to Elgin.

Tier 2 (2018) Motor Vehicle-Related Contact Analysis

When analyzing the enhanced Tier 2 data collected in 2018, it was evident that most motor vehicle-related contacts were made with males and most of the contacts were made with Hispanic drivers. This was followed by White and Black drivers. In most instances, police officers report not knowing the race or ethnicity prior to the stop. Further, they cite as the primary reason for the stop to have been a “moving traffic violation”. This was followed by “vehicle traffic violation”.

In 2018, the majority of the contacts made took place on U.S. Highways followed by City streets. The Elgin Police Department cites that most contacts did not result in a search. Of those searches made, most were based on probable cause. The second most significant reason for a search was “incident to arrest”. In addition, contraband was not found as a result of most searches. Of the contraband found, in most instances, drugs were cited as the most frequent contraband found.

The data also shows that the majority of stops resulted in a citation. This was followed by “written warning”. When an arrest was made, the most frequent reason provided was an outstanding warrant followed by violations of the penal code. Also, 3 of the contacts resulted in the use of physical force which caused bodily injury.

Comparative Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in Elgin who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of Blacks and Hispanics that came in contact with the police was higher than the percentage of Black and Hispanic households in Elgin that claimed, in the 2010 census, to have access to vehicles. With respect to Whites and Asians, a lower percentage of contacts were detected. That is, the percentage of White and

Asian drivers that came in contact with the police in 2018 was lower than the percentage of White and Asian households in Elgin with access to vehicles.

The analysis of the searches performed shows that most searches did not produce contraband. This is consistent with national law enforcement trends. Of those searches that produced contraband, the majority of them involved Hispanic contacts. This was followed by Whites.

Summary of Findings

The most recent Texas Racial Profiling Law requires that police department perform data audits in order to validate the data being reported. Consistent with this requirement, the Elgin Police Department has engaged del Carmen Consulting, LLC in order to perform these audits in a manner consistent with normative statistical practices. As shown in table 7, the audits performed have shown that the data is valid and reliable. Further, as required by law, this report also includes an analysis on the searches performed. This analysis includes information on whether contraband was found as a result of the search while controlling for race/ethnicity. The search analysis demonstrates that the police department is engaging in search practices consistent with national trends in law enforcement.

While considering the findings made in this analysis, it is recommended that the Elgin Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals.

As part of this effort, the Elgin Police Department should continue to:

- 1) Perform an independent analysis on contact and search data in future years.
- 2) Commission data audits in 2019 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The comprehensive analysis of the data included in this report demonstrates that the Elgin Police Department has complied with the Texas Racial Profiling Law and all of its requirements. Further, the report demonstrates that the police department has incorporated a comprehensive racial profiling policy, currently offers information to the public on how to file a compliment or complaint, commissions quarterly data audits in order to ensure validity and reliability, collects and commissions the analysis of tier 2 data, and ensures that the practice of racial profiling is not tolerated.

(III) Summary

Checklist



Checklist

The following requirements **were** met by the Elgin Police Department in accordance with The Texas Racial Profiling Law:

- ☒ Implement a Racial Profiling Policy citing act or actions that constitute racial profiling.
- ☒ Include in the racial profiling policy, a statement indicating prohibition of any peace officer employed by the Elgin Police Department from engaging in racial profiling.
- ☒ Implement a process by which an individual may file a complaint regarding racial profiling violations.
- ☒ Provide public education related to the compliment and complaint process.
- ☒ Implement disciplinary guidelines for officers found in violation of the Texas Racial Profiling Law.
- ☒ Collect, report and analyze motor vehicle data (Tier 2).
- ☒ Commission Data Audits and a Search Analysis.
- ☒ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ☒ Produce an annual report on police contacts (Tier 2) and present this to the local governing body and TCOLE by March 1, 2019.
- ☒ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.

Contact Information

Contact Information

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting, LLC
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

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City of Elgin Elgin Police Department

2018 Annual Racial Profiling Report Presentation

February 2019

Introduction

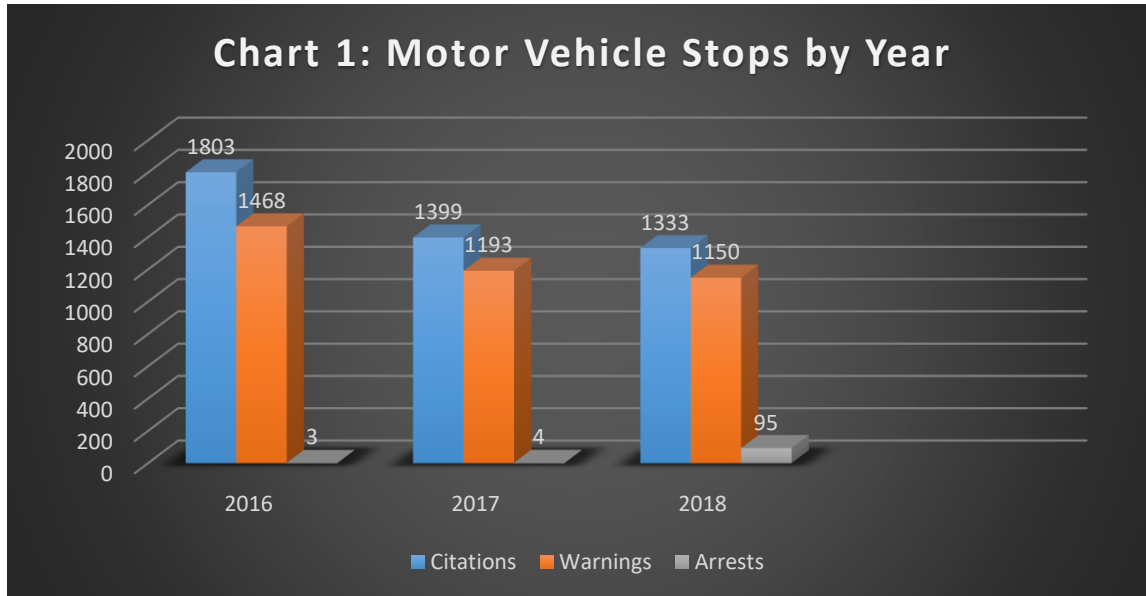
This report contains data regarding all motor vehicle stops made by Elgin Police Department police officers during 2018. The department maintains a strong stance against racial profiling; its policy and practice is to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group. The City of Elgin has a citizen complaint process where any allegations of racial profiling can be brought forward for investigation. Starting in 2018, the Elgin Police Department began using Tier 2 data collection as a result of state law and best practices.

This report contains the following:

- Motor vehicle stops in which a warning, or a citation was issued or an arrest was made - by year and by race/ethnicity (Tier 2 data for the first year)
- Searches resulting from those stops - by year, by race/ethnicity, type and arrest information
- Search results ("hit rate") - by year and by race/ethnicity
- Racial profiling complaints - including reason for contact and outcome

Motor vehicle stops resulting in a citation, a warning or an arrest:

Elgin police officers made 2578 motor vehicle contacts in 2018. This compares to 2596 motor vehicle contacts in 2017, and 3274 contacts for 2016.



- Arrests for 2016/2017 are for contacts that were cited and arrested only.
- Less than a 5% variation between 2017 and 2018 data for citations and warnings
- Arrests for 2018 totaled 95 under the following categories:
 - Outstanding warrants – 54
 - Violations of the Penal Code (such as DWI, Illegal Drugs) – 37
 - Violations of the Traffic Code (such as DWLI, No DL 3rd) – 4

Table 1: Motor Vehicle Stops by Race/Ethnicity:

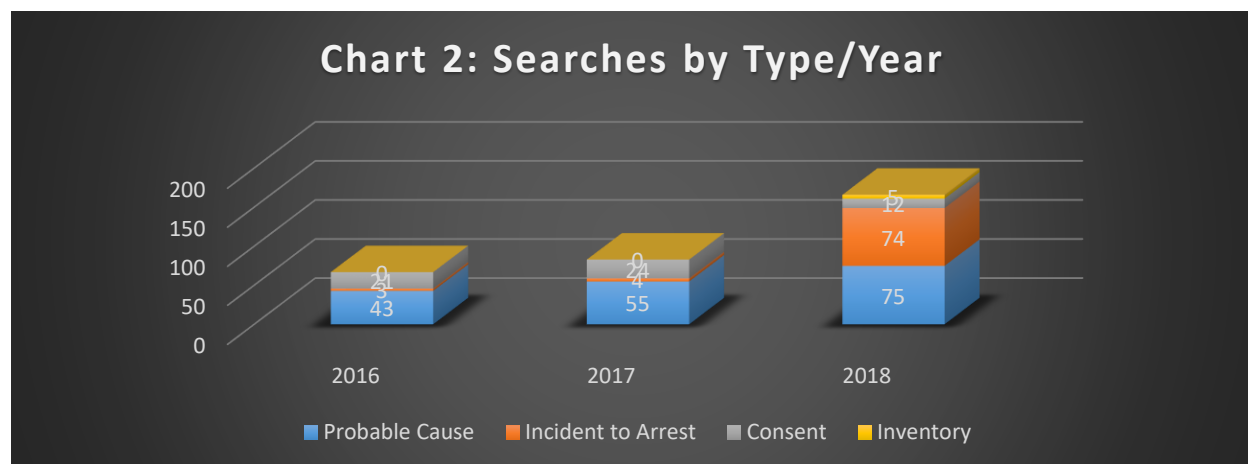
Race/Ethnicity	2016 Contacts*		2017 Contacts*		2018 Contacts	
	Count	% Total	Count	% Total	Count	% Total
Caucasian	669	37%	546	39%	1008	39%
African	295	16%	229	16%	440	17%
Hispanic	802	44%	595	42%	1065	41%
Asian	32	2%	12	0.90%	58	2%
Native American	2	0.10%	2	0.10%	0	0%
Middle Eastern	1	0.05%	8	0.60%	7	0.20%
Other	5	0.20%	11	0.80%	0	0%
Total	1806	100%	1403	100%	2578	100%

*Categories do not include warnings

- The distribution of stops by race/ethnicity in 2018 was similar to that seen in 2017. Less than 1% variation noted for each category.
- While opting to use the Fair Roads Standard for our analysis, there are various challenges with this method in being able to provide a fair and accurate report. We chose to use this method because it is the method recommended by many civil rights groups in Texas. (see Analysis section is Del Carmen report).
- Most notable in the additional analysis conducted by EPD is that of the 2578 contacts made only 674 **(26%)** reported to be residents of Elgin.

Searches resulting from motor vehicle stops

The number of searches resulting from motor vehicle contacts increased from 83 in 2017 to 166 in 2018. The search rate (searches as a percent of total contacts) was 3% during for 2017 and 6% for 2018.



Note: data for 2017 and 2016 exclude searches from warnings.

Table 2: Searches by Race/Ethnicity

	2016 Searches*		2017 Searches*		2018 Searches	
Race/Ethnicity	Count	% Total	Count	% Total	Count	% Total
Caucasian	19	28%	20	24%	44	27%
African	22	33%	24	29%	46	28%
Hispanic	26	38%	38	46%	76	46%
Asian	0	0%	0	0%	0	0%
Native American	0	0%	0	0%	0	0%
Middle Eastern	0	0%	1	1%	0	0%
Other	0	0%	0	0%	0	0%
Total	67	100%	83	100%	166	100%

*Categories do not include warnings

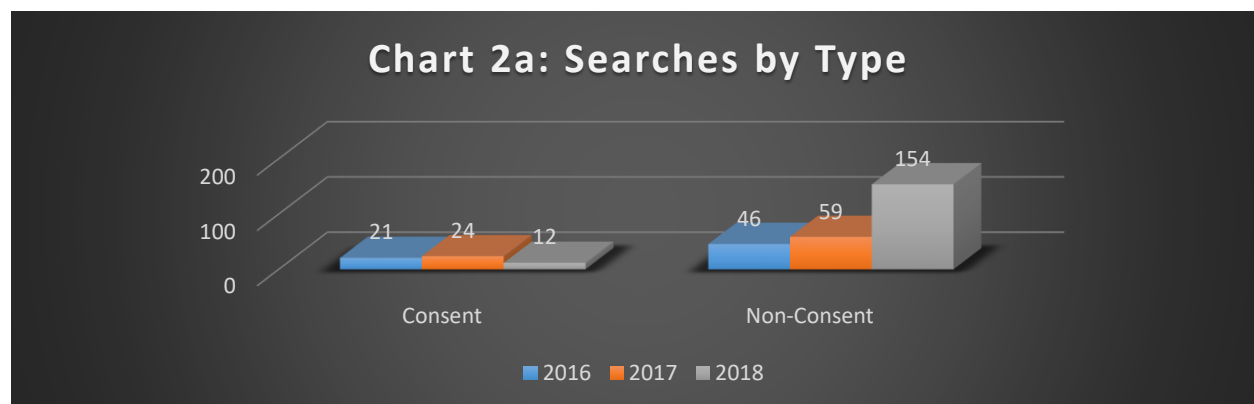
The distribution of **total** searches by race/ethnicity in 2018 were consistent with 2017 with the exception of Caucasians which increased by 3%.

Searches resulting from motor vehicle stops by search type

Searches that result from motor vehicle stops can be categorized as **consent or non-consent searches**:

- **Consent searches** occur when the officer asks for permission to conduct the search and the citizen consents to be searched. Under most circumstances, a driver must give permission for a search in writing before a consent search can be initiated.
- **Non-consent searches** occur after an arrest or if the officer develops probable cause. Probable cause requires reasonable grounds to suspect a person has committed or is committing a crime and gives an officer the legal authority to search without consent.

The following shows the distribution of total searches by type for 2016 through 2018.



- Consent searches decreased from 24 in 2017 to 12 in 2018 (50% decrease).
- 2016 and 2017 data does not include searches from warmings.

EPD Policy 4/2.03.02 Motor Vehicle Searches and 4/2/03.05 Warrant-Less Search and Seizure has been amended to reinforce that officers should be deliberate when making search decisions:

Officers should be aware that overuse of the consent search can negatively impact the Department's relationship with our community and only request a consent search when they have an articulable reason why they believe the search is necessary and likely to produce evidence related to an investigation.

A consent to search form was implemented that must be completed by the officer and signed by the violator on video prior to conducting a consent search. This process is tracked, and reviewed by supervisors to ensure consistent and professional practices.

Searches resulting from motor vehicle stops: by search type, race/ethnicity and arrest data

Table 2a: Search Types and Arrests by Race/Ethnicity (2017)

Race/Ethnicity	Searches		Consent Searches		Arrests	
	Count	% Total	Count	% Total	Count	% Total
Caucasian	20	24%	7	29%	1	25%
African	24	29%	7	29%	1	25%
Hispanic	38	46%	10	42%	2	50%
Asian	0	0%	0	0%	0	0%
Native American	0	0%	0	0%	0	0%
Middle Eastern	1	1%	0	0%	0	0%
Other	0	0%	0	0%	0	0%
Total	83	100%	24	100%	4	100%

Table 2b: Search Types and Arrests by Race/Ethnicity (2018)

Race/Ethnicity	Searches		Consent Searches		Arrests	
	Count	% Total	Count	% Total	Count	% Total
Caucasian	44	27%	2	17%	21	22%
African	46	28%	4	33%	25	26%
Hispanic	76	46%	6	50%	49	52%
Asian	0	0%	0	0%	0	0%
Native American	0	0%	0	0%	0	0%
Middle Eastern	0	0%	0	0%	0	0%
Other	0	0%	0	0%	0	0%
Total	166	100%	12	100%	95	100%

- Considering the 2017 data (Tier 1) is a subset of the data used for 2018 (Tier 2) the percentages are consistent between years.
- In 2018, 6% of contacts resulted in searches and 4% resulted in arrest.
- Percentages for Hispanic arrests/searches included: 43% warrants, 30% DWI, 15% POCS, 12% other. All were non-discretionary and in compliance with current policy.

Searches resulting from motor vehicle stops: “hit rates”

Productive searches or “hits” are searches where contraband is found (e.g., drugs or weapons). The table below shows that, for all searches, the average hit rate was 52% in 2017.

Table 3: Search Hit Rates – All Searches

Race/Ethnicity	2017			2018		
	Hits	Searches	Hit Rate	Hits	Searches	Hit Rate
Caucasian	12	20	60%	20	44	45%
African	12	24	50%	19	46	42%
Hispanic	18	38	47%	36	76	47%
Asian	0	0	0%	0	0	0%
Native American	0	0	0%	0	0	0%
Middle Eastern	1	1	100%	0	0	0%
Other	0	0	0%	0	0	0%
Total	43	83	52%	75	166	45%

- Searches incident to arrest are not made primarily for evidentiary purposes but for safety prior to transporting. 74 searches were made incident to an arrest which ordinarily will not produce discovery of contraband. For 2018, 5 of the 74 resulted in finding contraband. When this data is removed this actual “hit rates” for discretionary searches increase.

	2018		
	Hits	Searches	Hit Rate
Total with Searches Incident to Arrest	75	166	45%
Adjusted Total	70	92	76%

Because consent searches involve increased officer discretion and judgment (as compared to non-consent searches), it is important to examine these hit rates separately. The average hit rate for consent searches in 2017 was 29%. With training, new policies and documentation requirements in place, the hit rate for consent searches in 2018 increased to 75%.

The relatively high hit rates across races/ethnicities reflects that profiling is not occurring.

Racial profiling complaints:

For 2018 there were no complaints received related to racial profiling.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Elgin receives National Accreditation for Main Street program.

DEPARTMENT: Community Development

PROPOSED ACTION: Accept award for National Accreditation for the Elgin Main Street Program from the National Main Street Center / Main Street America.

BACKGROUND: Elgin is a Texas Main Street City. Participating in this grass roots program through the Texas Historic Commission makes the community eligible for National Accreditation. To achieve accreditation, local programs provide evidence of annual progress under selection criteria including engaged partnerships, staffing, volunteer efforts, preservation ethic, physical improvements in the district, and growth in program capacity. The state office also works with programs throughout the year providing services catered to local needs.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X } N/A

RECOMMENDATION: Accept award and have a photo opportunity with Main Street board members and partners.

ATTACHMENTS:

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- {X} Staff will provide brief comments and answer questions on this item at the meeting.
- { } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



FOR IMMEDIATE RELEASE

February 25, 2019

For more information contact:
Amy Miller, Main Street Manager
(512) 229-3213 (office)
(512) 801-5748 (cell)

Elgin Main Street Program Recommended for National Accreditation

The Texas Main Street Program (TMSP) of the Texas Historical Commission (THC) has recognized the City of Elgin for successful annual progress in carrying out national performance standards for a Main Street community. Elgin is one of 68 to be recommended this year.

“Since 1981, many Texas communities have participated in the Main Street network and used its preservation-based framework to generate positive economic gains for their local economies and the state,” said THC Executive Director Mark Wolfe. “These positive strides happen because of local commitment to prioritize historic downtowns.”

Upon final approval by the National Main Street Center/Main Street America™, these local programs will be announced as nationally accredited during the Main Street Now conference March 25–27 in Seattle, Wash. “It is my pleasure to serve a city that has as much pride in its local downtown culture as it does in its progressive attitude for growth. Living and working on Main Street in the city of Elgin, I am able to wake up to a true Texas gem, my family and I will always remember the experience of living downtown.” Elgin has 24 new loft apartments, fifteen new businesses, and ten recent building restorations. You can enjoy 2nd Thursdays with Sip Shop and Stroll, at events throughout the year such as the Elgin Art Studio Tour, the Hogeye Festival and Christmas events, as well as visiting anytime for live music, delicious dining options, and a variety of local businesses.

To achieve accreditation, local programs provide evidence of annual progress under selection criteria including engaged partnerships, staffing,

volunteer efforts, preservation ethic, physical improvements in the district, and growth in program capacity. The state office also works with programs throughout the year providing services catered to local needs. Ed Rivers, Main Street Board President shared “I feel like an outsider can look at Elgin and see through our downtown that the citizens and city leaders have a dog in the hunt, so to speak. The Main Street program’s accomplishments could not have happened without the continuing support of the Mayor, City Council, City Staff, property and business owners and our many community partners. So congratulations to all who have had a hand in making the Elgin Main Street Program a success for so many years, and for making Elgin Our Town.”

“The annual reporting process recognizes the hard work of local programs, and we commend the dedication of city leaders, program staff, local volunteers, and partners who make it possible,” said Debra Drescher, TMSP state coordinator.

The TMSP began in 1981 as one of the first state-coordinating programs in the country. Local Main Street programs focus on responsibly utilizing a community’s historic assets for economic benefit and increased quality of life. During 2018, more than \$180 million was reinvested into Texas’ 89 Main Street districts. Additionally, 427 small businesses and 1,480 jobs were created. During 2018, the state network reached an important milestone when \$4 billion in historical reinvestment was reached and surpassed.

For additional information about the national Main Street effort, visit mainstreet.org. For more information on the THC’s Texas Main Street Program, visit thc.texas.gov/mainstreet.

About Elgin

The City of Elgin is a historic, full-service city that is currently home to approximately 10,000 residents located in northern Bastrop County. Elgin has been designated by the Texas Legislature as “The Sausage Capital of Texas” and is an important stop on the US Hwy290 corridor between Austin and Houston. For more information about Elgin, please visit www.elgintx.com

About the Elgin Main Street program

Elgin, a Texas Main Street City since 1990, has had over \$21 million in reinvestment in the downtown district. 2016 – 2018 ten buildings were restored in downtown Elgin, fifteen new businesses opened. Public & Private sector reinvestment during that period totaled \$3.4 million. Elgin was recognized with

the Texas Downtown Association Presidents Award – Best Economic Game Changer for the Downtown zoning Overlay in 2018. Main Street is a national program, coordinated through the Texas Historic Commission to support historic preservation in the context of economic Development, focusing on four points – Design, Organization, Economic Restructuring and Promotion. The grass roots based, volunteer driven program organizes events throughout the year including the award-winning event, The Hogeye Festival, and Sip Shop and Stroll in partnership with the City of Elgin. Visit elgintx.com or Facebook and Instagram VisitElginTx.

* * *



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Recognition of City Parks & Recreation Department's receipt of the *2019 Lone Star Recreation Programming Achievement Award* by the Texas Recreation and Park Society (TRAPS)

DEPARTMENT: Parks & Recreation

PROPOSED ACTION:

No Council action is requested or anticipated at this time. This item is to acknowledge receipt of the statewide award as described herein

BACKGROUND:

Last November, the Parks & Recreation Department (PARD) designed, staffed and executed for the first time ever a program called "*S'mores in the Park.*" Seventy-one (71) people attend on a chilly 35-degree evening and everyone seemed to enjoy it with plenty of positive feedback. The event also had a lot of traction on Facebook with 363 People interested. This was a free event for the public, PARD staff acquired all of the decorations and supplies and the department only spent \$3.23 per person to put on the event.

Parks Director Michael Gonzalez: "What made this program unique is that we focused on community engagement and interaction in a local park highlighting some existing park features (the old brick fire pits int Elgin Memorial Park that we used to toast S'mores.) Elizabeth Marec had only been with the department about a month when she committed to this and this is only her fourth program that she has hosted as a parks professional."

The program was submitted to the Texas Recreation and Park Society (TRAPS) and, even though it was compared to many great parks programs throughout the state, our team received the *2019 Lone Star Recreation Programming Achievement Award* for our "*S'mores in the Park*" event.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION: No Council action is requested or anticipated at this time

ATTACHMENTS: None

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

PRESIDENT

Stacie Anaya, CPRP
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E-Mail: sanaya@cityoflewisville.com

EXECUTIVE DIRECTOR

Dr. Michal Anne Lord
CPRP, TRS/TXC



January 16, 2019

Dear Elizabeth Marzec:

It is with enthusiasm that we are writing in regards to the Texas Recreation and Park Society (TRAPS) 2019 State Awards. Your agency and/or representative was selected as the award recipient for the 2019 Lone Star Recreation Programming Achievement Award, Class IV.

The awards committee had many wonderful entries to score and it was a difficult task. Your nomination stood out above the rest to exemplify commitment and dedication in the field of recreation. We are honored to present this award to you and for your commitment to excellence in all that you do in your daily pursuits.

I hope this process allowed you to see the amazing programs, services, and people your agency had to offer. In keeping with the TRAPS Mission: *Texas Recreation and Park Society advances the quality of life industry through Connections, Advocacy, Resources and Education (C.A.R.E.)* Your agency and/or representative exemplified this acronym with tenacity.

On behalf of the Texas Recreation & Park Society and the Awards Committee congratulations! We look forward to seeing you in attendance at the Awards Ceremony, Thursday, February 21 at 7:00 pm at the El Paso Convention Center, 1 Civic Center Plaza, El Paso, TX 79901 where your award will be presented for all to witness.

Respectfully,

Andy Hesser

Andy Hesser
Chair, Awards Committee 2018-2019



FOR IMMEDIATE RELEASE

February 25, 2019

For more information contact:
Elizabeth Marzec, Prog Manager
Parks & Recreation
(512) 285-6434 (office)
(737) 666-5007 (cell)

Parks and Recreation Department Wins Statewide Programming Award

The City of Elgin announced today that its Parks & Recreation Department was named the recipient of the *2019 Lone Star Recreation Programming Achievement Award* by the Texas Recreation and Park Society (TRAPS) for its “S’mores in the Park” event.

TRAPS is a statewide professional development organization that supports and encourages all aspects of park and recreation programming and development. The 2019 TRAPS awards committee determined that while there were many deserving nominations from across the state, Elgin’s “S’mores in the Park” event “stood out above the rest to exemplify commitment and dedication in the field of recreation;” and that this award was recognition of the department’s “commitment to excellence in all that you do in your daily pursuits.”

“While I am very proud and excited for our parks staff about this statewide recognition, I am not really surprised,” said City Manager Tom Mattis. “This award provides further evidence of the standard of excellence already established within our community by the parks & recreation department.”

Last week, three members of the Elgin Parks and Recreation Department made the trek to the TRAPS statewide convention in El Paso. During this event professionals from around Texas came together to participate in inspiring hands on exercises, thoughtful discussions and continuing education courses in topics ranging from aquatics and land maintenance to programming and management.

A unique facet of the Parks and Recreation field is the willingness and openness of those in this career path to share their ideas and experiences. As a team, the Elgin Parks and Recreation

representatives were offered the opportunity to engage others in the field to gain perspective and learn from them to continue our efforts to provide the best park services possible to our community.

“We are obviously focused on serving the unique recreational needs and programming that serves the citizens of Elgin,” said Parks & Recreation Director Michael Gonzalez. “At the same time, it is very rewarding for our staff to receive this statewide recognition by our professional colleagues.”

The conference is not only for education but to acknowledge the hard work and perseverance of Parks and Recreation departments from around the state. During the banquet on the final day, departments around the state were recognized and were presented awards for excellence in maintenance, volunteerism, programming, park design and more. Parks Director Michael Gonzalez, Program Manager Elizabeth Marzec, and Admin Assistant Kayla Trantham accepted the award on behalf of the Elgin Parks & Recreation Department.

The Elgin Parks Department is committed to providing program excellence and offers many opportunities to connect the Elgin community with recreational activities and each other. For those who missed our “S’mores in the Park” event last year, you can find our other stellar programming available online and, in our program, guide available at the Elgin Recreation Center and select sites downtown.

* * *

About Elgin

The City of Elgin is a historic, full-service city that is currently home to approximately 10,000 residents located in northern Bastrop County. Elgin has been designated by the Texas Legislature as “The Sausage Capital of Texas” and is an important stop on the US Hwy290 corridor between Austin and Houston. For more information about Elgin, please visit www.ci.elgin.tx.us.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Monthly Departmental Activity Reports - January

DEPARTMENT: Administration

PROPOSED ACTION:

Departmental reports are informational only for City Council and no action is required.

BACKGROUND:

Routine monthly reports submitted by departments.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION:

No action is required.

ATTACHMENTS:

Community Development, Library, Main Street, Parks and Rec, Planning Dept., Police Department, Public Works, Utility Billing, and Water Department December reports.

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



MEMORANDUM

To: Tom Mattis, City Manager
From: Amy Miller, Community Development Director
Date: February 13, 2019
RE: Community Development Department Report January 2019

Property owners directly affected by the proposed alignment of an expanded FM 1100 met with TXDOT and City officials. An Open house is being planned for late spring with TXDOT. Main Street adopted a public art plan at their meeting. The Historic Review board received preliminary plans for the restoration of 110 South Main Street, 10,000 sq. ft. structure to include commercial space and loft apartments; and a preliminary application for window replacement 19 North Main street, a 6,000 sq. ft structure to have loft apartments and Joseph's steakhouse. Held board member trainings for new appointees to Main Street Board and Historic Review Board. Working with volunteers to plan Local Lore Elgin's History Adventure with the Elgin Historical Association and The Elgin Art Studio Tour with local art studios and the Elgin Arts Association. Coordinating website training and the overall redo of the elgintx.com website.

Projects

- Met with Austin realtors and developers for January 2019.
- Held reception with Sip Shop & Stroll to Recognize the TDA award winner Best Economic Game Changer Downtown Elgin Zoning Overlay and the Business finalist Body & Shine
- Held Community Blood Drive with 21 successful donations.
- Business Retention and Expansion meetings with EDC and Chamber
- Finalized plans for Black History month event, Hatitude.
- Discussion of possible Pop up Park event with Parks Department for spring event in 200 block Depot Street.
- Held a group meeting with TXDOT and property owners about FM 1100.
- Planning for 2019 Events calendar.
- Review of the City website and plans for makeover in early 2019. Setting up training for city staff on website updates.
- Organized Walk and Bike to School for January through May 2019.
- Continued work on a CDBG Utility grant with the Utilities Department
- Met with potential buyers and realtors for properties downtown.

- Met with property owners about renovation plans and possible tenants.
- Met with business owners seeking lease space.
- Providing support for Website updates
- City of Elgin E-News
- Social Media: Visit Elgin, Envision Elgin Instagram – visitelgintx

Boards & Committees, Seminars

CAMPO TAC , Advisory Committee

Main Street Board

Historic Review Board

Promotion Tourism Committee

Design Committee

Business Retention Recruitment Committee

District Advisory Committee EISD

School Health Advisory Committee

Clean Air Coalition Advisory Committee meeting

Regional Arterials Steering committee for CAMPO

Upcoming Events

Hatitude, Black History Month celebration February 2

Sip Shop Stroll February 14

Elgin Main Street Program

VISION STATEMENT: We envision a revitalized and active historic downtown destination with warm hearted friendly people and vital businesses, where ethnic and cultural diversity are celebrated.

MISSION STATEMENT: We will enhance downtown vibrancy through historic preservation and mixed use and pedestrian friendly development, by strategically implementing the National Main Street Four Point Approach of: Design, Organization, Promotion and Economic Restructuring

CORE VALUES (if you have done this): Through a strong belief that historic preservation of our irreplaceable cultural resources in the historic downtown district is vital to the revitalization and economic success of our community, we are committed to supporting responsible repurposing of historic structures and new construction that supports mixed use development through partnerships and a persistent effort to support community focused development and promotions.

Library Report to Elgin City Council
January 2019

Circulation was down 3% from the previous January with the collection size down 2%.

Friends of the Elgin Library are planning a Literary Event in March with Texas Tales, Stories That Shaped a Landscape and a People by Myra Hargrave McIlvain. A Grown-Up Games Gala is planned on March 29th.

Jaimie Hicks made a grant request of the Woll Foundation for children's book funding. The winner is announced at the TLA library conference. The library purchased 2 library bound copies of the Texas Bluebonnet Reading list books for 2019-2020 program funded by Walmart Foundation grant.

We had the Texas Bluebonnet Award voting on January 18 with 12 youngsters receiving the Texas Bluebonnet Voter's Registration Card and casting their ballot.

The slightly used server with upgraded software is installed into the library's network and the network is running much smoother.

Wi-fi use, program visitors and volunteer hour statistics were up in January.

Categories	Units	Jan. '18	Jan. '19	Fiscal YTD'18	Fiscal YTD '19
Total Circulation		6,303	6,117	29,514	25,770
+ or - Same month previous year	Percent	7%+	3%-		
Additions					
Interlibrary Loans	Each	20	12	57	37
New Patrons	Each	73	71	308	243
Collection					
Items Added	Each	225	346	766	979
Items Withdrawn	Each	356	1615	1,393	2,688
Total Collection	Each	37,333	36,476	37,333	36,476
General Statistics					
Gate Count		3,313	3,648	13,835	14,929
Hours Open	Each	171	171	634	633
Library Tours	Each	0	18	0	53
Program Visitors	Each	177	319	1,077	1,896
Public Computer Use	Hours	448	361	1,625	1,353
Patrons using computers	Each	703	595	2,590	2,098
Wifi Patron Use		549	771	1,672	3,428
Volunteer Hours	Each	153	172	660	662
Receipts					
		\$1,196	\$2,040	\$6,800	\$6,345
Civic Center Use					
City	Each	6	4	38	15
Library	Each	31	28	74	101
Public Rental	Each	1	4	10	14
Other - not for profit	Each	7	10	11	20
Total Civic Center Use		45	46	133	150



MONTHLY ACTIVITY REPORT

For the local program, monthly reports are a way to track and document progress of both the program and the downtown revitalization effort. It is also an effective tool to use for updating the board on the program's overall activities and for communicating your progress to stakeholders, such as City Council and other funding entities. For the state office, monthly reports help us provide more direct and effective services by giving us a way to spot trends, challenges, issues etc. The report should reflect BOTH the work of staff and volunteers. While not all programs use the traditional four-committee structure any longer, the work of all programs should still be able to be reflected in the four-point categories below.

The Monthly Report is **due by the 10th of each month**. Please use this electronic version and email to mainstreet-reports@thc.texas.gov

CITY: _____Elgin_____

MONTH/YEAR: ____January 2019_____

DATE SUBMITTED: ____2-10-2019_____

1. Updates on Projects, Activities for the month.

MAIN STREET BOARD: *(After typing, TAB to the next cell)*

Meeting Dates:	Update on projects or activities
January 17, 2019	Board welcomed new members Krista Marx and Sherri Rivers. Discussion of parking requirements in the downtown area for new construction and for restoration projects. Discussed pedestrian safety in the downtown area – concerns about crossing Main Street especially at First Street and speed of traffic. The business survey will be emailed to board members in February for review The Design committee presented a Public Art Plan for consideration. The plan includes an overview of community engagement activities during past year and highlights targeted projects for the future. Board approved the Public Art Plan.

ORGANIZATION: *(After typing, TAB to the next cell)*

Meeting Dates:	Update on projects or activities
Online	Started work drafting new volunteer and main street program recruitment & Awareness rack cards.

PROMOTION:

Meeting Dates:	
January 10, 2019	Sip Shop and Stroll January 10. Planned themes for Sip Shop and Stroll through the year. February 14 Valentines Celebration March all things St Patrick etc.
	Began planning the Elgin Art Studio Tour for May 18 -19 . Committee meets at The Clever Tiger
	Started planning Local Lore for April 13 – committee meets at he Depot Museum.
	Initial work started on the Hogeys Festival
	Window décor contest and themes scheduled.

Email to: Mainstreet-reports@thc.texas.gov

DESIGN:

Meeting Dates:	Update on projects or activities
January 8, 2019	Continued discussion about a pop up park in the spring in 200 block of Depot Street. started Planning for mural project in 2019. Considered how this could relate to Music in the Park Series or to Art Tour weekend. Discussed Elgin sign made from bricks – there’s still interest in that – Acme may be a source for materials.

ECONOMIC VITALITY/DOWNTOWN ECONOMIC DEVELOPMENT:

Meeting Dates:	Update on projects or activities
January 17, 2019	Discussed parking enforcement downtown. Individual meetings with owners and employees about where to park and that illegal parking yields a ticket. Held Reception to recognize TDA awards.

2. Program Commentary *(list critical issues, problems, and successes/ completed projects of the past month):*
3. Outlook. *Goals and challenges; plans for upcoming major projects such as public improvements etc.:*
4. Suggestions for Texas Main Street Center *(list suggestions on services or training topics; new resources; questions):*
5. Main Street in the News. *We would love to spotlight your upcoming events in our Main Street Matters e-newsletter, please email Mainstreet-reports@thc.texas.gov with the information. We ask that you do not send in events that have already taken place, send in future events for as many months as possible.*

January 10 - Sip Shop and Stroll Reception for TDA Award winners

February 14 – Sip Shop and Stroll Valentine’s day celebration

March 14 – Sip Shop and Stroll All things Irish

April 11 Sip Shop and Stroll Easter theme

April 13 – Local Lore Elgin’s History Adventure

May 9- Sip Shop and Stroll Imagine the Possibilities tour

May 18-19 – Elgin Art Studio Tour

Elgin Main Street

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Email to: Mainstreet-reports@thc.texas.gov

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Email to: Mainstreet-reports@thc.texas.gov

OFFICE OF COURT ADMINISTRATION

TEXAS JUDICIAL COUNCIL



OFFICIAL MUNICIPAL COURT MONTHLY REPORT

Month January

Year 2019

Municipal Court for the City CITY OF ELGIN

Presiding Judge Amanda Carter

If new, date assumed office

Court Mailing Address P.O. BOX 591

City ELGIN

, TX Zip 7-8621

Phone Number (512) 281-0318

Fax Number

Courts Public Email

Court's Website

THE ATTACHED IS A TRUE AND ACCURATE REFLECTION OF THE RECORDS OF THIS COURT

Prepared by Yadira Duque

Date Feb 15, 2019

Phone Number (512) 281-0318

PLEASE RETURN THIS FORM NO LATER THAN 20 DAYS FOLLOWING THE END OF THE MONTH REPORTED TO:

OFFICE OF COURT ADMINISTRATION

P O BOX 12066

AUSTIN, TX

78711-2066

PHONE: (512) 463-1625

FAX: (512) 936-2423

CRIMINAL SECTION

City of CITY OF ELGIN

Month January Year 2019

	Traffic Misdemeanors			Non-Traffic Misdemeanors		
	Non-Parking	Parking	City Ordinance	Penal Code	Other State Law	City Ordinance
1. Total Cases Pending First of Month:	13,139	13	0	0	2,579	18
a. Active Cases	8,992	11	0	0	1,192	1
b. Inactive Cases	4,147	2	0	0	1,387	17
2. New Cases Filed	227	1	0	0	40	4
3. Cases Reactivated	40	0	0	0	20	0
4. All Other Cases Added	0	0	0	0	0	0
5. Total Cases on Docket	9,259	12	0	0	1,252	5
6. Dispositions Prior to Court Appearance or Trial						
a. Uncontested Dispositions	100	0	0	0	22	1
b. Dismissed by Prosecution	10	0	0	0	1	0
7. Dispositions at Trial:						
a: Convictions						
1) Guilty Plea or Nolo Contendere	11	0	0	0	6	4
2) By the Court	0	0	0	0	0	0
3) By the Jury	0	0	0	0	0	0
b: Acquittals:						
1) By the Court	0	0	0	0	0	0
2) By the Jury	0	0	0	0	0	0
c. Dismissed by Prosecution	0	0	0	0	0	0
8. Compliance Dismissals:						
a: After Driver Safety Course	28					
b: After Deferred Disposition	2	0	0	0	3	0
c: After Teen Court	0	0	0	0	0	0
d: After Tobacco Awareness Course					0	
e: After Treatment for Chemical Dependency				0	0	
f: After Proof of Financial Responsibility	2					
g: All Other Transportation Code Dismissals	0	0	0	0	0	0
9. All Other Dispositions	3	0	0	0	3	0
10. Total Cases Disposed	156	0	0	0	35	5
11. Cases Placed On Inactive Status	52	0	0	0	20	0
12. Total Cases Pending End of Month:	13,210	14	0	0	2,584	17
a: Active Cases	9,051	12	0	0	1,197	0
b: Inactive Cases	4,159	2	0	0	1,387	17
13. Show Cause Hearings Held	19	0	0	0	9	3
14. Cases Appealed:						
a: After Trial	0	0	0	0	0	0
b: Without Trial	0	0	0	0	0	0

JUVENILE / MINOR ACTIVITY

Court CITY OF ELGIN	TOTAL
Month January Year 2019	
1. Transportation Code Cases Filed	2
2. Non-Driving Alcoholic Beverage Code Cases Filed	8
3. Driving Under the Influence of Alcohol Cases Filed	0
4. Drug Paraphernalia Cases Filed	1
5. Tobacco Cases Filed	0
6. Failure to Attend School Cases Filed	0
7. Education Code (Except Failure to Attend) Cases Filed	0
8. Violation of Local Daytime Curfew Ordinance Cases Filed	0
9. All Other Non-Traffic Fine-Only Filed	2
10. Transfer to Juvenile Court:	0
a. Mandatory Transfer	
b. Discretionary Transfer	0
11. Accused of Contempt and Referred to Juvenile Court (Delinquent Conduct)	0
12. Held in Contempt by Criminal Court (Fined and/or Denied Driving Privileges)	0
13. Juvenile Statement Magistrate Warning:	0
a. Warnings Administered	
b. Statements Certified	0
14. Detention Hearings Held	0
15. Orders for Non-Secure Custody Issued	0
16. Parent Contributing to Nonattendance Cases Filed	0

ADDITIONAL ACTIVITY

Court CITY OF ELGIN		Number Given	Number Requests For Counsel
Month January	Year 2019		
1. Magistrate Warnings:		10	
a. Class C Misdemeanors			
b. Class A and B Misdemeanors		9	4
c. Felonies		3	3
			TOTAL
2. Arrest Warrants Issued:			72
a. Class C Misdemeanors			
b. Class A and B Misdemeanors			0
c. Felonies			0
3. Capiases Pro Fine Issued			60
4. Search Warrants Issued			0
5. Warrants for Fire, Health and Code Inspections Filed			0
6. Examining Trials Conducted			0
7. Emergency Mental Health Hearings Held			0
8. Magistrate's Orders for Emergency Protection Issued			0
9. Magistrate's Orders for Ignition Interlock Device Issued			0
10. All Other Magistrate's Orders Issued Requiring Conditions for Release on Bond			0
11. Driver's License Denial, Revocation or Suspension Hearings Held			0
12. Disposition of Stolen Property Hearings Held			0
13. Peace Bond Hearings Held			0
14. Cases In Which Fine and Court Costs Satisfied by Community Service:			0
a. Partial Satisfaction			
b. Full Satisfaction			3
15. Cases in Which Fine and Court Costs Satisfied by Jail Credit			10
16. Cases in Which Fine and Court Costs Waived for Indigency			0
17. Amount of Fines and Court Costs Waived for Indigency			\$0.00
18. Fines, Court Costs and Other Amounts Collected:			\$25,223.06
a. Kept by City			
b. Remitted to State			\$15,799.59
c. Total			\$41,022.65

Michael Gonzalez
Parks and Recreation Director
mgonzalez@ci.elgin.tx.us 512-285-6434



January 2019 Parks Report

Michael Gonzalez

We are seeing outstanding numbers at the Elgin Recreation center. Memberships are up, fitness classes are near full and the flow of traffic in the building is starting to find its own rhythm. 6 pm most weeknights we get a crowd, those customers that can are starting to come earlier in the afternoon to enjoy their workouts. Seniors are enjoying their walks in the morning and the senior fitness classes are filling up the studio room. The staff is still striving for excellent customer service for everyone.

Programs -Elizabeth

In January we kicked off 2019 with a bang at our *Polar Bear Plunge*! We had 8 brave people make the plunge and another 11, many of whom were members of our police department, cheering them on. We then hosted *S'mores in the Studio*, an inside/outside event that brought together over 68 people in our Rec Center and Elgin Memorial Park at only a cost of \$0.94 per person. To round out the month, the Park's Dept hosted *Senior Karaoke* as the first in our series of senior specific special events, at no cost to the Department as all supplies were donated by members of our community. Our seniors had an incredibly positive response to singing and dancing with members of our Department and volunteers, requesting we do it again soon! Finally, we completed and ordered the Park's Dept Spring/Summer Program Guides that include all our events through September of 2019 so that we could have them printed and available at the beginning of February.

Admin and operations- Kayla

As expected, memberships spiked greatly with the new year. Rentals at all facilities are down as we go through our slower months of the year. As we continue hiring new staff, we are working with them on improving customer service skills to better communicate with the public. The following information shows how we have been doing in the last month, and the rest of the department during that same time:

Goals for February 2019

- plan and implement February activities

Facility	Number of uses
Park Activity Summary	January 2019
Park/ Pavilion Rental	2
Ball Field Rental	37
Fleming Community Center/ Rec Center rentals	55
Monthly Rec Memberships	199
Yearly Rec Membership	20
Deposits	\$12,386.75

Monthly Report to Administrative Manager
Building Department
For the Month of January 2019

Type of Inspections	Jan-18	Jan-19	Fiscal Yr. To Date	Calendar Yr. To Date
Building	58	50	296	50
Electrical	34	29	176	29
Plumbing	70	37	184	37
Gas	6	3	17	3
Mechanical	20	24	104	24
TOTAL	188	143	777	143
Building				
Permits	17	20	76	20
Value	\$ 676,435.00	\$ 2,302,345.00	\$ 7,146,638.45	\$ 232,345.00
Fees	\$ 4,619.44	\$ 12,398.75	\$ 42,547.45	\$ 12,398.75
Electrical				
Permits	8	11	36	11
Fees	\$ 1,060.00	\$ 2,460.00	\$ 6,330.00	\$ 2,460.00
Plumbing				
Permits	5	4	25	4
Fees	\$ 940.00	\$ 720.00	\$ 5,340.00	\$ 720.00
Gas				
Permits	4	4	13	4
Fees	\$ 330.00	\$ 410.00	\$ 1,330.00	\$ 410.00
Mechanical				
Permits	3	7	24	7
Fees	\$ 360.00	\$ 1,720.00	\$ 7,940.00	\$ 1,720.00
Total All Fees	\$ 7,309.44	\$ 17,708.75	\$ 63,487.45	\$ 17,708.75

**January 2019
Building Permits**

Number of Permits		Type/Classification	Permit Fees		Valuation	
Jan-18	Jan-19		Jan-18	Jan-19	Jan-18	Jan-19
5	2	New Single Family	\$ 2,780.50	\$ 1,848.25	\$ 525,225.00	\$ 233,320.00
		New Duplex				
	1	New Manufactured		\$ 502.04		\$ 54,000
	2	New Multi-Family		\$ 9,658.00		\$ 2,000,000.00
		New Commercial				
		New Industrial				
		New Swimming Pools				
		Moving Permit				
1	5	New Signs	\$ -	\$ -	\$ -	\$ 25.00
6	4	Residential	\$ 434.02	\$ 390.46	\$ 23,210.00	\$ 15,000.00
5		Non-Residential	\$ 1,404.92		\$ 128,000.00	
	6	Demolitions		WAIVED		\$ -
17	20		\$ 4,619.44	\$ 12,398.75	\$ 676,435.00	\$ 2,302,345.00
*BOA Request		None				
**BSC Requests		None				
P & Z Request		Unfinished Business: Hernandez Addition Preliminary Plat and Final Plats approved conditional on Encroachment Agreement. New Business: 13708 County Line Road zoning change withdrawn; Eagles Landing PH 2 Preliminary Plat withdrawn; Amending Plat Lot 1, Block 3, Weigle withdrawn; The Estates at Carter's Grove Concept Plan and Preliminary Plat approved.				
Code Enforcement	Active January 2018	Active January 2019	Closed January 2018	Closed January 2019	Calendar YTD	
Vehicles	5		6	2	2	
Recreational Vehicle						
Fences						
Environmental	2		2	9	9	
Alcohol/Ann. Compliance				15	15	
Fire Code				13	13	
Illegal Signs				20	20	
Property Maintenance						
Unsafe Structures		1			1	
Zoning	1					
Total	8	1	8	59	60	

*Board of Adjustments

**Building Standards Commission

Submitted By: Melissa Lipiec and Carlos Navejas

Date: February 19, 2019

Elgin Police Department

January – 2019

Monthly Report

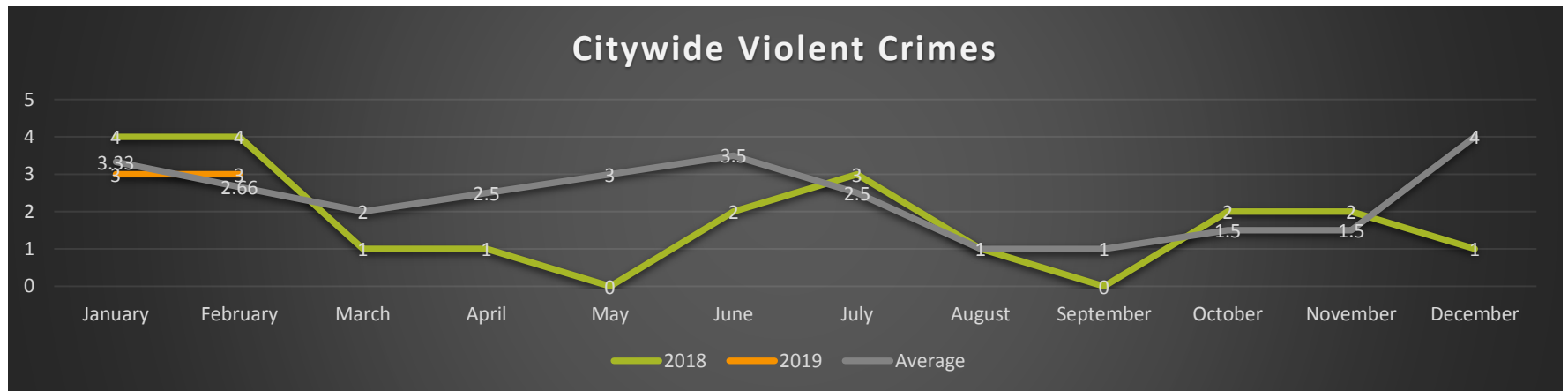


Elgin Police Department

Citywide Monthly Crime Reports - January 2019

Violent Crime

Offense Category	MTD	MTD LM	MTD %	MTD LY	MTD % LY	YTD	YTD LY	YTD % LY	CR YTD	CR YTD%
Homicide	0	0	nc	0	nc	0	0	nc	0	0%
Rape/Sexual Assault	1	1	nc	0	100%	1	0	100%	0	0%
Business Robbery	1	0	100%	1	nc	1	1	nc	1	100%
Individual Robbery	1	0	100%	0	100%	1	0	100%	1	100%
Agg Assault - No FV	0	0	nc	1	-100%	0	1	-100%	0	0%
Agg Assault - FV	0	0	nc	2	-200%	0	2	-200%	0	100%
Total	3	1	200%	4	-25%	3	4	-25%	2	67%



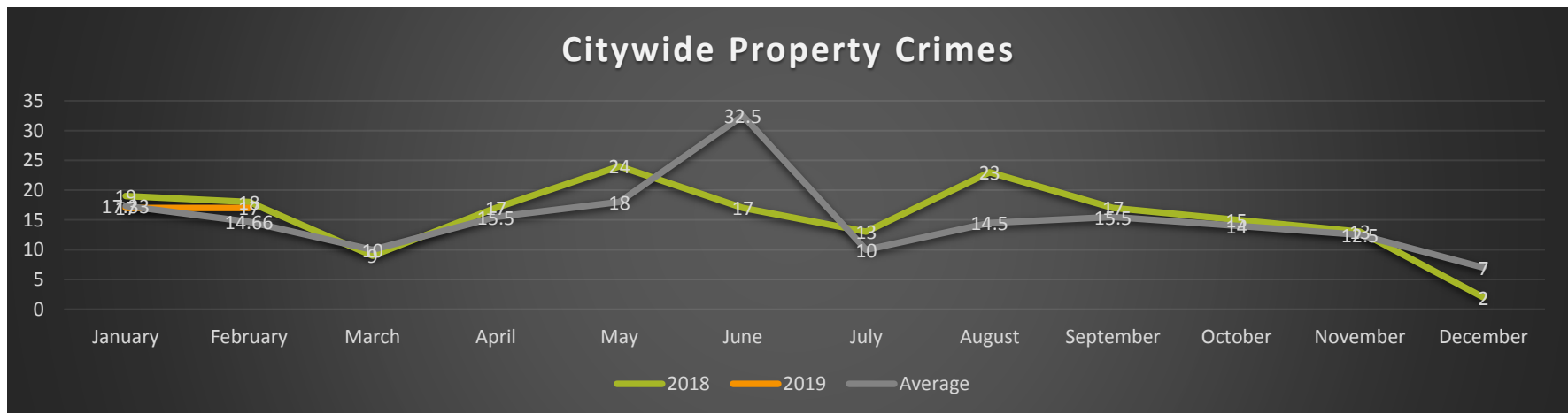


Elgin Police Department

Citywide Monthly Crime Reports - January 2019

Property Crime

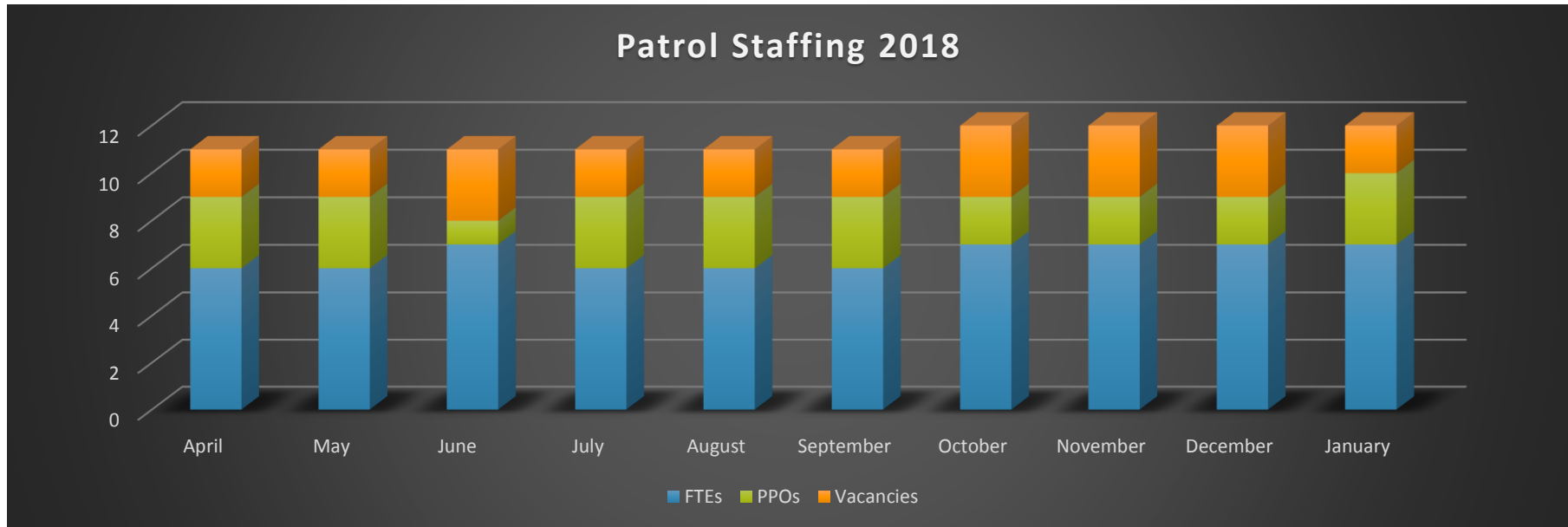
Offense Category	MTD	MTD LM	MTD %	MTD LY	MTD % LY	YTD	YTD LY	YTD % LY	CR YTD	CR YTD%
Burglary Non Residence	1	0	100%	5	-80%	1	5	-80%	0	0%
Burglary Residence	3	2	50%	2	50%	3	2	50%	0	0%
Auto Theft	1	0	100%	1	nc	1	1	nc	0	0%
BOV	2	0	200%	2	nc	2	2	nc	0	0%
Other Theft	10	0	1000%	9	11%	10	9	11%	0	0%
Total	17	2	750%	19	-11%	17	19	-11%	0	0%





Elgin Police Department

Patrol Staffing – 2018/2019

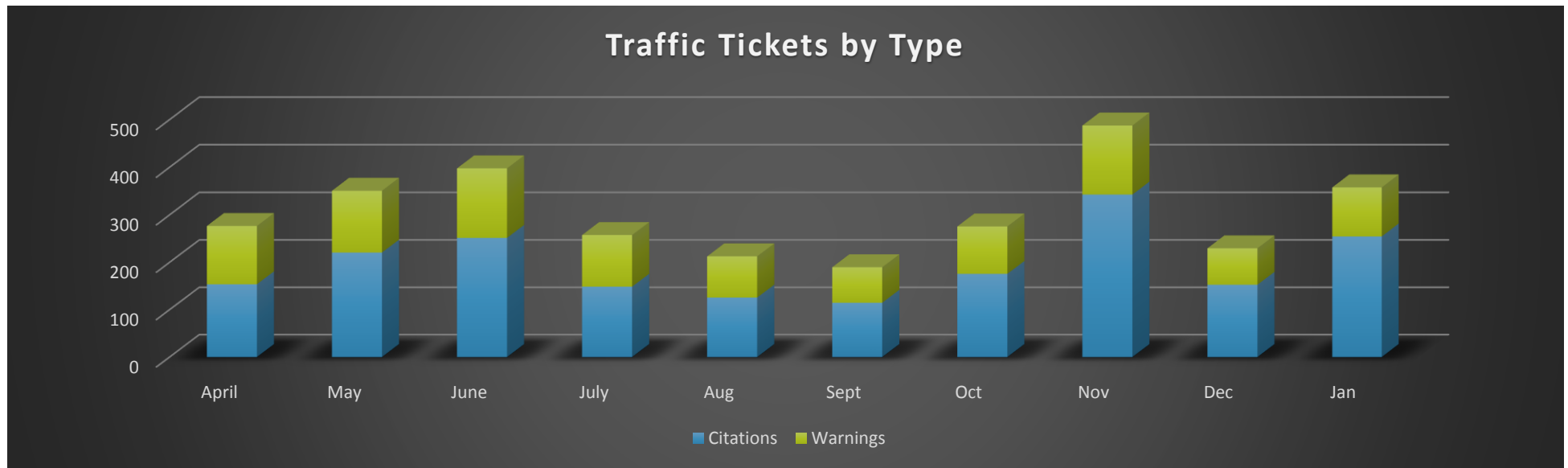


	Authorized	Open (Vacant)	Current	Actual % Vacant
January	12	2	10	17%
December	12	3	9	25%
November	12	3	9	25%
October	12	3	9	25%
September	11	2	9	18%
August	11	2	9	18%



Elgin Police Department

Citywide Monthly Traffic Tickets – Year to Date 2019 (Violations)



	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan
Citations	170	156	141	154	221	252	149	126	115	176	343	153	255
Warnings	132	114	69	123	130	146	109	87	75	100	145	77	103
Total	302	270	210	277	351	398	258	213	190	276	488	230	358

Note: 19% increase from 2018 during the same period. This data will differ from Racial Profiling Data (includes traffic stops and all other citations).



Elgin Police Department

Call Analysis – 2018/2019

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Ave
Dispatched calls	426	392	505	461	524	422	432	453	423	438	344	455	382	435
Self-Initiated calls	442	458	453	485	503	508	528	522	367	494	674	330	874	511
Total Calls	868	850	958	946	1027	930	960	975	790	932	1018	785	1256	946

	Ave													
Total Time on Calls	18,024	30,488	20,620	40,537	22,844	18,068	22,182	27,004	22,151	32,908	37,485	28,124	30,908	27,026
Committed Time	40%	76%	46%	94%	51%	42%	50%	60%	51%	74%	87%	63%	69%	62%

Goal for committed time = no more than 60%

Public Works – January 2019

Right of Way and Easement mowing and maintenance:

TX DOT Right of Way maintenance, City of Elgin Right of Way shredding, mowing, weed eating and maintenance is ongoing.

Sign replacement:

Repaired:

Pole and stop sign - Loesch Drive
Street sign West 3rd Street and North Avenue A

Replaced:

Stop sign West Cleveland and South Avenue A
30 Mile Per Hour sign – West Cleveland Street

Permanent Street, utility cut repairs, pot hole repairs:

Patches:

2 locations - West 11th Street
Williams Street
Madison Street
West Cleveland Street
Lexington Road
West 3rd Street

Added base to edge of pavement – Kennedy Street

Excavated and added base previous patch - US 290 Service Road and Washington Street

Excavated and added base to failure – East 8th Street and Louise Street

Excavated and added base to utility cut on – East 8th Street

Crack Seal

Golden Eagle Way
Gurney's Eagle Drive

Curb, Gutters, Drains, and Ditch Cleaning

Pothole patched throughout town:

Multiple locations

Saw cut utility cuts to prep for permanent repair:

Multiple locations

Cleaned the edge of pavement – Kennedy Street

Cleaned curb and gutter:

Lee Dildy Boulevard
Roy Rivers Road
Saratoga Farms Boulevard
East and West 2nd Street
El Paso Street
South Avenue B
West Brenham Street

Cleaned ditch - Ball Park Road

Cleaned drains downtown area and unclogged culverts (result of heavy rains)

Trees and Brush:

Trimmed brush and low limbs - Kennedy Street

Removed fallen limbs – McClendon Street and North Avenue C (FM 1100)

Removed two (2) fallen trees - East Ila Street

Miscellaneous:

Repaired seven (7) lights on Roy Rivers Boulevard

Repaired five (5) lights on Roy Rivers Road

Setup and remove barricades downtown (Filming)

Events:

Setup/breakdown for Ground Breaking Ascension Seton Health Center - Elgin

Saratoga Farms Subdivision Section 6:

Roadway – Flex base installed

Concrete curb and gutter installation

Lee Dildy and Roy Rivers Boulevard Extension Project

A resolution of the City of Elgin, Texas, authorizing the City Manager to award the Lee Dildy and Roy Rivers Boulevard extension phase II project to Patin Construction LLC of Taylor Texas was approved in January, 2019.

Joe Parten

Director, Public Works

City of Elgin

UTILITY BILLING REPORT			January 2019
Billed out	\$481,430.97		
Past due notices	668		
Work orders-Cut offs	58		
Disconnected for non pmt	50		
Extension to pay 1st	73		
Extension due for disconnect	3		
Meter tamper fee	0		
After Hour turn on	0		
Accounts set to final	7	for non pmt	
Leak Adjustments	1		

METER REPORT		
WORK ORDERS	COMPLETED	INCOMPLETE
START READ	46	3
FINAL READ	47	1
TRANSFERS / IN AND OUT	5	0
CTO'S / DISCONNECT NON-PMT	114	0
SET METER	0	2
ERT REPLACEMENTS	1	16
METER REPLACEMENTS	22	14
VISUAL READS	13	0
FAILURE TO READ (MOBILE MISS)	85	0
RE READS	61	0
WL / CHECK FOR WATER LEAK	211	3
METERS DATA LOGGED	12	0
MISCELLANEOUS	29	20
TOTAL NUMBER OF WORK ORDERS	646	59
CURB STOPS - JOHN CALHOUN		
BROKEN CURB STOPS		37
SERVICE LINE REPAIR		2
MAIN BREAK		1
SEWER LINE REPAIR		4
TOTAL NUMBER OF WORK ORDER	0	44
BULK WATER		
PURCHASES	6	
TRIPS/GALLONS	10/4,000	
TOTAL COLLECTED	\$24.08	

Customer Service/A/R Supervisor

512-229-3220 office



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: General Activity Report and/or Project Update

DEPARTMENT: City Manager/Staff

PROPOSED ACTION:

No Council action proposed or requested; This item is to allow for general update and/or activities report relating to various on-going city projects or issues.

BACKGROUND:

This item is to provide opportunities for miscellaneous updates and comments by the staff; and general Q&A with the City Council relative to on-going projects and/or issues.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X}
N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

None.

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CLOSURE OF CERTAIN BANK ACCOUNTS IN PROSPERITY BANK AND TRANSFERRING ACCOUNT BALANCES TO CORRESPONDING ACCOUNTS IN FIRST NATIONAL BANK AND MAKING CERTAIN FINDINGS THERETO.

DEPARTMENT: Finance

PROPOSED ACTION: Authorize closure of certain bank accounts

BACKGROUND: On April 18, 2016 the City entered into an agreement whereby First National Bank was to provide depository services to the City until terminated by either party. Prior to that time Prosperity Bank was the official depository bank for the City. During the transition period, not all bank accounts in Prosperity were closed and as shown on the last Quarterly Investment report, these accounts are still open today. In order to come into full compliance with the current Depository Agreement it is recommended that staff be authorized to close the four remaining accounts in Prosperity Bank and move the funds into the appropriate accounts at First State Bank (FSB) as shown in the following table:

Prosperity Bank

Acct ***584 Clearing Account (Close)
Acct ***592 Debt Serv. Account (Close)
Acct ***584 Impact Fee Water Account (Close)
Acct ***584 Impact Fee Sewer Account (Close)

First National Bank

Transfer balance to Acct ****962
Transfer balance to Acct ****949
Transfer balance to Acct ***5962
Transfer balance to Acct ***5962

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION: Review and adopt the Resolution as presented.

ATTACHMENTS: Resolution to authorize closure of bank accounts

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
{X} Staff will provide brief comments and answer questions on this item at the meeting.
{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO: _____

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CLOSURE OF CERTAIN BANK ACCOUNTS IN PROSPERITY BANK AND TRANSFERRING ACCOUNT BALANCES TO CORRESPONDING ACCOUNTS IN FIRST NATIONAL BANK AND MAKING CERTAIN FINDINGS THERETO.

WHEREAS, the City of Elgin (“City”) entered into an Agreement with First National Bank (“Bank”), for the latter to serve as the Depository Bank for City beginning April 18, 2016; and

WHEREAS, the City established certain accounts in “Bank” to facilitate the deposit and disbursement of City funds for authorized purposes: and

WHEREAS, at the time of the City’s transferring of funds from Prosperity Bank, it was deemed necessary to maintain residual balances in Prosperity Bank for certain accounts to permit payment by ACH transfers for authorized vendors; and

WHEREAS, the City has determined that it is no longer necessary to maintain such accounts in Prosperity Bank;

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

Section 1. That the above recitals are true and correct; and the City staff is authorized to close the accounts in Prosperity Bank and transfer the balances at the time of closing to corresponding accounts in First National Bank as listed below:

<u>Prosperity Bank</u>	<u>First National Bank</u>
Acct ***584 Clearing Account (Close)	Transfer balance to Acct *****962
Acct ***592 Debt Serv. Account (Close)	Transfer balance to Acct *****949
Acct ***584 Impact Fee Water Account (Close)	Transfer balance to Acct ***5962
Acct ***584 Impact Fee Sewer Account (Close)	Transfer balance to Acct ***5962

Section 2. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 5th day of March, 2019.

Chris Cannon, Mayor City of Egin, Texas

ATTEST:

Amelia Sanchez, City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Request by The Elgin Volunteer Fire Department to waive the open container ordinance and park curfew in Elgin Memorial Park for the 31st annual BBQ cook-off.

DEPARTMENT: Parks and Recreation

PROPOSED ACTION: Consider request by the Elgin Volunteer Fire Department to waive the Open Container Ordinance and Park Curfew in Elgin Memorial Park from 1:00 pm April 11th, 2019 to 12:00 am April 13th, 2019.

BACKGROUND:

This annual event is a fundraiser for the Elgin Volunteer Fire Department. The organization has reserved the park and is working with Parks Staff in logistics in support of this event.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION: Consider approval of request

ATTACHMENTS:

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.



ELGIN FIRE DEPARTMENT

Good Morning,

I am requesting an open container and park curfew waiver at Elgin Memorial Park for the Elgin Volunteer Fire Department's 31st Annual BBQ Cook-off. I am requesting the waiver for the dates of April 11th through Midnight April 13th, 2019. If you have any questions please feel free to contact me.

Thank you,

Amanda Horelica

ahorelica@yahoo.com

512-289-3313



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: AN ORDINANCE ACKNOWLEDGING RECEIPT OF “CERTIFICATE OF UNOPPOSED STATUS” PURSUANT TO SECTION 2.052 TEXAS ELECTION CODE; DECLARING UNOPPOSED CANDIDATES TO BE ELECTED TO THEIR RESPECTIVE OFFICES AND CANCELLING THE MAY 5, 2018 GENERAL ELECTION FOR WARDS 1, 2, AND 4; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES

DEPARTMENT:

Administration

PROPOSED ACTION:

Review Ordinance declaring unopposed candidate to be elected to their respective offices and cancelling the May 5, 2018 election for Wards 1, 2, and 4.

BACKGROUND:

The City of Elgin General Election for electing Council Members to expiring terms in Wards 1, 2, 3,4 and Mayor to be held on May 5, 2018 will be cancelled for Wards 1, 2, and 4 due to unopposed status.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of the Ordinance

ATTACHMENTS:

Ordinance

Certificate of Unopposed Status Exhibit (A)

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2019-

AN ORDINANCE ACKNOWLEDGING RECEIPT OF "CERTIFICATE OF UNOPPOSED STATUS" PURSUANT TO SECTION 2.052 TEXAS ELECTION CODE; DECLARING UNOPPOSED CANDIDATES TO BE ELECTED TO THEIR RESPECTIVE OFFICES AND CANCELLING THE MAY 4, 2019 GENERAL ELECTION FOR WARDS 1, 2, AND 4; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES

WHEREAS, pursuant to Section 2.052 Texas Election Code, the City Secretary, who is also the authority responsible for having the official ballot for City Council elections prepared, has certified in writing that certain candidates are unopposed in the May 4, 2019, general election, and

WHEREAS, Section 2.053 Texas Election Code provides that upon receipt of such a certificate that the Council may declare each unopposed candidate elected to the office and cancel the election, Now Therefore

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

The Elgin City Council hereby acknowledges receipt of a Certificate of Unopposed Status from the City Secretary that certain candidates whose names were to appear on the ballot for the May 4, 2019, City General Election for Wards 1, 2 and 4 are each unopposed. A copy of such Certificate is ordered to be attached to this ordinance as Exhibit "A".

II.

Pursuant to Section 2.053 Texas Election Code, the City Council hereby declares that the following unopposed candidates are elected to their respective offices, and shall be issued certificates of election following the time the election would have been canvassed:

- | | |
|--------------------|-----------------------|
| a) Mary Penson | Council Member Ward 1 |
| b) Juan J Gonzalez | Council Member Ward 2 |
| c) Forest L Dennis | Council Member Ward 4 |

III.

The May 4, 2019, general city election for Wards 1, 2 and 4 is cancelled, and the City Secretary is directed to cause a copy of this ordinance to be posted on Election Day at each polling location used or that would have been used in the election.

IV.

- A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.
- B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

READ, PASSED AND ADOPTED on this the 5th day of March 2019.

Chris Cannon, Mayor of City of Elgin, Texas

ATTEST:

Amelia Sanchez, City Secretary

Exhibit "A"

CERTIFICATE OF UNOPPOSED STATUS

I, Amelia Sanchez, City Secretary for the City of Elgin, Texas, and being also the authority responsible for having the official ballot prepared for the City Council elections, do hereby certify, pursuant to Section 2.052 Texas Election Code, that certain candidates in Wards 1, 2, and 4, whose names are to appear on the ballot for the May 4, 2019 City General Election are unopposed. I further certify that no person has made a declaration of write-in candidacy. The unopposed candidates and their respective offices are as follows:

Candidates:

Office:

- | | |
|----------------------|-----------------------|
| a) Mary Alice Penson | Council Member Ward 1 |
| b) Juan J Gonzalez | Council Member Ward 2 |
| c) Forest L. Dennis | Council Member Ward 4 |

Signed and certified this the 5th day of March 2019.


Amelia Sanchez, City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: City Council Regular Meeting Minutes – February 5, 2019

DEPARTMENT: Administration

PROPOSED ACTION:

Review and approve the February 5, 2019 Meeting Minutes.

BACKGROUND:

N/A

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of the February 5, 2019- Meeting Minutes.

ATTACHMENTS: February 5, 2019 Meeting Minutes.

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

**MINUTES
ELGIN CITY COUNCIL
REGULAR MEETING
CITY ANNEX COUNCIL CHAMBERS, 310 NORTH MAIN STREET
TUESDAY, FEBRUARY 5, 2019**

CALL TO ORDER

Mayor Cannon called the meeting to order at 7:00 p.m.

ROLL CALL

Present: Mayor Chris Cannon

Jessica Bega, Mayor Pro Tem

Juan Gonzalez, Council Member

Daniel Lopez, Council Member

Phillip Thomas, Council Member

Neil Beyer, Council Member

Sue Brashar, Council Member

Mayor Cannon certified there was a quorum.

Mayor Cannon stated that Council Member Penson and Arreaga would not be in attendance.

Council Member Brashar moved to excuse Council Members Penson and Arreaga. Council Member Lopez seconds the motion. Motion carried 7-0.

Staff: Thomas L. Mattis, City Manager

Charles Cunningham, Finance Director

Amy Miller, Community Development Director

Michael Gonzalez, Parks Director

Sandy Ott, Library Director

INVOCATION

Council Member Thomas gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Cannon led the Pledge of Allegiance to the United States and Texas Flag.

Mayor Cannon recessed the regular meeting at 7:03 and opened Public Hearing.

PUBLIC COMMENT

CITY COUNCIL MEETING MINUTES
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City Annex Council Chambers

Mayor Cannon opened Public Comment.

With no one wishing to speak Mayor Cannon closed Public Comment.

PRESENTATION

1. Employee of the First Quarter 2019 Presentation

Sandy Ott, Library Director announced that Jamie Hicks was voted Employee of the First Quarter 2019.

CITY MANAGER'S REPORT

1. Review and Discussion of Letter of Intent signed by the City Manager with Harris & Straub regarding the Proposed Trinity Ranch MUD Development.

City Manager Thomas Mattis spoke and stated this was the next major development letter of intent and that the process was to take the first step for documenting on the record what the proposed development is for, what the plan is and how the city and developer have reached an agreement in principle on a development that may occur. He stated that Council has yet to approve anything and would not until the development agreement is ready and that this step enables Council and the general public to be clear about what is being discussed for complete transparency. Mr. Mattis went over the size and scope of the project and stated that a change had been made in their development plan that was to reduce the lot size and increase the number of lots, and that the concept plan includes 1600 single family homes, 7 acres of public parkland, 23 acres of open space, 5 acres of private amenity space and that the developers agree to donate 2 acres for a public safety site, and maintain comprehensive deed restrictions common to most master planned communities. He stated the language in the letter of intent is comparable to what have been seen in others. He stated that city agrees in this case the utilization of an existing MUD, that water service would be provided by Aqua Water Supply Corporation, 50 total acres for park and recreation facilities and that about half of that would be outside the 100 year flood plain. Mr. Mattis stated that the developer would stipulate as we process the plan, they will either agree to accept some of that park as public park land owned and operated by the city or they will pay the five hundred dollar per lot fee. He stated one issue is that they have agreed to convey land for a public safety site and a stipulation they asked for is that within five years their commencing construction on the project that construction should be started on some kind of project on the public safety site, if not then the land would be conveyed back to them for one dollar. The city will agree not to annex the property until the debt is paid off. He stated that as stated in the agreement and will be in the LOI that as a MUD the developer is responsible for all cost associated with the building and developing of the project with no cost for initial construction to the city. He stated that they would be accessing the city's sewer plant and are

CITY COUNCIL MEETING MINUTES

February 5, 2019 – Page 3

City Annex Council Chambers

almost a common boundary to the sewer plant so they would not have the infrastructure cost associated with extending wastewater services to their development, but that the plant capacity would have to be increased, and that the development agreement as stipulated in the LOI they will be responsible for purchasing capacity within the plant and paying for the expansions. He stated they would make an advance payment each time they file a plat based on a per lot basis and that would calculate what they need to purchase. He stated another issue with this development was access, and that the prior owner was concerned about inadequate access to a development of this size given where it is located. He stated that this developer intends to achieve access prior to development through Swenson Boulevard, with another entrance at Upper Elgin Road. He stated that as far as support for public schools the developer had no plans to provide a site for public schools on the property but have agreed to pay a fee of two hundred dollars per house as they get a building permit. Mr. Mattis stated introduced representatives of Harris and Straub in attendance. He concluded the presentation and stated that no action was required from Council at this time.

2. Update on various issues associated with an area in the Southeast Quadrant of the city annexed in 2015 (“Annexed Area”) and related matters.

Bill Carlson spoke on this item and stated that the city split the 2015 annexation talking about it as two parts and he remembered it annexed as a single phase and now being shown as two parts. He stated all had seen the plans for the possible required delivery of sewer service on SH 95, Old Sayers, Ella and VFW which the city is still trying to decide if they want to invest in that or if they can move forward with it. He stated so far, he had seen no plans for the required services for 1704 and McVay Lane, and if they exist those who live on 1704 would like to see the plans available on the city’s webpage. He stated that the City Manager had stated the de- annexation was a complicated process, and taxpayers would like to understand the process and what is so complicated about it. He asked if this was in the tax payers’ best interest to spend millions of dollars on services based on the ad valorem taxes and unless something significant changes it would take twenty, thirty or more years for Elgin to break even for the money being spent.

City Manager Thomas Mattis stated that he did not have anything to report and that he was working to develop a plan with the City Engineer and City Attorney.

Mr. Mattis spoke about where the Trinity Ranch development would be located, where the city limits were and wanted to bring attention to a tract that was owned by a separate individual that has contacted the staff about a possible commercial development on this 20-acre tract. He stated the common boundary on the west side with Trinity Ranch and fronts on 1704 and once this development is factored in that could be happening in that area a commercial development would work well with 1600 homes in that area. Mr. Mattis stated that tract fronting 1704 was already in the city limits and that seemed to support discussions with the City Engineer that it may be the

CITY COUNCIL MEETING MINUTES

February 5, 2019 – Page 4

City Annex Council Chambers

correct thing for the city to try to keep the 1704 corridor in the city limits for business development purposes.

3. 1st Quarter Investment Report - Fiscal Year 2019

Charles Cunningham, Finance Director provided the 1st Quarter Investment Report for Fiscal Year 2019.

4. Departmental Monthly Reports – December

There were no questions on the monthly reports.

5. General Activity Report and/or Project Update.

Mr. Mattis stated work continues with the LCRA pumping permit with Lost Pines District and had met with them last week and that Council Member Brashar had agreed at his request to be the Council Rep working with the staff and outside legal Counsel on this issue.

He spoke about the FM 1100 engineering project, a project that TXDOT is starting to move forward in the way of public discussion and they have asked us to help in that way and that Amy Miller is representing the city in that regard.

He stated there had been conversations lately and media coverage regarding the commuter rail project. He stated that he, Own Rock and Molly Alexander and Amy Miller had met with the Executive Director of Cap Metro a couple of weeks ago. He stated he wanted to make sure we continue to project the right message from Council's standpoint with a consistent message of being very much interested in commuter rail coming to Elgin and having a train stop and station out here. He stated that we do have a Charter amendment issue we have to take on and then the issue of supporting the Cap Metro district and the taxation that would come with that, and before taking any of that on we want to understand that this very tangible project in the eminent future, we are not interested in supporting that effort of going through a Charter change and supporting the district just based on possibly of some day the project may come.

Mr. Mattis also mentioned that the city was on the verge of having our wholesale water agreement with Aqua Water Supply Corporation done and ready to sign in the near future.

He also mentioned the Point Rider project, and that this was one on Avenue A and Central. He stated Council had seen this before and thought it went away but now is back and had reached an agreement with the owner about purchasing the city's property. Mr. Mattis stated that the plan of for a development district project would come forward in the very near future.

CONSENT AGENDA

1. Request by Friends of Elgin Parks to Waive the Open Container Ordinance in Veterans' Memorial Park for the Spring Music Series.

CITY COUNCIL MEETING MINUTES

February 5, 2019 – Page 5

City Annex Council Chambers

2. Request from Jodie Lopez for Temporary Street Closures for the 5th Annual Run to Cure Diabetes 1K and 5K.
3. City Council Special City Council Meeting Minutes, November 27, 2018 and the City Council Regular Meeting Minutes, January 8, 2019.

Council Member Brashar moved to approve the Consent Agenda. Council Member Thomas seconds the motion. Motion carried 7-0.

NEW BUSINESS

1. AN ORDINANCE ESTABLISHING AND REGULATING A TRUCK TRAFFIC ROUTE WITHIN THE CITY OF ELGIN, TEXAS; PROHIBITING TRUCK TRAFFIC ON LOOP 109/MAIN STREET; PROVIDING PENALTIES FOR THE VIOLATION THEREOF BY A FINE OF NOT MORE THAN \$500; AND PROVIDING FINDINGS OF FACT; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR A SAVINGS CLAUSE.

Forest Dennis spoke and stated that in October he spoke on this item representing himself, wife and neighbors, business owners and the Historic Mainstreet District and over two hundred concerned residents who felt it was time to do something about the hazard that was imposed by large increased truck traffic. He stated he was speaking tonight for all to say thank you for working with TXDOT for a solution.

Council Member Brashar moved to approve the Ordinance as presented. Council Member Lopez seconds the motion. Motion carried 7-0.

2. A RESOLUTION OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A REAL ESTATE CONTRACT WITH CHRISTOPHER SWENSON AND EMILY B. SWENSON TO ACQUIRE CERTAIN REAL PROPERTY FOR THE LOCATION OF THE CENTRAL WASTEWATER LIFT STATION AND MAKING CERTAIN FINDINGS RELATED THERETO.

Council Member Thomas moved to approve the Resolution as presented. Council Member Lopez seconds the motion. Motion carried 7-0.

3. A RESOLUTION OF THE CITY OF ELGIN, TEXAS CONSENTING TO THE CREATION OF A MUNICIPAL UTILITY DISTRICT TO BE KNOWN AS BRICKSTON MUNICIPAL UTILITY DISTRICT AND MAKING CERTAIN FINDINGS RELATED THERETO.

CITY COUNCIL MEETING MINUTES

February 5, 2019 – Page 6

City Annex Council Chambers

Council Member Brashar moved to approve the Resolution as presented. Council Member Thomas seconds the motion. Motion carried 7-0.

4. AN ORDINANCE OF THE CITY OF ELGIN, TEXAS, ANNEXING TERRITORY ADJACENT AND CONTIGUOUS TO THE EXISTING EXTRATERRITORIAL JURISDICTION INTO THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF ELGIN, TEXAS, FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREA SHALL BECOME A PART OF THE EXTRATERRITORIAL JURISDICTION OF THE CITY AND THAT THE OWNERS AND INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF THOSE RESIDING IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF ELGIN, TEXAS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREINAFTER ADOPTED; AND PROVIDING AN EFFECTIVE DATE.

Council Member Thomas moved to approve the Ordinance as presented. Council Member Lopez seconds the motion. Motion carried 7-0.

5. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF AGREEMENT WITH TRC ENGINEERS INC. FOR PROFESSIONAL ENGINEERING SERVICES TO COMPLETE A REVIEW AND UPDATE OF UTILITY IMPACTS FEES AND MAKING CERTAIN FINDINGS RELATED THERETO.

Council Member Brashar moved to approve the Resolution as presented. Council Member Bega seconds the motion. Motion carried 7-0.

6. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS TO ADOPT USE OF NEW VOTING EQUIPMENT PER SECTION 123.001 (B) OF THE TEXAS ELECTION CODE.

Council Member Thomas moved to approve the Resolution as presented. Council Member Bega seconds the motion. Motion carried 7-0.

7. AN ORDINANCE OF THE CITY OF ELGIN, TEXAS, CALLING AN ELECTION ON MAY 4, 2019 FOR THE PURPOSE OF ELECTING CERTAIN CITY OFFICIALS; DESIGNATING ELECTION PRECINCTS AND POLLING PLACES; PROVIDING FOR EARLY VOTING AND ELECTION DAY VOTING; PROVIDING FOR PERFORMANCE OF REQUIRED ADMINISTRATIVE DUTIES; MAKING PROVISIONS FOR THE CONDUCT OF SUCH ELECTION; CERTIFYING PROVISION OF REQUIRED ACCESSIBLE VOTING SYSTEMS AT EACH POLLING PLACE; PROVIING FOR OTHER MATTERS RELATING TO CITY ELECTION.

CITY COUNCIL MEETING MINUTES

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City Annex Council Chambers

Council Member Brashar moved to approve the Ordinance as presented. Council Member Beyer seconds the motion. Motion carried 7-0.

ANNOUNCEMENTS

Mayor mentioned Sip Shop and Stroll next week.

ADJOURNMENT

Mayor Cannon adjourned the City Council Meeting at 8:29 p.m.

ATTEST:

Chris Cannon, Mayor

Amelia Sanchez, City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: DISCUSSION AND CONSIDERATION OF A POLICY TO ESTABLISH AND CODIFY OBJECTIVES AND BEST PRACTICES FOR DETERMINING THE TARGETED-MINIMUM LEVELS OF UNRESTRICTED CASH BALANCES FOR THE CITY AND TO ASSIST ALL CONCERNED PARTIES IN UNDERSTANDING THE CITY'S APPROACH TO FUND BALANCE MAINTENANCE.

DEPARTMENT: Finance

PROPOSED ACTION: Adopt Policies for maintaining General Fund Reserves.

BACKGROUND: In the past several years, steps were made to take advantage of economic development opportunities, namely the acquisition of land (60 acres) in the Tax Increment and Reinvestment Zone One (TIRZ). This action along with general fund support of other capital improvements, drew down the City's reserves to a level below normal standard. This had the unintended consequence of negatively affecting the City's Bond rating going into the sale of Combination Tax and Revenue CO's and TIRZ CO's that are to be authorized to be sold at this meeting.

In an effort to avoid this result in the future and provide a target for beginning to rebuild proper reserve positions for restricted, committed and assigned reserves for general fund balances, the Resolution you will find attached has been prepared for consideration.

Adoption of this policy will provide the Council and staff direction on achieving and maintaining appropriate fund balances as described above. Development and implementation of the Policy will also demonstrate to the rating agencies, the City's concern and commitment to more careful management of City Funds in the future.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION: Review and adopt the Resolution as presented.

ATTACHMENTS: Resolution to adopt the Resolution as presented.

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

GENERAL FUND BALANCE POLICY FOR THE CITY OF ELGIN

INTRODUCTION

To maintain a financially prudent fund balance program, the City of Elgin (the "City") has adopted the guidelines and policies set forth in this document titled "General Fund Balance Policy" (the "Fund Balance Policy"). The purpose of creating the Fund Balance Policy is to establish and codify the objectives and best practices for determining the targeted-minimum levels of unrestricted cash balances for the City and to assist all concerned parties in understanding the City's approach to fund balance maintenance.

The Fund Balance Policy is intended to serve as a benchmark, or frame of reference against which, current and future decisions related to funding and use of unrestricted cash balances by the City can be compared.

Per Governmental Accounting Standards Board (GASB) Statement No. 54, the terms associated with the use of unrestricted cash balances are classified as restricted, committed, assigned or unassigned. Definitions for each of these terms are described as follows:

- Restricted fund balance includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation (currently, certain Municipal Court, Red Light Camera and Police Seizure Special Revenue Funds, are the only restricted balances of the City).
- Committed fund balance includes amounts that can be used only for the specific purposes determined by a formal action of the City (the Cash Reserve Fund, in the following Policy Statement, are all committed funds).
- Assigned fund balance amounts are intended to be used by the City for specific purposes (currently, Sidewalk and Park in Lieu, are all assigned funds).
- Unassigned (Unrestricted) fund balance is the classification for the City's general fund of all spendable amounts not contained in the other classifications.

POLICY STATEMENT

In managing its unrestricted General Fund Balance the City will set limits for a Committed Fund Balance (the "Cash Reserve Funds"). It is the City's policy to set limits to:

- Maintain a Stabilization Cash Reserve Fund balance (Approximately 3 months operating expenses) in the amount of \$2,000,000.
- Establish a Legal Counsel Cash Reserve Fund balance in the amount of \$250,000.
- Establish a Capital Project Cash Reserve Fund balance for a one-time dedicated capital project for road improvements in the amount of \$500,000.

Total Committed Fund Balance Amount: \$2,750,000.

GOALS & OBJECTIVES

Maintaining a Cash Reserve Fund by adhering to a fund balance policy is not only a prudent fiscal management tool, but also an important factor in the analysis of financial stability. The City should maintain a prudent level of financial resources to protect against service reductions or tax increases because of temporary revenue shortfalls or unanticipated one-time expenditures. The Cash Reserve Funds may be used to address unanticipated revenue shortfalls or unforeseen expenditures, providing a first defense against deficit spending and helping to maintain liquidity when budgeted overages become inevitable.

Maintaining a Cash Reserve Fund is among the most effective practices a government can apply to maintain a favorable credit rating. The accumulation of prudent reserves in more favorable economic times could be a resource to sustain the City in inevitable economic downturns or unforeseen and/or emergency expenditures.

USE OF STABILIZATION CASH RESERVE FUNDS

The Stabilization Cash Reserve Fund balance should be used for one-time capital projects or emergency operational expenditures only if all of the following conditions occur:

1. A rare and extraordinary event (e.g. natural disaster, man-made disaster, or large and unanticipated reduction or elimination of State/City revenue), or the one-time funding of a capital project or an operating initiative that will result in material, recurring reductions in future operating expenditures or material, recurring increases in operating revenues.
2. The City has made a complete and rational analysis, with justifying evidence that the Stabilization Cash Reserve Fund can be maintained in the future.
3. At such time that these reserve funds are expended, the City Council shall adopt a repayment schedule for replenishment of these reserves.

USE OF LEGAL COUNSEL CASH RESERVE FUNDS

The Legal Counsel Cash Reserve Fund balance should be used for unexpected or unanticipated legal expenses, as named by the City.

USE OF CAPITAL PROJECT CASH RESERVE FUNDS

The Capital Project Cash Reserve Fund balance should be used to set aside funds for specific projects, as named by the City.

FUND BALANCE POLICY REVIEW

The Fund Balance Policy guidelines, outlined herein, are only intended to provide general direction regarding the future use and maintenance of the Cash Reserve Funds.

Since the guidelines contained in the Fund Balance Policy requires regular updating in order to maintain relevance and to respond to the changes inherent in the capital markets, the City plans to revisit the Fund Balance Policy from time to time.

This policy will be reviewed as needed. At that time, the Mayor/City Council will consider any recommendations for any amendments, deletions, additions, improvements or clarification.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Elgin this the 5th day of March 2019.

CITY OF ELGIN, TEXAS:

Chris Cannon, Mayor

ATTEST:

Amelia Sanchez, City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Consideration and action with respect to an "ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ELGIN, TEXAS COMBINATION TAX AND LIMITED REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019A; LEVYING AN AD VALOREM TAX AND PLEDGING CERTAIN SURPLUS REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES"

DEPARTMENT: Finance

PROPOSED ACTION: Adopt Ordinance as prepared and approved by the City's Bond Counsel.

BACKGROUND: Adoption of this Ordinance is one of the final steps in providing funding for a variety of projects necessary for improvement and enhanced efficiency in City Operations. The adoption is a required step in selling bonds that will finance (i) improvements and extensions to the City's water and sewer system; (ii) acquisition of a comprehensive upgrade to software systems utilized by the City; (iii) replacing the monitoring and central system for the City's water and sewer treatment plants, (iv) acquisition of radio read meters for the City's water and sewer system; and (v) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION: Review and adopt the Ordinance as presented.

ATTACHMENTS: Copy of Ordinance to be adopted.

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff, Bond Counsel and the City's Financial Advisors will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. _____

ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ELGIN, TEXAS COMBINATION TAX AND LIMITED REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019A; LEVYING AN AD VALOREM TAX AND PLEDGING CERTAIN SURPLUS REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES

THE STATE OF TEXAS	§
COUNTIES OF BASTROP AND TRAVIS	§
CITY OF ELGIN	§

WHEREAS, the City Council of the City of Elgin, Texas (the "City") deems it advisable to issue certificates of obligation in the amount of \$_____ (the "Certificates") for the purpose of paying contractual obligations incurred or to be incurred for (i) improvements and extensions to the City's water and sewer system; (ii) acquisition of a comprehensive upgrade to software systems utilized by the City; (iii) replacing the monitoring and central system for the City's water and sewer treatment plants, (iv) acquisition of radio read meters for the City's water and sewer system; and (v) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates; and

WHEREAS, the Certificates hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Local Government Code and Chapter 1502, Texas Government Code, as amended; and

WHEREAS, on January 8, 2019 the City Council passed a resolution authorizing and directing the City Secretary to give notice of intention to issue the Certificates; and

WHEREAS, the notice was published on January 16, 2019 and January 23, 2019 in *The Elgin Courier*, a newspaper of general circulation in the City and a "newspaper" as defined in Section 2051.044, Government Code; and

WHEREAS, due to a change in meeting dates, notice of the delay in passage of this Ordinance from February 19, 2019 to March 5, 2019 was posted at City Hall and on the City's website; and

WHEREAS, the City has not received a valid petition from the qualified voters of the City protesting the issuance of the Certificates; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Texas Government Code; and

WHEREAS, it is considered to be in the best interest of the City that the interest bearing Certificates be issued; therefor,

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

Section 1. RECITALS, AMOUNT AND PURPOSE OF THE CERTIFICATES.

The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The Certificates of the City of Elgin, Texas (the "City") are hereby authorized to be issued and delivered in the aggregate principal amount of \$_____ for the purpose of paying contractual obligations incurred or to be incurred for (i) improvements and extensions to the City's water and sewer system; (ii) acquisition of a comprehensive upgrade to software systems utilized by the City; (iii) replacing the monitoring and central system for the City's water and sewer treatment plants, (iv) acquisition of radio read meters for the City's water and sewer system; and (v) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates.

Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, AND MATURITIES OF CERTIFICATES. Each certificate issued pursuant to this Ordinance shall be designated: "CITY OF ELGIN, TEXAS COMBINATION TAX AND LIMITED REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019A", and initially there shall be issued, sold, and delivered hereunder fully registered certificates, without interest coupons, dated March 1, 2019, in the denomination and principal amount hereinafter stated, numbered consecutively from R-1 upward (except the initial Certificate delivered to the Attorney General of the State of Texas which shall be numbered T-1), payable to the respective initial registered owners thereof (as designated in Section 12 hereof), or to the registered assignee or assignees of said Certificates or any portion or portions thereof (in each case, the "Registered Owner"), and the outstanding principal amount of the Certificates shall mature and be payable on July 15 in each of the years and in the principal amount, respectively, as set forth in the following schedule:

<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>
2019		2029	
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	

The term "Certificate" as used in this Ordinance shall mean and include collectively the Certificates initially issued and delivered pursuant to this Ordinance and all substitute Certifi-

cates exchanged therefor, as well as all other substitute Certificates and replacement Certificates issued pursuant hereto.

SECTION 3. INTEREST. The Certificates scheduled to mature during the years, respectively, set forth below shall bear interest from the dates specified in the FORM OF CERTIFICATE set forth in this Ordinance to their respective dates of maturity at the following rates per annum:

<u>YEAR</u>	<u>INTEREST RATE</u>	<u>YEAR</u>	<u>INTEREST RATE</u>
2019		2029	
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	

Interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE set forth in this Ordinance.

Section 4. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange; Authentication. The City shall keep or cause to be kept at _____, _____, Texas (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make the Registration Books available within the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each

substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and said Certificates shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificate which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

(b) Payment of Certificates and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Certificate (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificate to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 45 days prior to any such redemption date which shall indicate to which principal installments the redemption shall be applied), (iii) may be converted and exchanged for other Certificates, (iv) may be transferred and assigned in whole, but not in part, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificate initially issued and delivered pursuant to this Ordinance is not

required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange or substitute for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

(d) Substitute Paying Agent/Registrar. The City covenants with the Registered Owners of the Certificates that at all times while the Certificates are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective at such time which will not disrupt or delay payment on the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry-Only System. The Certificates issued in exchange for the Certificates initially issued as provided in Section 4(i) shall be issued in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC") and except as provided in subsection (f) hereof, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration

Books of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal of and interest, with respect to such Certificate, for the purposes of registering transfers with respect to such Certificate, and for all other purposes of registering transfers with respect to such Certificates, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Certificate evidencing the obligation of the City to make payments of principal, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Certificate, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the Registered Owner transferring or exchanging Certificate shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the Letter of Representations of the City to DTC.

(h) DTC Blanket Letter of Representations. The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Certificates.

(i) Cancellation of Initial Certificate. On the closing date, one Initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the

order of the purchaser of the Certificates or its designee set forth in Section 12 of this Ordinance, executed by manual or facsimile signature of the Mayor or Mayor Pro-tem and City Secretary, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such Underwriters set forth in Section 12 of this Ordinance or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver to DTC on behalf of such Underwriters one registered definitive Certificate for each year of maturity of the Certificates, in the aggregate principal amount of all the Certificates for such maturity.

Section 5. FORM OF CERTIFICATE. The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificate initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF CERTIFICATE

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS COUNTIES OF BASTROP AND TRAVIS CITY OF ELGIN, TEXAS COMBINATION TAX AND LIMITED REVENUE CERTIFICATE OF OBLIGATION SERIES 2019A	PRINCIPAL AMOUNT \$ _____
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INTEREST	DATE OF	MATURITY	
RATE	CERTIFICATE	DATE	CUSIP NO.
	_____, 2019		

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ **DOLLARS**

ON THE MATURITY DATE specified above, the CITY OF ELGIN, in the Counties of Bastrop and Travis, State of Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from the Date of Certificate, on July 15, 2019 and semiannually on each January 15 and July 15 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; except that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date

but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged or converted from is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at _____, which is the "Paying Agent/Registrar" for this Certificate at its designated office for payment currently, _____, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Certificate (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the last day of the preceding month, whether or not a business day, each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Certificate is determined only by a book entry at a securities depository for the Certificate, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Certificate that on or before each principal payment date, interest payment date, and accrued interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is dated _____, 2019, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____, for the purpose of paying contractual obligations incurred or to be incurred by the City for: (i) improvements and extensions to the City's water and sewer system; (ii) acquisition of a comprehensive upgrade to software systems utilized by the City; (iii) replacing the monitoring and central system for the City's water and sewer treatment plants, (iv) acquisition of radio read meters for the City's water and sewer system; and (v) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates.

ON _____, 20__, or on any date thereafter, the Certificates of this Series maturing on and after _____, 20__ may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and, if in part, the particular maturities, and sinking fund installments in the case of Term Certificates, to be redeemed shall be selected and designated by the City and if less than all of a maturity, and sinking fund installments in the case of Term Certificates, is to be redeemed, the Paying Agent/Registrar shall determine by lot or other customary method the Certificates, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000).

WITH RESPECT TO any optional redemption of the Certificates, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

[THE CERTIFICATES MATURING ON _____, 20__ are subject to mandatory sinking fund redemption prior to maturity in the following amounts on the following dates and at a price of par plus accrued interest to the redemption date ("Term Certificates").

Term Certificates Maturing on _____, 20

Redemption Date

Principal Amount

*

*

*Final Maturity

THE PRINCIPAL AMOUNT of the Term Certificates required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the City by the principal amount of any Term Certificates of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking Fund at a price not exceeding the principal amount of the Term Certificates plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.

NO LESS THAN 30 days prior to the date fixed for any optional redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Certificate to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the business day next preceding the date of mailing such notice; provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of the Certificates. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates. If due provision for such payment is made, all as provided above, the Certificates thereby automatically shall be treated as redeemed prior to its scheduled maturity, and it shall not bear interest after the date fixed for redemption, and it shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of \$5,000 and any integral multiple of \$5,000 in excess thereof. As provided in the Ordinance, this Certificate may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificate, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations of \$5,000 and in any integral multiple of \$5,000 in excess thereof as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar,

evidencing assignment of this Certificate or any portion or portions hereof in any denomination of \$5,000 and any integral multiple of \$5,000 in excess thereof to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Certificates.

WHENEVER the beneficial ownership of this Certificate is determined by a book entry at a securities depository for the Certificate, the foregoing requirements of holding, delivering or transferring this Certificate shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owner of the Certificates.

[IT IS FURTHER CERTIFIED that the City has designated the Certificates as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Internal Revenue Code of 1986.]

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate, together with other obligations of the City, is additionally secured by and payable from a limited pledge of the surplus revenues of the City's Waterworks and Sewer System, remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the City's revenue bonds or other obligations (now or hereafter outstanding), which are payable from all or part of the Net Revenues of the City's Waterworks and Sewer System, which amount shall not exceed \$1,000 all as provided in the Ordinance.

BY BECOMING the Registered Owner of this Certificate, the Registered Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Certificate and the Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Certificate.

City Secretary

Mayor

(CITY SEAL)

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Certificate is not accompanied by
an executed Registration Certificate of the
Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

Paying Agent/Registrar

By:_____
Authorized Representative

FORM OF ASSIGNMENT:

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS:**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

INSERTIONS FOR THE INITIAL CERTIFICATE

The Initial Certificate shall be in the form set forth in this Section, except that:

A. immediately under the name of the Certificates, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE DATE SPECIFIED BELOW, the City of Elgin, Texas (the "City"), being a political subdivision, hereby promises to pay the annual installments set forth below to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on July 15 in each of the years, in the principal installments in the following schedule and bearing interest at the per annum rate stated above:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rates</u>
-------------	-------------------------	-----------------------

(Information from Sections 2 and 3 to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Closing Date at the respective Interest Rate per annum specified above. Interest is payable on July 15, 2019 and semiannually on each January 15 and July 15 thereafter to the date of payment of the principal installment specified above; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

C. The Initial Certificate shall be numbered "T-1."

Section 6. INTEREST AND SINKING FUND. A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the City at an official depository bank of said City. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said City, and shall be used only for paying the interest on and principal of said Certificates. All ad valorem taxes levied and collected for and on account of said Certificates shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Certificates are outstanding and unpaid, the governing body of said City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on said Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of

said Certificates as such principal matures (but never less than 2% of the original amount of said Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said City, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said City, for each year while any of said Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest and any premium on the Certificates shall be deposited in the Interest and Sinking Fund and used to pay interest on the Certificates.

Section 7. REVENUES. The Certificates together with other obligations of the City, are additionally secured by and shall be payable from a limited pledge of the surplus revenues of the City's Waterworks and Sewer System remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve, and other requirements in connection with all of the City's revenue bonds or other obligation (now or hereafter outstanding) which are payable from all or any part of the net revenues of the City's Waterworks and Sewer System, with such amount not to exceed \$1,000 constituting "Surplus Revenues." The City shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to Section 6, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 6, if Surplus Revenues are actually on deposit or budgeted for deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied pursuant to Section 6 may be reduced to the extent and by the amount of the Surplus Revenues then on deposit in the Interest and Sinking Fund or budgeted for deposit therein.

The Mayor of the City Council of the City and the City Secretary of the City are hereby ordered to do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay such items of principal and interest.

Section 8. DEFEASANCE OF CERTIFICATES. (a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section 8, when payment of the principal of such Certificate, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Certificates shall have

become due and payable or (3) any combination of (1) and (2). At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Certificate as aforesaid when proper notice of redemption of such Certificates shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City Council of the City also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Certificate and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council of the City.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Certificates and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Certificates and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Certificates and such Certificates shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Certificate affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Certificate to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Certificate for redemption in accordance with the provisions of this Ordinance, the City may call such Defeased Certificate for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Certificate as though it was being defeased at the time of the exercise of the option to redeem the Defeased Certificate and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Certificate.

As used in this Section, "Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Certificates are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council of the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Certificates, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent. "Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

Section 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES. (a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the Registered Owner applying for a replacement certificate shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificates shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificates, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the Registered Owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement Certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the City

whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Subchapter B of Chapter 1206, Texas Government Code, this Section 9 of this Ordinance shall constitute authority for the issuance of any such replacement Certificate without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Certificate is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificate in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for the Certificates issued in conversion and exchange for other Certificates.

Section 10. CUSTODY, APPROVAL, AND REGISTRATION OF THE CERTIFICATE; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City Council of the City is hereby authorized to have control of the Certificate initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificate pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificate said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificate, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel and the assigned CUSIP numbers, if any, may, at the option of the City, be printed on the Certificate issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Certificate. In addition, if bond insurance is obtained, the Certificate may bear an appropriate legend as provided by the insurer.

Section 11. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

- (1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds of the Certificates or the projects financed therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(3) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(4) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(5) to refrain from taking any action which would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(6) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of section 149(b) of the Code;

(7) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Certificates, other than investment property acquired with --

(A) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(8) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings);

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(10) to assure that the proceeds of the Certificates will be used solely for new money projects.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) of the Certificates. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Director of Finance to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Ordinance (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The City recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Designation as Qualified Tax-Exempt Obligations. The City hereby designates the Certificates as "qualified tax-exempt bonds" as defined in section 265(b)(3) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (a) that during the calendar year in which the Certificates are issued, the City (including any

subordinate entities) has not designated nor will designate bonds, which when aggregated with the Certificates, will result in more than \$10,000,000 of "qualified tax-exempt bonds" being issued; (b) that the City reasonably anticipates that the amount of tax-exempt obligations issued, during the calendar year in which the Certificates are issued, by the City (or any subordinate entities) will not exceed \$10,000,000; and (c) that the City will take such action or refrain from such action as necessary, and as more particularly set forth in this Section, in order that the Certificates will not be considered "private activity bonds" within the meaning of section 141 of the Code.

(f) Disposition of Project. The City covenants that the property constituting the projects financed with the proceeds of the Certificates will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(g) Written Procedures. Unless superseded by another action of the City, to ensure compliance with the covenants contained herein regarding private business use, remedial actions, arbitrage and rebate, the City hereby adopts and establishes the instructions attached hereto as Exhibit "A" as their written procedures for the Certificates and any other tax-exempt debt or obligation outstanding or hereafter issued.

Section 12. SALE OF CERTIFICATES. The Certificates are hereby officially sold and shall be delivered to _____ (the "Underwriters") in accordance with the terms and provisions of a Purchase Agreement in substantially the form presented at this meeting, which the Mayor of the City is hereby authorized and directed to execute and deliver such Purchase Agreement. The City will initially deliver to the Underwriters the Certificates authorized under this Ordinance. The Certificates shall initially be registered in the name of Cede & Co. The City finds that the terms of the sale are the most advantageous reasonably available.

Section 13. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default: (i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Certificates, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default. (i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or

employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies; (ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Certificates then outstanding.

(c) Remedies Not Exclusive. (i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance. (ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy. (iii) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council. (iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

Section 14. ESTABLISHMENT OF CONSTRUCTION FUND AND INTEREST EARNINGS. (a) Construction Fund. A special fund or account, to be designated the City of Elgin Series 2019A Certificate of Obligation Construction Fund (the "2019A Construction Fund") is hereby created and shall be established and maintained by the City at a depository bank of the City. The 2019A Construction Fund shall be kept separate and apart from all other funds and accounts of the City. The 2019A Construction Fund and the Interest and Sinking Fund shall be invested in accordance with the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, and the City's Investment Policy.

(b) Interest Earnings. Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with the Certificate proceeds for the purpose for which the Certificates are issued as set forth in Section 1 hereof or to pay principal or interest payments on the Certificates; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 15. APPROVAL OF OFFICIAL STATEMENT. The City hereby approves the form and content of the Official Statement relating to the Certificates and any addenda,

supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Certificates by the Purchaser in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement dated _____, 2019 prior to the date hereof is confirmed, approved and ratified. The City Council hereby finds and determines that the Preliminary Official Statement and final Official Statement were "deemed final" (as that term is defined in 17 CFR Section 240.15c(2)-12) as of their respective dates.

Section 16. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT. The Paying Agent/Registrar Agreement in substantially the form presented to the Council is hereby approved. The Mayor is hereby authorized to amend, complete or modify such agreement as necessary and is further authorized to execute such agreement and the City Secretary is hereby authorized to attest such agreement, as necessary.

Section 17. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The City shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, (i) within six months after the end of each fiscal year of the City ending in or after 2019, financial information and operating data, which information and data may be unaudited, with respect to the City of the general type included in the final Official Statement authorized by Section 15 of this Ordinance, being the information described in Exhibit "B" hereto and (ii) if not provided as part of such financial information and operating data, audited financial statements of the City, within twelve months after the end of each fiscal year of the City ending in or after 2019. Any financial statements to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "B" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide unaudited financial statements within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

- (b) Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Certificates:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material within the meaning of the federal securities laws;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other events affecting the tax status of the Certificates
7. Modifications to rights of holders of the Certificates, if material within the meaning of the federal securities laws;
8. Certificate calls, if material within the meaning of the federal securities laws;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Certificates, if material within the meaning of the federal securities laws;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the City;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.
15. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar

terms of a Financial Obligation of the City, any of which affect security holder, if material; and

16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes. (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 8 of this Ordinance that causes the Certificates no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City hereby agrees to undertake such obligation with respect to the Certificates in accordance with the Rule as amended.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Certificates. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

Section 19. NO RECOURSE AGAINST CITY OFFICIALS. No recourse shall be had for the payment of principal of or interest on the Certificates or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificates.

Section 20. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the initial sale and delivery of the Certificates, the Paying Agent/Registrar Agreement, and any insurance commitment letter or insurance policy. In addition, prior to the initial delivery of the Certificates, the Mayor, the City Secretary, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of any bond insurer, or (iii) obtain the approval of the Certificates by the Attorney General's office.

In case any officer of the City whose signature shall appear on any Certificate shall cease to be such officer before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 21. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Certificates and the validity of the lien on and pledge to secure the payment of the Certificates.

Section 22. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provisions of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 23. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owners of the Certificates, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Certificates.

Section 24. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 25. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 26. SEVERABILITY. The provisions of this Ordinance are severable; and in case any one or more of the provisions of this Ordinance or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Section 27. PERFECTION. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of ad valorem taxes and revenues granted by the City under Sections 6 and 7 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of ad valorem taxes and revenues granted by the City under Sections 6 and 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 28. EFFECTIVE DATE. This Ordinance shall become effect immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 29. NO PERSONAL LIABILITY. No covenant or agreement contained in the Certificates, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Certificates shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Certificates.

Section 30. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATE; BOND COUNSEL'S OPINION; AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City is hereby authorized to have control of the Certificate initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificate pending its delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificate said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificate, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel, at the option of the City, be printed on the Certificate issued

and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owner of the Certificate. In addition, if bond insurance is obtained, the Certificate may bear an appropriate legend as provided by the insurer.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, passed and approved on the first and final reading on the 5th day of March, 2019.

Mayor, City of Elgin, Texas

ATTEST:

City Secretary, City of Elgin, Texas

APPROVED AS TO FORM:

City Attorney, City of Elgin, Texas

[Signature Page]

EXHIBIT "A"

WRITTEN PROCEDURES RELATING TO CONTINUING COMPLIANCE WITH FEDERAL TAX COVENANTS

A. Arbitrage. With respect to the investment and expenditure of the proceeds of the Bonds, Notes, Certificates, Leases or other Obligations now or hereafter outstanding as having the interest on such debt exempt from Federal income taxes of the debt holder (the "Obligations") the Issuer's City Manager or Director of Finance (the "Responsible Person") will, as applicable to each issuance of Obligations:

- instruct the appropriate person or persons that the construction, renovation or acquisition of the facilities must proceed with due diligence and that binding contracts for the expenditure of at least 5% of the proceeds of the Obligations will be entered into within 6 months of the Issue Date;
- monitor that at least 85% of the proceeds of the Obligations to be used for the construction, renovation or acquisition of any facilities are expended within 3 years of the date of delivery of the Obligations ("Issue Date");
- restrict the yield of the investments to the yield on the Obligations after 3 years of the Issue Date;
- monitor all amounts deposited into a sinking fund or funds, e.g., the Debt Service Fund/Bond Fund/Interest and Sinking Fund, to assure that the maximum amount invested at a yield higher than the yield on the Obligations does not exceed an amount equal to the debt service on the Obligations in the succeeding 12-month period plus a carryover amount equal to one-twelfth of the principal and interest payable on the Obligations for the immediately preceding 12-month period;
- ensure that no more than 50% of the proceeds of the Obligations are invested in an investment with a guaranteed yield for 4 years or more;
- assure that the maximum amount of any reserve fund for any Obligations invested at a yield higher than the yield on the Obligations will not exceed the lesser of (1) 10% of the principal amount of the Obligations, (2) 125% of the average annual debt service on the Obligations measured as of the Issue Date, or (3) 100% of the maximum annual debt service on the Obligations as of the Issue Date;
- monitor the actions of the escrow agent (to the extent an escrow is funded with proceeds) to ensure compliance with the applicable provisions of the escrow agreement, including with respect to reinvestment of cash balances;
- maintain any official action of the Issuer (such as a reimbursement resolution) stating its intent to reimburse with the proceeds of the Obligations any amount expended prior to the Issue Date for the acquisition, renovation or construction of the facilities;
- ensure that the applicable information return (e.g., IRS Form 8038-G, 8038-GC, or any successor forms) is timely filed with the IRS;
- assure that, unless excepted from rebate and yield restriction under section 148(f) of the Code, excess investment earnings are computed and paid to the U.S. government at such time and in such manner as directed by the IRS (i) at least

every 5 years after the Issue Date and (ii) within 30 days after the date the Obligations are retired.

B. Private Business Use. With respect to the use of the facilities financed or refinanced with the proceeds of the Bonds the Responsible Person will:

- monitor the date on which the facilities are substantially complete and available to be used for the purpose intended;
- monitor whether, at any time the Obligations are outstanding, any person, other than the Issuer, the employees of the Issuer, the agents of the Issuer or members of the general public has any contractual right (such as a lease, purchase, management or other service agreement) with respect to any portion of the facilities;
- monitor whether, at any time the Obligations are outstanding, any person, other than the Issuer, the employees of the Issuer, the agents of the Issuer or members of the general public has a right to use the output of the facilities (e.g., water, gas, electricity);
- monitor whether, at any time the Obligations are outstanding, any person, other than the Issuer, the employees of the Issuer, the agents of the Issuer or members of the general public has a right to use the facilities to conduct or to direct the conduct of research;
- determine whether, at any time the Obligations are outstanding, any person, other than the Issuer, has a naming right for the facilities or any other contractual right granting an intangible benefit;
- determine whether, at any time the Obligations are outstanding, the facilities are sold or otherwise disposed of; and
- take such action as is necessary to remediate any failure to maintain compliance with the covenants contained in the Order related to the public use of the facilities.

C. Record Retention. The Responsible Persons will maintain or cause to be maintained all records relating to the investment and expenditure of the proceeds of the Obligations and the use of the facilities financed or refinanced thereby for a period ending three (3) years after the complete extinguishment of the Obligations. If any portion of the Obligations is refunded with the proceeds of another series of tax-exempt obligations, such records shall be maintained until the three (3) years after the refunding obligations are completely extinguished. Such records can be maintained in paper or electronic format.

D. Responsible Persons. Each Responsible Person shall receive appropriate training regarding the Issuer's accounting system, contract intake system, facilities management and other systems necessary to track the investment and expenditure of the proceeds and the use of the facilities financed with the proceeds of the Obligations. The foregoing notwithstanding, the Responsible Persons are authorized and instructed to retain such experienced advisors and agents as may be necessary to carry out the purposes of these instructions.

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 17 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

- (1) Table 1 - Valuation, Exemptions and General Obligation Debt;
- (2) Table 2 - Taxable Assessed Valuations by Category;
- (3) Table 3 - Valuation and General Obligation Debt History;
- (4) Table 4 - Tax Rate, Levy and Collection History;
- (5) Table 5 - Ten Largest Taxpayers;
- (6) Table 6 - Tax Adequacy;
- (7) Table 8 - Pro Forma General Obligation Debt Service Requirements;
- (8) Table 9 - Interest and Sinking Fund Budget Projection;
- (9) Table 10 - Computation of Self-Supporting Debt;
- (10) Table 11 – Authorized But Unissued General Obligation Bonds;
- (11) Table 12 – Other Obligations;
- (12) Table 13 – General fund Revenues and Expenditure History;
- (13) Table 14 – Municipal Sales Tax History;
- (14) Table 15 – Current Investment;
- (15) Appendix B - Excerpts from the City's Annual Financial Report

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in the paragraph above.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: Consideration and action with respect to an "ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ELGIN, TEXAS COMBINATION TAX AND TAX INCREMENT REINVESTMENT ZONE NUMBER ONE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019B; LEVYING AN AD VALOREM TAX AND PLEDGING CERTAIN TAX INCREMENT REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES"

DEPARTMENT: Finance

PROPOSED ACTION: Adopt Ordinance as prepared and approved by the City 's Bond Counsel.

BACKGROUND: Adoption of this Ordinance is one of the final steps in providing funding for a variety of projects necessary for improvement and enhanced efficiency in City Operations. The adoption is a required step in selling bonds that will finance (i) construction and improvement of Lee Dildy/Roy Rivers Boulevard Phase II Extension and Phase III Extension, including drainage, retention pond, related acquisition of land, rights of way, easements, sidewalks, street lights, traffic signals and related appurtenances; and (ii) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates (collectively the "Project").

Funding to pay debt service on these bonds will come from Tax Increment Revenues that are generated within the TIRZ # 1.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION: Review and adopt the Ordinance as presented.

ATTACHMENTS: Copy of Ordinance to be adopted.

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{X} Staff, Bond Counsel and the City's Financial Advisors will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. _____

ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ELGIN, TEXAS COMBINATION TAX AND TAX INCREMENT REINVESTMENT ZONE NUMBER ONE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019B; LEVYING AN AD VALOREM TAX AND PLEDGING CERTAIN TAX INCREMENT REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES

THE STATE OF TEXAS	§
COUNTIES OF BASTROP AND TRAVIS	§
CITY OF ELGIN	§

WHEREAS, the City Council of the City of Elgin, Texas (the "City") deems it advisable to issue certificates of obligation in the amount of \$_____ (the "Certificates") for the purpose of paying contractual obligations incurred or to be incurred for (i) construction and improvement of Lee Dildy/Roy Rivers Boulevard Phase II Extension and Phase III Extension, including drainage, retention pond, related acquisition of land, rights of way, easements, sidewalks, street lights, traffic signals and related appurtenances; and (ii) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates (collectively the "Project"); and

WHEREAS, the Certificates hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Local Government Code and Chapter 1502, Texas Government Code, as amended; and

WHEREAS, on January 8, 2019 the City Council passed a resolution authorizing and directing the City Secretary to give notice of intention to issue the Certificates; and

WHEREAS, the notice was published on January 16, 2019 and January 23, 2019 in *The Elgin Courier*, a newspaper of general circulation in the City and a "newspaper" as defined in Section 2051.044, Government Code; and

WHEREAS, due to a change in meeting dates, notice of the delay in passage of this Ordinance from February 19, 2019 to March 5, 2019 was posted at City Hall and on the City's website; and

WHEREAS, the City has not received a valid petition from the qualified voters of the City protesting the issuance of the Certificates; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Texas Government Code; and

WHEREAS, it is considered to be in the best interest of the City that the interest bearing Certificates be issued; therefore,

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

Section 1. RECITALS, AMOUNT AND PURPOSE OF THE CERTIFICATES.

The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The Certificates of the City of Elgin, Texas (the "City") are hereby authorized to be issued and delivered in the aggregate principal amount of \$_____ for the purpose of paying contractual obligations incurred or to be incurred for (i) improvements and extensions to the City's water and sewer system; (ii) acquisition of a comprehensive upgrade to software systems utilized by the City; (iii) replacing the monitoring and central system for the City's water and sewer treatment plants, (iv) acquisition of radio read meters for the City's water and sewer system; and (v) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates.

Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, AND MATURITIES OF CERTIFICATES. Each certificate issued pursuant to this Ordinance shall be designated: "CITY OF ELGIN, TEXAS COMBINATION TAX AND TAX INCREMENT REINVESTMENT ZONE NUMBER ONE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019B", and initially there shall be issued, sold, and delivered hereunder fully registered certificates, without interest coupons, dated March 1, 2019, in the denomination and principal amount hereinafter stated, numbered consecutively from R-1 upward (except the initial Certificate delivered to the Attorney General of the State of Texas which shall be numbered T-1), payable to the respective initial registered owners thereof (as designated in Section 12 hereof), or to the registered assignee or assignees of said Certificates or any portion or portions thereof (in each case, the "Registered Owner"), and the outstanding principal amount of the Certificates shall mature and be payable on August 1 in each of the years and in the principal amount, respectively, as set forth in the following schedule:

<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>
2019		2034	
2020		2035	
2021		2036	
2022		2037	
2023		2038	
2024		2039	
2025		2040	
2026		2041	
2027		2042	
2028		2043	
2029		2044	
2030		2045	

2031
2032
2033

2046
2047
2048

The term "Certificate" as used in this Ordinance shall mean and include collectively the Certificates initially issued and delivered pursuant to this Ordinance and all substitute Certificates exchanged therefor, as well as all other substitute Certificates and replacement Certificates issued pursuant hereto.

SECTION 3. INTEREST. The Certificates scheduled to mature during the years, respectively, set forth below shall bear interest from the dates specified in the FORM OF CERTIFICATE set forth in this Ordinance to their respective dates of maturity at the following rates per annum:

<u>YEAR</u>	<u>INTEREST</u> <u>RATE</u>	<u>YEAR</u>	<u>INTEREST</u> <u>RATE</u>
2019		2034	
2020		2035	
2021		2036	
2022		2037	
2023		2038	
2024		2039	
2025		2040	
2026		2041	
2027		2042	
2028		2043	
2029		2044	
2030		2045	
2031		2046	
2032		2047	
2033		2048	

Interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE set forth in this Ordinance.

Section 4. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange; Authentication. The City shall keep or cause to be kept at _____, _____, Texas (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which

payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make the Registration Books available within the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and said Certificates shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificate which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

(b) Payment of Certificates and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Certificate (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificate to be payable only to the

Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 45 days prior to any such redemption date which shall indicate to which principal installments the redemption shall be applied), (iii) may be converted and exchanged for other Certificates, (iv) may be transferred and assigned in whole, but not in part, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificate initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange or substitute for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

(d) Substitute Paying Agent/Registrar. The City covenants with the Registered Owners of the Certificates that at all times while the Certificates are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective at such time which will not disrupt or delay payment on the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry-Only System. The Certificates issued in exchange for the Certificates initially issued as provided in Section 4(i) shall be issued in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC") and except as provided in subsection (f) hereof, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any

securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal of and interest, with respect to such Certificate, for the purposes of registering transfers with respect to such Certificate, and for all other purposes of registering transfers with respect to such Certificates, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Certificate evidencing the obligation of the City to make payments of principal, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Certificate, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the Registered Owner transferring or exchanging Certificate shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of

DTC, all payments with respect to principal of, and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the Letter of Representations of the City to DTC.

(h) DTC Blanket Letter of Representations. The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Certificates.

(i) Cancellation of Initial Certificate. On the closing date, one Initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the order of the purchaser of the Certificates or its designee set forth in Section 12 of this Ordinance, executed by manual or facsimile signature of the Mayor or Mayor Pro-tem and City Secretary, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such Underwriters set forth in Section 12 of this Ordinance or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver to DTC on behalf of such Underwriters one registered definitive Certificate for each year of maturity of the Certificates, in the aggregate principal amount of all the Certificates for such maturity.

Section 5. FORM OF CERTIFICATE. The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificate initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF CERTIFICATE

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS COUNTIES OF BASTROP AND TRAVIS CITY OF ELGIN, TEXAS	PRINCIPAL AMOUNT \$_____
COMBINATION TAX AND TAX INCREMENT REINVESTMENT ZONE NUMBER ONE REVENUE CERTIFICATE OF OBLIGATION SERIES 2019B		

INTEREST RATE	DATE OF CERTIFICATE	MATURITY DATE	CUSIP NO.
	_____, 2019		

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ **DOLLARS**

ON THE MATURITY DATE specified above, the CITY OF ELGIN, in the Counties of Bastrop and Travis, State of Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from the Date of Certificate, on July 15, 2019 and semiannually on each January 15 and July 15 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; except that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged or converted from is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at _____, which is the "Paying Agent/Registrar" for this Certificate at its designated office for payment currently, _____, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Certificate (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the last day of the preceding month, whether or not a business day, each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Certificate is determined only by a book entry at a securities depository for the Certificate, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Certificate that on or before each principal payment date, interest payment date, and accrued interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is dated March 1, 2019, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____, for the purpose of paying contractual obligations incurred or to be incurred by the City for: (i) construction and improvement of Lee Dildy/Roy Rivers Boulevard Phase II Extension and Phase III Extension, including drainage, retention pond, related acquisition of land, rights of way, easements, sidewalks, street lights, traffic signals and related appurtenances; and (ii) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates (collectively the "Project").

ON _____, 20____, or on any date thereafter, the Certificates of this Series maturing on and after _____, 20____ may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Certificates, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000).

WITH RESPECT TO any optional redemption of the Certificates, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall

give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

[**THE CERTIFICATES MATURING ON _____, 20__** are subject to mandatory sinking fund redemption prior to maturity in the following amounts on the following dates and at a price of par plus accrued interest to the redemption date ("Term Bonds").

Term Certificates Maturing on _____, 20__

<u>Redemption Date</u>	<u>Principal Amount</u>
*	*

*Final Maturity

THE PRINCIPAL AMOUNT of the Term Certificates required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the City by the principal amount of any Term Certificates of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking Fund at a price not exceeding the principal amount of the Term Certificates plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.

NO LESS THAN 30 days prior to the date fixed for any such redemption, unless the Purchaser (as defined in the Ordinance) is the sole Registered Owner of all of the outstanding principal amount of the Certificates, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Certificate to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the business day next preceding the date of mailing such notice and to major securities depositories, national bond rating agencies and bond information services; provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of the Certificates. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates. If due provision for such payment is made, all as provided above, the Certificates thereby automatically shall be treated as redeemed prior to its scheduled maturity, and it shall not bear interest after the date fixed for redemption, and it shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of \$5,000 and any integral multiple of \$5,000 in excess thereof. As provided in the Ordinance, this Certificate may, at the request of

the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificate, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations of \$5,000 and in any integral multiple of \$5,000 in excess thereof as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any denomination of \$5,000 and any integral multiple of \$5,000 in excess thereof to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Certificates.

WHENEVER the beneficial ownership of this Certificate is determined by a book entry at a securities depository for the Certificate, the foregoing requirements of holding, delivering or transferring this Certificate shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owner of the Certificates.

IT IS FURTHER CERTIFIED that the City has designated the Certificates as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Internal Revenue Code of 1986.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; and that

annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate, together with other obligations of the City, is additionally secured by and payable from a subordinate lien on the tax increment revenues of the City's Reinvestment Zone Number One.

BY BECOMING the Registered Owner of this Certificate, the Registered Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Certificate and the Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Certificate.

City Secretary

Mayor

(CITY SEAL)

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Certificate is not accompanied by
an executed Registration Certificate of the
Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

Paying Agent/Registrar

By: _____
Authorized Representative

FORM OF ASSIGNMENT:

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS:**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

INSERTIONS FOR THE INITIAL CERTIFICATE

The Initial Certificate shall be in the form set forth in this Section, except that:

A. immediately under the name of the Certificates, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE DATE SPECIFIED BELOW, the City of Elgin, Texas (the "City"), being a political subdivision, hereby promises to pay the annual installments set forth below to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on July 15 in each of the years, in the principal installments in the following schedule and bearing interest at the per annum rate stated above:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rates</u>
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(Information from Sections 2 and 3 to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from March 28, 2019 at the respective Interest Rate per annum specified above. Interest is payable on July 15, 2019 and semiannually on each January 15 and July 15 thereafter to the date of payment of the principal installment specified above; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

C. The Initial Certificate shall be numbered "T-1."

Section 6. INTEREST AND SINKING FUND. A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the City at an official depository bank of said City. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said City, and shall be used only for paying the interest on and principal of said Certificates. All ad valorem taxes levied and collected for and on account of said Certificates shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Certificates are outstanding and unpaid, the governing body of said City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on said Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Certificates as such principal matures (but never less than 2% of the original amount of said Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said City, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said City, for each year while any of said Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest and any premium on the Certificates shall be deposited in the Interest and Sinking Fund and used to pay interest on the Certificates.

Section 7. REVENUES. The Certificates are additionally secured by and shall be payable from a pledge of and lien on the tax increment revenues of the City's Reinvestment Zone Number One which pledge and lien is subordinate to all revenue bonds or other obligation (now or hereafter outstanding) which are payable from all or any part of the tax increment revenues of the City's Reinvestment Zone Number One. The City shall deposit such tax increment revenues to the credit of the Interest and Sinking Fund created pursuant to Section 6, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 6, if tax increment revenues are actually on deposit or budgeted for deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied pursuant to Section 6 may be reduced to the extent and by the amount of the tax increment revenues then on deposit in the Interest and Sinking Fund or budgeted for deposit therein.

The Mayor of the City Council of the City and the City Secretary of the City are hereby ordered to do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay such items of principal and interest.

Section 8. DEFEASANCE OF CERTIFICATES. (a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section 8, when payment of the principal of such Certificate, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or

before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Certificates shall have become due and payable or (3) any combination of (1) and (2). At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Certificate as aforesaid when proper notice of redemption of such Certificates shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City Council of the City also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Certificate and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council of the City.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Certificates and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Certificates and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Certificates and such Certificates shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Certificate affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Certificate to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Certificate for redemption in accordance with the provisions of this Ordinance, the City may call such Defeased Certificate for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Certificate as though it was being defeased at the time of the exercise of the option to redeem the Defeased Certificate and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Certificate.

As used in this Section, "Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Certificates are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council of the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Certificates, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent. "Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation), and (iv) any other then authorized securities of obligations under applicable State law that may be used to defease obligations such as the Certificates.

Section 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES. (a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the Registered Owner applying for a replacement certificate shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificates shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificates, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the Registered Owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement Certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Subchapter B of Chapter 1206, Texas Government Code, this Section 9 of this Ordinance shall constitute authority for the issuance of any such replacement Certificate without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Certificate is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificate in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for the Certificates issued in conversion and exchange for other Certificates.

Section 10. CUSTODY, APPROVAL, AND REGISTRATION OF THE CERTIFICATE; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City Council of the City is hereby authorized to have control of the Certificate initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificate pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificate said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificate, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel and the assigned CUSIP numbers, if any, may, at the option of the City, be printed on the Certificate issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Certificate. In addition, if bond insurance is obtained, the Certificate may bear an appropriate legend as provided by the insurer.

Section 11. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the

"Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds of the Certificates or the projects financed therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(3) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(4) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(5) to refrain from taking any action which would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(6) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of section 149(b) of the Code;

(7) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Certificates, other than investment property acquired with --

(A) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(8) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings);

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(10) to assure that the proceeds of the Certificates will be used solely for new money projects.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) [and] proceeds of the refunded bonds expended prior to the date of issuance of the Certificates. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Director of Finance to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Ordinance (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The City recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Designation as Qualified Tax-Exempt Obligations. The City hereby designates the Certificates as "qualified tax-exempt bonds" as defined in section 265(b)(3) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (a) that during the calendar year in which the Certificates are issued, the City (including any subordinate entities) has not designated nor will designate bonds, which when aggregated with the Certificates, will result in more than \$10,000,000 of "qualified tax-exempt bonds" being issued; (b) that the City reasonably anticipates that the amount of tax-exempt obligations issued, during the calendar year in which the Certificates are issued, by the City (or any subordinate entities) will not exceed \$10,000,000; and (c) that the City will take such action or refrain from such action as necessary, and as more particularly set forth in this Section, in order that the Certificates will not be considered "private activity bonds" within the meaning of section 141 of the Code.

(f) Disposition of Project. The City covenants that the property constituting the projects financed with the proceeds of the Certificates will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(g) Written Procedures. Unless superseded by another action of the City, to ensure compliance with the covenants contained herein regarding private business use, remedial actions, arbitrage and rebate, the City hereby adopts and establishes the instructions attached hereto as Exhibit "A" as their written procedures for the Certificates and any other tax-exempt debt or obligation outstanding or hereafter issued.

Section 12. SALE OF CERTIFICATES. The Certificates are hereby officially sold and shall be delivered to _____ (the "Underwriters") in accordance with the terms and provisions of a Purchase Agreement in substantially the form presented at this meeting, which the Mayor of the City is hereby authorized and directed to execute and deliver such Purchase

Agreement. The City will initially deliver to the Underwriters the Certificates authorized under this Ordinance. The Certificates shall initially be registered in the name of Cede & Co. The City finds that the terms of the sale are the most advantageous reasonably available.

Section 13. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default: (i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Certificates, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default. (i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies; (ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Certificates then outstanding.

(c) Remedies Not Exclusive. (i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance. (ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy. (iii) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council. (iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

Section 14. ESTABLISHMENT OF CONSTRUCTION FUND AND INTEREST EARNINGS. (a) Construction Fund. A special fund or account, to be designated the City of Elgin Series 2019B Certificate of Obligation Construction Fund (the "2019B Construction Fund") is hereby created and shall be established and maintained by the City at a depository bank of the City. The 2019B Construction Fund shall be kept separate and apart from all other funds and accounts of the City. The 2019B Construction Fund and the Interest and Sinking Fund shall be invested in accordance with the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, and the City's Investment Policy.

(b) Interest Earnings. Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with the Certificate proceeds for the purpose for which the Certificates are issued as set forth in Section 1 hereof or to pay principal or interest payments on the Certificates; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 15. APPROVAL OF OFFICIAL STATEMENT. The City hereby approves the form and content of the Official Statement relating to the Certificates and any addenda, supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Certificates by the Underwriter in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement dated _____, 2019 prior to the date hereof is confirmed, approved and ratified. The City Council hereby finds and determines that the Preliminary Official Statement and final Official Statement were "deemed final" (as that term is defined in 17 CFR Section 240.15c(2)-12) as of their respective dates.

Section 16. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT. The Mayor is hereby authorized to amend, complete or modify such agreement as necessary and is further authorized to execute such agreement and the City Secretary is hereby authorized to attest such agreement, as necessary.

Section 17. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The City shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, (i) within six months after the end of each fiscal year of the City ending in or after 2019, financial information and operating data, which information and data may be unaudited, with respect to the City of the general type included in the final Official Statement authorized by Section 15 of this Ordinance, being the information described in Exhibit "B" hereto and (ii) if not provided as part of such financial information and operating data, audited financial statements of the City, within twelve months after the end of each fiscal year of the City ending in or after 2019. Any financial statements to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "B" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed

within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide unaudited financial statements within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(b) Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Certificates:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material within the meaning of the federal securities laws;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other events affecting the tax status of the Certificates
7. Modifications to rights of holders of the Certificates, if material within the meaning of the federal securities laws;
8. Certificate calls, if material within the meaning of the federal securities laws;
9. Defeasances;

10. Release, substitution, or sale of property securing repayment of the Certificates, if material within the meaning of the federal securities laws;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the City;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.
15. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holder, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes. (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection. All

documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 12.02 of this Ordinance that causes the Certificates no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City hereby agrees to undertake such obligation with respect to the Certificates in accordance with the Rule as amended.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount

(or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Certificates. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

Section 19. NO RECOURSE AGAINST CITY OFFICIALS. No recourse shall be had for the payment of principal of or interest on the Certificates or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificates.

Section 20. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the initial sale and delivery of the Certificates, the Paying Agent/Registrar Agreement, and any insurance commitment letter or insurance policy. In addition, prior to the initial delivery of the Certificates, the Mayor, the City Secretary, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of any bond insurer, or (iii) obtain the approval of the Certificates by the Attorney General's office.

In case any officer of the City whose signature shall appear on any Certificate shall cease to be such officer before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 21. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Certificates and the validity of the lien on and pledge to secure the payment of the Certificates.

Section 22. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provisions of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 23. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owners of the Certificates, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Certificates.

Section 24. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 25. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 26. SEVERABILITY. The provisions of this Ordinance are severable; and in case any one or more of the provisions of this Ordinance or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Section 27. PERFECTION. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of ad valorem taxes and revenues granted by the City under Sections 6 and 7 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of ad valorem taxes and revenues granted by the City under Sections 6 and 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 28. EFFECTIVE DATE. This Ordinance shall become effect immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 29. NO PERSONAL LIABILITY. No covenant or agreement contained in the Certificates, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents,

employees or representatives of the City Council nor any person executing the Certificates shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Certificates.

Section 30. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATE; BOND COUNSEL'S OPINION; AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City is hereby authorized to have control of the Certificate initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificate pending its delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificate said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificate, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel, at the option of the City, be printed on the Certificate issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owner of the Certificate. In addition, if bond insurance is obtained, the Certificate may bear an appropriate legend as provided by the insurer.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, passed and approved on the first and final reading on the 5th day of March, 2019.

Mayor, City of Elgin, Texas

ATTEST:

City Secretary, City of Elgin, Texas

APPROVED AS TO FORM:

City Attorney, City of Elgin, Texas

[Signature Page]

EXHIBIT "A"

WRITTEN PROCEDURES RELATING TO CONTINUING COMPLIANCE WITH FEDERAL TAX COVENANTS

A. Arbitrage. With respect to the investment and expenditure of the proceeds of the Bonds, Notes, Certificates, Leases or other Obligations now or hereafter outstanding as having the interest on such debt exempt from Federal income taxes of the debt holder (the "Obligations") the Issuer's City Manager or Director of Finance (the "Responsible Person") will, as applicable to each issuance of Obligations:

- instruct the appropriate person or persons that the construction, renovation or acquisition of the facilities must proceed with due diligence and that binding contracts for the expenditure of at least 5% of the proceeds of the Obligations will be entered into within 6 months of the Issue Date;
- monitor that at least 85% of the proceeds of the Obligations to be used for the construction, renovation or acquisition of any facilities are expended within 3 years of the date of delivery of the Obligations ("Issue Date");
- restrict the yield of the investments to the yield on the Obligations after 3 years of the Issue Date;
- monitor all amounts deposited into a sinking fund or funds, e.g., the Debt Service Fund/Bond Fund/Interest and Sinking Fund, to assure that the maximum amount invested at a yield higher than the yield on the Obligations does not exceed an amount equal to the debt service on the Obligations in the succeeding 12-month period plus a carryover amount equal to one-twelfth of the principal and interest payable on the Obligations for the immediately preceding 12-month period;
- ensure that no more than 50% of the proceeds of the Obligations are invested in an investment with a guaranteed yield for 4 years or more;
- assure that the maximum amount of any reserve fund for any Obligations invested at a yield higher than the yield on the Obligations will not exceed the lesser of (1) 10% of the principal amount of the Obligations, (2) 125% of the average annual debt service on the Obligations measured as of the Issue Date, or (3) 100% of the maximum annual debt service on the Obligations as of the Issue Date;
- monitor the actions of the escrow agent (to the extent an escrow is funded with proceeds) to ensure compliance with the applicable provisions of the escrow agreement, including with respect to reinvestment of cash balances;
- maintain any official action of the Issuer (such as a reimbursement resolution) stating its intent to reimburse with the proceeds of the Obligations any amount expended prior to the Issue Date for the acquisition, renovation or construction of the facilities;
- ensure that the applicable information return (e.g., IRS Form 8038-G, 8038-GC, or any successor forms) is timely filed with the IRS;
- assure that, unless excepted from rebate and yield restriction under section 148(f) of the Code, excess investment earnings are computed and paid to the U.S. government at such time and in such manner as directed by the IRS (i) at least

every 5 years after the Issue Date and (ii) within 30 days after the date the Obligations are retired.

B. Private Business Use. With respect to the use of the facilities financed or refinanced with the proceeds of the Bonds the Responsible Person will:

- monitor the date on which the facilities are substantially complete and available to be used for the purpose intended;
- monitor whether, at any time the Obligations are outstanding, any person, other than the Issuer, the employees of the Issuer, the agents of the Issuer or members of the general public has any contractual right (such as a lease, purchase, management or other service agreement) with respect to any portion of the facilities;
- monitor whether, at any time the Obligations are outstanding, any person, other than the Issuer, the employees of the Issuer, the agents of the Issuer or members of the general public has a right to use the output of the facilities (e.g., water, gas, electricity);
- monitor whether, at any time the Obligations are outstanding, any person, other than the Issuer, the employees of the Issuer, the agents of the Issuer or members of the general public has a right to use the facilities to conduct or to direct the conduct of research;
- determine whether, at any time the Obligations are outstanding, any person, other than the Issuer, has a naming right for the facilities or any other contractual right granting an intangible benefit;
- determine whether, at any time the Obligations are outstanding, the facilities are sold or otherwise disposed of; and
- take such action as is necessary to remediate any failure to maintain compliance with the covenants contained in the Order related to the public use of the facilities.

C. Record Retention. The Responsible Persons will maintain or cause to be maintained all records relating to the investment and expenditure of the proceeds of the Obligations and the use of the facilities financed or refinanced thereby for a period ending three (3) years after the complete extinguishment of the Obligations. If any portion of the Obligations is refunded with the proceeds of another series of tax-exempt obligations, such records shall be maintained until the three (3) years after the refunding obligations are completely extinguished. Such records can be maintained in paper or electronic format.

D. Responsible Persons. Each Responsible Person shall receive appropriate training regarding the Issuer's accounting system, contract intake system, facilities management and other systems necessary to track the investment and expenditure of the proceeds and the use of the facilities financed with the proceeds of the Obligations. The foregoing notwithstanding, the Responsible Persons are authorized and instructed to retain such experienced advisors and agents as may be necessary to carry out the purposes of these instructions.

EXHIBIT "B"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 17 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

- (1) Table 1 - Valuation, Exemptions and General Obligation Debt;
- (2) Table 2 - Taxable Assessed Valuations by Category;
- (3) Table 3 - Valuation and General Obligation Debt History;
- (4) Table 4 - Tax Rate, Levy and Collection History;
- (5) Table 5 - Ten Largest Taxpayers;
- (6) Table 6 - Tax Adequacy;
- (7) Table 8 - Pro Forma General Obligation Debt Service Requirements;
- (8) Table 9 - Interest and Sinking Fund Budget Projection;
- (9) Table 10 - Computation of Self-Supporting Debt;
- (10) Table 11 – Authorized But Unissued General Obligation Bonds;
- (11) Table 12 – Other Obligations;
- (12) Table 13 – General fund Revenues and Expenditure History;
- (13) Table 14 – Municipal Sales Tax History;
- (14) Table 15 – Current Investment;
- (15) Appendix B - Excerpts from the City's Annual Financial Report

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in the paragraph above.



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: *(Discussion only)* Staff report on various issues associated with an area in the southeast quadrant of the City annexed in 2015 (“Annexed Area”) and related matters

DEPARTMENT: City Manager

PROPOSED ACTION:

No Council action is requested or anticipated at this time. This item is to allow for an update by staff to Council regarding the project as described.

BACKGROUND:

Discussed at previous meetings; In December of 2015, the City completed an annexation of certain real property that is located on the southeast side of town. The total of all such property annexed at that time was 131 acres that contained a variety of existing land uses.

One, if not the, primary objectives of the annexation then was to prevent further expansion of the City of Bastrop’s jurisdiction. Aggressive annexation by other cities in the area was also common at that time; and it was also thought at the time that growth and development was imminent for that area.

Given the timing of the annexation, the City is now faced with issues related to the extension of sanitary sewer services and achieving substantial compliance with applicable law by the end of calendar year 2020.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION:

No Council action is requested or anticipated at this time; other than routine direction to staff, if any.

ATTACHMENTS:

10/9/18 Staff memorandum

{X} Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{ } This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Memorandum

Date: October 9, 2018

To: Mayor and City Council

Subject: City Services to Annexed Area

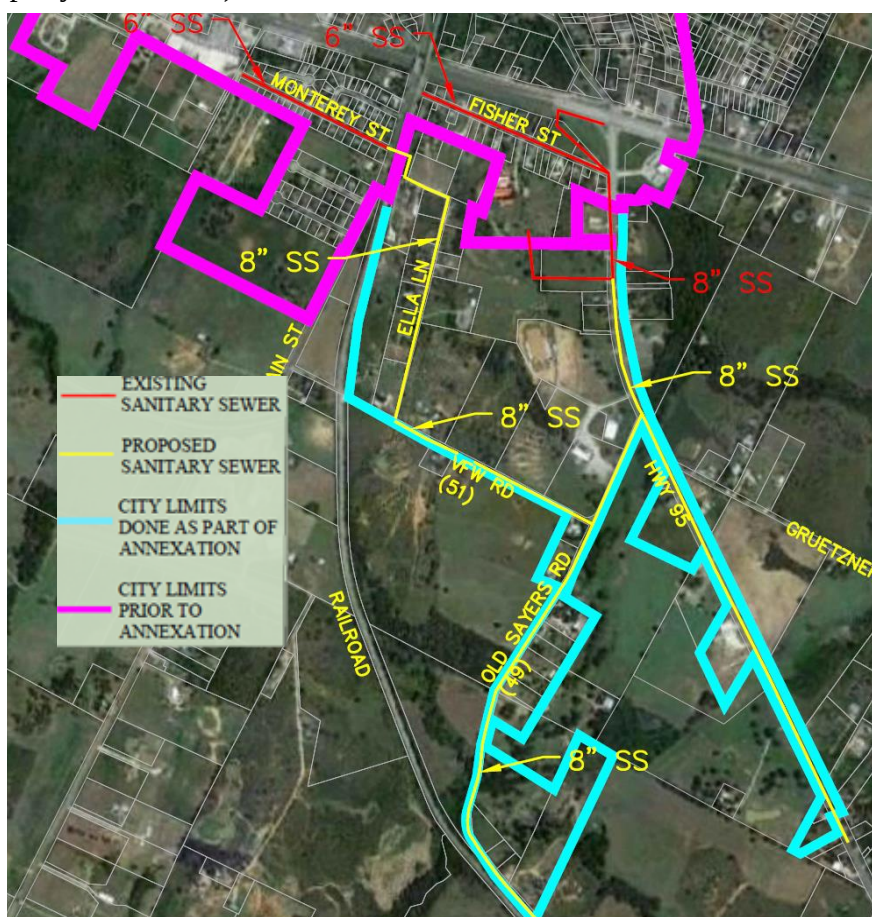


In December of 2015, the City completed an annexation of certain real property into the city limits that is located on the southeast side of town. The total of all such property annexed at that time was 131 acres that contained a variety of existing land uses, including the Texas Lost Pines Riding Club Arena and the Elgin Veterans of Foreign Wars Post 6115.

At that time, there were a variety of issues that supported this annexation effort that was led by the Mayor and City Manager who were in office at that time. It appears that one, if not the, primary objective of the annexation then was to prevent further expansion of the City of Bastrop's jurisdiction. Aggressive annexation by other cities in the area was also common at that time; and it was also thought at the time that significant growth and development was imminent for that area.

This annexed area is generally bordered by the railroad tracks to the west, HWY95 to the east, the previous city limits to the north, and just beyond old Sayers Road to the south (although the annexation did not include all property in this area).

The annexation was completed in compliance with state law; which means that the City is required to complete the extension of all city services to this area within five (5) years. City services have already provided to the area since the annexation including law enforcement, trash/recycling collection, street maintenance, planning, code enforcement and other basic services. As the area is wholly located within the Aqua Water Supply Corporation (WSC) Certificate of Convenience and Necessity (CCN), potable water services are provided by AWSC. Wastewater/sewer services, however, have not been extended to the area; and the required effort to do so will be costly and time-consuming.



Although the City's approval of this annexation included a commitment to extend all services, no plans - or funding - have ever been developed to fulfill this final obligation. The City is now, however, facing a deadline to develop a definitive plan as to if, how, and when all city services will be extended to this area as requested by property owners there.

Extension of Wastewater Services

Based on the staff's most recent assessment, the City would need to expand and upgrade its wastewater collection system to serve approximately forty-seven (47) adjoining and adjacent land tracts that are part of the one hundred thirty-one (131) acres of annexed property. Currently, the area in question has fewer than fifty (50) single family residences that would require services.

Specifically, the City Engineer would recommend the installation of an estimated 5,050 linear feet of sewer main line within the HWY95 right of way, 2,140 linear feet of sewer main line adjacent to VFW Road, 4,735 linear feet of sewer main adjacent to Old Sayers Road, and 2,670 linear feet of sewer main adjacent to Ella Lane. These improvements would tie into existing infrastructure at two points; a 6-inch sewer line at Monterrey Street and an 8 inch of sewer line at Hwy 95. The ultimate discharge point of the proposed wastewater system is the existing wastewater treatment plant.

The preliminary/conceptual level cost estimate to design and construct the project as described above is **\$2,750,000**.

The City Engineer also notes that even at the maximum rate of residential development, the City is not likely to recoup these costs over time through Sewer Impact Fees: "Assuming the entirety of the property develops into single family residential areas with a minimum lot size of 6,000 square feet, and accounting for infrastructure and other items, there is only a possibility of six hundred sixty-seven (667) single family lots. The total impact fees for those lots would be \$1,067,200."

Code Enforcement

While serving the annexed area will have a definite impact on all city services, it is anticipated that it will pose a particular challenge as it relates to Code Enforcement. All existing properties and/or residents within this area have previously been subject to county/rural standards; and the City has admittedly not been overly aggressive with Code Enforcement efforts there to this point in time. It has become clear, however, that some of the residents expect these efforts to be at least equal to those Code Enforcement standards maintained by city staff in all parts of the City.

Currently, there is one property in particular that is anticipated to present a major challenge for the City – including potentially significant legal and/or abatement costs. While there is general agreement about the need to effectively address this particular property, establishing the standard will clearly impact many other properties within the annexed area. Just through casual observations, the staff assessment is that it appears that many (if not most) other properties there may be in violation of city code right now.

Land Development

All properties within the annexed area have also been developed and constructed under county standards which, as a general rule, are typically less stringent than cities – and we have found that to absolutely be the case with City of Elgin/Bastrop County regulations. As is the clear intention of the law, cities are intended to be vehicles for dense residential development and, as such, have higher expectations for same. Essentially all development standards (platting, subdividing, setbacks, road construction, stormwater drainage, mandatory ROW donation, etc.) are higher for projects within the city. In the opinion of some property owners and developers, this translates into "more complicated" and "more expensive".

It is important to note that this situation will not only impact major development projects, as it will also apply to - and impact - smaller landowners who “only want to subdivide their property”.

These issues won’t necessarily carry a direct cost impact for the City, but they will likely impact small development projects in the future; and the staff certainly anticipates a definite “learning curve” for all affected property owners in that area.

Development Agreements

At the time of this annexation, state law prohibited the City from annexing land covered by an agricultural or wildlife exemption unless it first offered the landowner a *Development Agreement*. In response, city staff reached out to every property owner in the area, offering such an agreement that would include the following primary elements:

- The property would not be annexed by the City so long as (1) said property continued to receive an agricultural exemption, and (2) no action was taken by the owner “to file a subdivision plat or any related development document regarding the property.”; and,
- The owner agreed to enforcement of “all regulations and planning authority of the City, except for any regulations which interfere with use . . . for agricultural purposes”; and,
- The owner agreed to abide by single-family residential use requirements and that the property would only be used for single-family residential zoning uses; and,

The *Agreement* further stipulated that any violation of any these conditions would “constitute a petition for voluntary annexation by the owner”.

For all practical purposes, the *Development Agreements* essentially amount to a commitment by the City to not forcibly annex property, in return for the property owner agreeing that if said property ever developed beyond the single-family/agricultural use, such property would be voluntarily annexed into the city limits without objection from the owner.

Within this area, the City has executed *Development Agreements* as described with thirteen (13) different property owners of a combined/total three hundred three (303) acres of land.

It is important to note (as with all land eligible for annexation), that any property subject to a *Development Agreement* as described herein must be located within the city’s extraterritorial jurisdiction (ETJ) and be contiguous with the existing city limits or contiguous with other property that is contiguous with the city limits.

The preceding is an important element related to this particular annexation, inasmuch as the required contiguity as described above was achieved through a combination of annexation and associated *Development Agreements*. The *Agreements* would not have been valid without the annexation of property that occurred.

Financing

Although unfunded, the project to extend wastewater services to the newly annexed area has been identified in the City’s *Five-Year Capital Improvement Plan* since the 5YRCP was first developed two years ago. A partial offset of the initial capital costs for this project could come from Sewer Impact Fees. If all current residents/properties immediately connect to the system, the City could recover as much as \$80,000 (\$1,600 per service). Significant grant funding for this particular project seems unlikely. It is the staff assessment that the only viable option for the necessary \$2.8M would be the issuance of additional debt.

There is no existing funding currently available; nor has a financing plan been approved for any costs associated with this project.

Conclusion

Given the timing of the annexation that is the subject matter of this report, the City is now faced with a variety of issues related to achieving substantial compliance with applicable law by the end of calendar year 2020. Primarily, staff will need direction from Council as to funding and timing of the construction project to extend wastewater services - which will likely take at least a full year or more to design and construct.

It should be noted that one (maybe the only) alternative available to the City would be the possible dis-annexation of the area, returning it to Bastrop County's jurisdiction. Such an action would eliminate any concerns about capital costs or operational impacts. However, disannexation includes its own set of challenges and impacts – and would not be a simple task. If the Council were interested in considering this option, it should first be fully vetted with the City Attorney.

It is not unusual for circumstances connected to an annexation to change over time. Even though it has been a relatively brief period since this annexation was approved, the City now has a new Mayor, new Councilmembers, a new City Manager, and many new staff – as well as new issues/demands related to growth. Many of the details provided herein, including anticipated direct costs for the extension of sewer services, were also not made available at the time of the annexation.

With all of this in mind, there does not now appear to be crystal-clear consensus – among current staff - as to the reason for and/or current value of this annexation. Accordingly, a full review and discussion by the City Council of this annexation and the items described herein is recommended in order to provide clear direction to staff on how to proceed.

Please let me know if you have any questions or would like to request additional information in this regard.



Thomas L. Mattis
City Manager

cc: Charlie Crossfield, City Attorney
Beau Perry, City Engineer
Doug Prinz, Director of Utilities
Melissa Lipiec, Planning and Development
Charlie Navejas, Code Enforcement Officer
Charles Cunningham, Director of Finance



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING A MASTER SIGN PLAN FOR SOUTHSIDE CENTER LOCATED AT SOUTHSIDE MARKET SUBDIVISION, BLOCK A, LOTS 1-4.

DEPARTMENT: Administration

PROPOSED ACTION:

Discussion, consideration and action on a Master Sign Plan for Southside Center.

BACKGROUND:

Bracewell Land Management LTD, Jeanne Bracewell Investments LLC and 169 Properties LTD have come together to file a Master Sign Plan application as required by the City of Elgin Sign Ordinance. Their combined properties span 12.79 acres. Both Southside Market and BBQ and Solid Grounds Storage have existing signs which are included in the Master Sign Plan. The proposed new signs are listed on the attached document labeled Summary and Recommendations for Southside Center Master Sign Plan.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of the Master Sign Plan as submitted is NOT recommended at this time. Approval of the Master Sign Plan with changes as detailed in the Summary and Recommendations document is what staff is requesting to be considered.

ATTACHMENTS:

Executive Summary
Master Sign Ordinance (2012-11-06-25)
Southside Center Master Sign Plan
Variance granted for Southside pole sign
Summary and Recommendations for Southside Center Master Sign Plan

{ } Staff will be making a detailed presentation on this agenda item at the meeting.

{ } Staff will provide brief comments and answer questions on this item at the meeting.

{X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ORDINANCE NO. 2012-11-06-25

AN ORDINANCE AMENDING CHAPTER 4, CODE OF ORDINANCES, REGULATION OF SIGNS, PROVIDING FOR THE APPROVAL OF MASTER SIGN PLANS, PROVIDING A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

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

Article I.

That Chapter 4, Section 15. C. Code of Ordinances, City of Elgin, Texas, is hereby amended to include the following definition:

C. DEFINITIONS

Master Sign Plan: A Master Sign Plan may be submitted for a non-residential development in commercial and industrial districts for tracts larger than ten acres as part of a required site plan submission, a building addition to an existing site or a revision to an approved site plan. A Master Sign Plan shall include all proposed signs and sign locations for the entire non-residential development. A Master Sign Plan shall be approved by the City Council at a regularly-scheduled meeting.

ARTICLE II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this ordinance and the subject matter thereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Act.

READ, PASSED, and ADOPTED on this the 6th day of November, 2012.

CITY OF ELGIN, TEXAS

By: Marc Holm

Marc Holm, Mayor

ATTEST:

Shirley Garvel

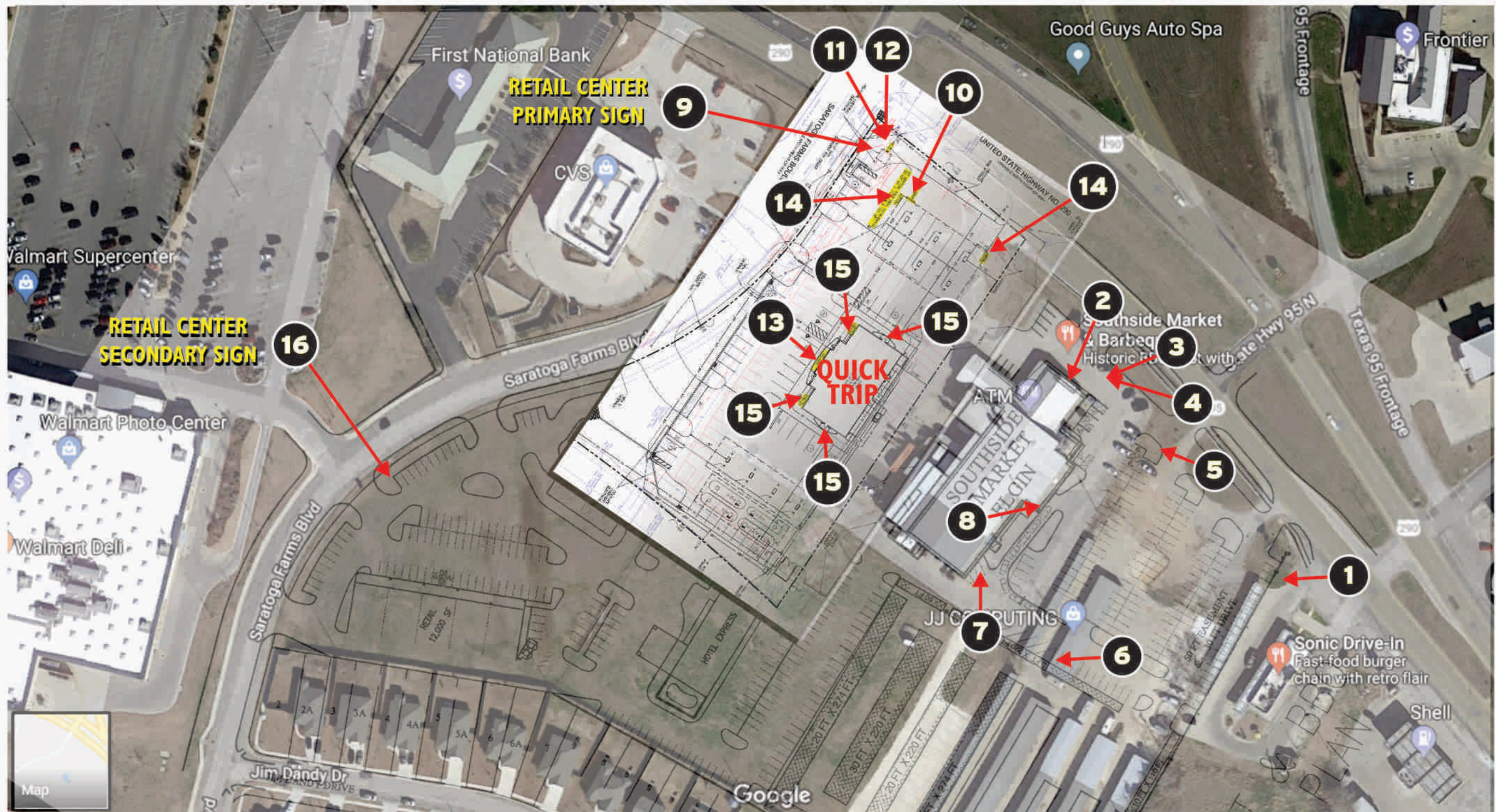
Shirley Garvel, City Secretary



SOUTHSIDE MARKET & BBQ, INC.

**MASTER SITE PLAN
12.79 ACRES**





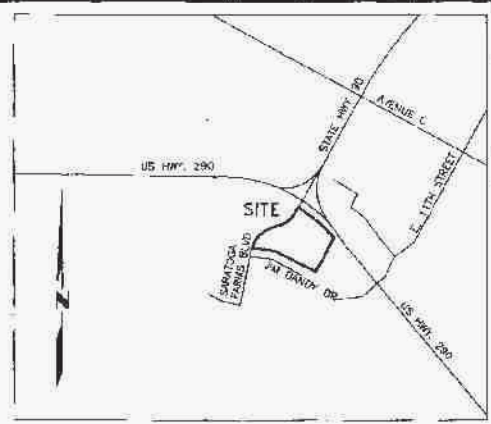
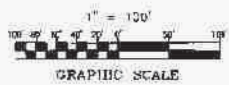
SOUTHSIDE CENTER, SOUTHSIDE MARKET, & QUICK TRIP MASTER SITE PLAN

1264 US HWY 290

ELGIN, TX 78621



SOUTHSIDE MARKET
FINAL PLAT



LAND DESIGN
SERVICES, INC.
1220 MCNILL ROAD, SUITE 200
ROUND ROCK, TEXAS 78681
P.O. BOX NO. 1400160
512-334-7901

SOUTHSIDE MARKET
FINAL PLAT

REVISION	DATE	DESCRIPTION
1	03/28/2019	COMMENT REVIEW 1
2	05/10/2019	COMMENT REVIEW 2
3	05/15/2019	COMMENT REVIEW 3

PROJECT NAME: SOUTHSIDE MARKET
JOB NUMBER: 17-055
DATE: 04/18/2018
SCALE: 1" = 100'
DRAWN BY: J. B. BARNES
CHECKED BY: J. B. BARNES
DESIGNED BY: J. B. BARNES
FIELD NO. 17-055
SHEET NO. 01 OF 02

SHEET
01 OF 02

- LEGEND
- IRON REBAR WITH CAP FOUND (1/2" STAMPED "J. B. BARNES" OR AS NOTED)
 - IRON REBAR FOUND (1/2" OR AS NOTED)
 - WELL FOUND (600, OR AS NOTED)
 - IRON PIPE FOUND (AS NOTED)
 - WELL CORNER POST FOUND
 - "X" CUT FOUND
 - IRON REBAR W/ CAP SET (1/2" STAMPED "LAND DESIGN")
 - O.P.R.B.C.T. OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS
 - P.R.B.C.T. PLAT RECORDS OF BASTROP COUNTY, TEXAS
 - P.U.E. PUBLIC UTILITY EASEMENT
 - R.O.W. RIGHT OF WAY
 - SUBDIVISION BOUNDARY
 - EXISTING RIGHT OF WAY
 - ADJOINING PROPERTY LINE
 - EASEMENT LINE

JONATHAN BURLESON SURVEY
ABSTRACT NO. 18

AREA: 12.78 ACRES
SURVEY: JONATHAN BURLESON SURVEY
ABSTRACT NO. 18
COMMERCIAL LOTS: 4
BLOCKS: 1

OWNER LOT 1: JEANNE BRACEWELL INVESTMENTS, LLC
JEANNE BRACEWELL
1210 U.S. HIGHWAY 290
ELGIN, TEX 78621

OWNER LOT 2-4: BRACEWELL MANAGEMENT, LTD.
BRYAN BRACEWELL
1219 U.S. HIGHWAY 290
ELGIN, TEX 78621

SURVEYOR: LAND DESIGN SERVICES, INC.
1220 MCNILL ROAD
SUITE 200
ROUND ROCK, TEXAS 78681

Line #	Direction	Length
L1	S42° 01' 19"E	58.84'
L2	N12° 00' 59"E	3.00'
L3	N49° 26' 22"E	9.03'
L4	N73° 53' 15"E	100.30'
L5	N26° 58' 47"E	38.39'
L6	S62° 44' 35"E	45.38'
L7	N81° 01' 13"W	68.00'
L8	N16° 02' 48"W	68.20'
L9	N34° 27' 53"W	73.07'
L10	N77° 44' 53"W	09.84'
L11	N62° 22' 11"W	9.18'

Curve #	Radius	Length	Delta	Chord Bearing	Chord
C1	2216.84'	616.57'	15° 56' 08"	S42° 37' 52"E	614.58'
C2	385.00'	279.22'	43° 12' 07"	N33° 45' 26"E	208.74'
C3	468.00'	52.33'	15° 43' 46"	N84° 40' 47"E	151.65'
C4	384.00'	301.59'	44° 59' 59"	N51° 26' 04"E	293.90'
C5	1812.51'	354.47'	11° 12' 19"	S55° 19' 14"E	353.90'
C6	1617.51'	307.61'	9° 42' 16"	S56° 04' 14"E	306.85'
C7	1812.51'	47.46'	1° 30' 00"	S50° 28' 05"E	47.45'
C8	2216.84'	173.37'	4° 28' 51"	S55° 21' 30"E	173.33'
C9	2216.84'	443.20'	11° 27' 17"	S42° 23' 25"E	442.46'

THIS PROJECT IS REFERENCED FOR ALL BEARING AND COORDINATE BASIS TO THE TEXAS STATE PLAT COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (NAD83 - 2011 ADJUSTMENT), CENTRAL ZONE (NAD83).

DISTANCES AND AREAS SHOWN HEREON ARE SURFACE VALUES REPRESENTED BY U.S. SURVEY FEET BASED ON A GRID-TO-SURFACE CORRECTION ADJUSTMENT FACTOR OF 1.00000000.

NOTES:

- THIS SUBDIVISION IS WHOLLY CONTAINED WITHIN THE CURRENT CORPORATE LIMITS OF THE CITY OF ELGIN, TEXAS.
- HOLDING EASEMENTS NOT SHOWN HEREON SHALL COMPLY WITH THE MOST CURRENT ZONING ORDINANCE OF THE CITY OF ELGIN, TEXAS.
- THE TRACT KNOWN HEREON LIES WITHIN A DOR-SHARED ZONE "D" AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, AS SHOWN ON MAP NO. FIRM 100-000-0000, DATED JANUARY 19, 2006 FOR BASTROP COUNTY, TEXAS AND IMMEDIATELY ADJACENT. THIS FLOOD PLAN NOTE DOES NOT IMPLY THAT THE PROPERTY AND/OR STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.



Southside Market and BBQ, Inc.
Master Sign Plan
Sign Summary

Sign 1 - Existing sign, meets current code
Sign 2 - Existing sign meets current code
Sign 3 - Existing sign meets current code
Sign 4 - Asking for additional 45.69 SQ FT for "drive thru"
Sign 5 - New sign, Asking for additional monument sign of 80 SQ FT
Sign 6 - New sign, allowed per code
Sign 7 - New sign, allowed per code
Sign 8 - New sign, allowed per code
Sign 9 - New sign; asking for 40% variance (20 SQ FT) above code (50 SQ FT)
Sign 10 - Canopy Pricer ID - New signs, allowed per code
Sign 11 Pole - New sign, allowed per code
Sign 12 Fuel Price Panels
- New sign, asking for 40% variance (16 SQ FT) above code (40 SQ FT)
Sign 13 Wall - New sign, allowed per code
Sign 14 Canopy ID - New sign, allowed per code
Sign 15 Building ID - New signs, allowed per code
Sign 16 - New sign, allowed per code
Note: Future retail center sign requirements with Exhibit A enclosed



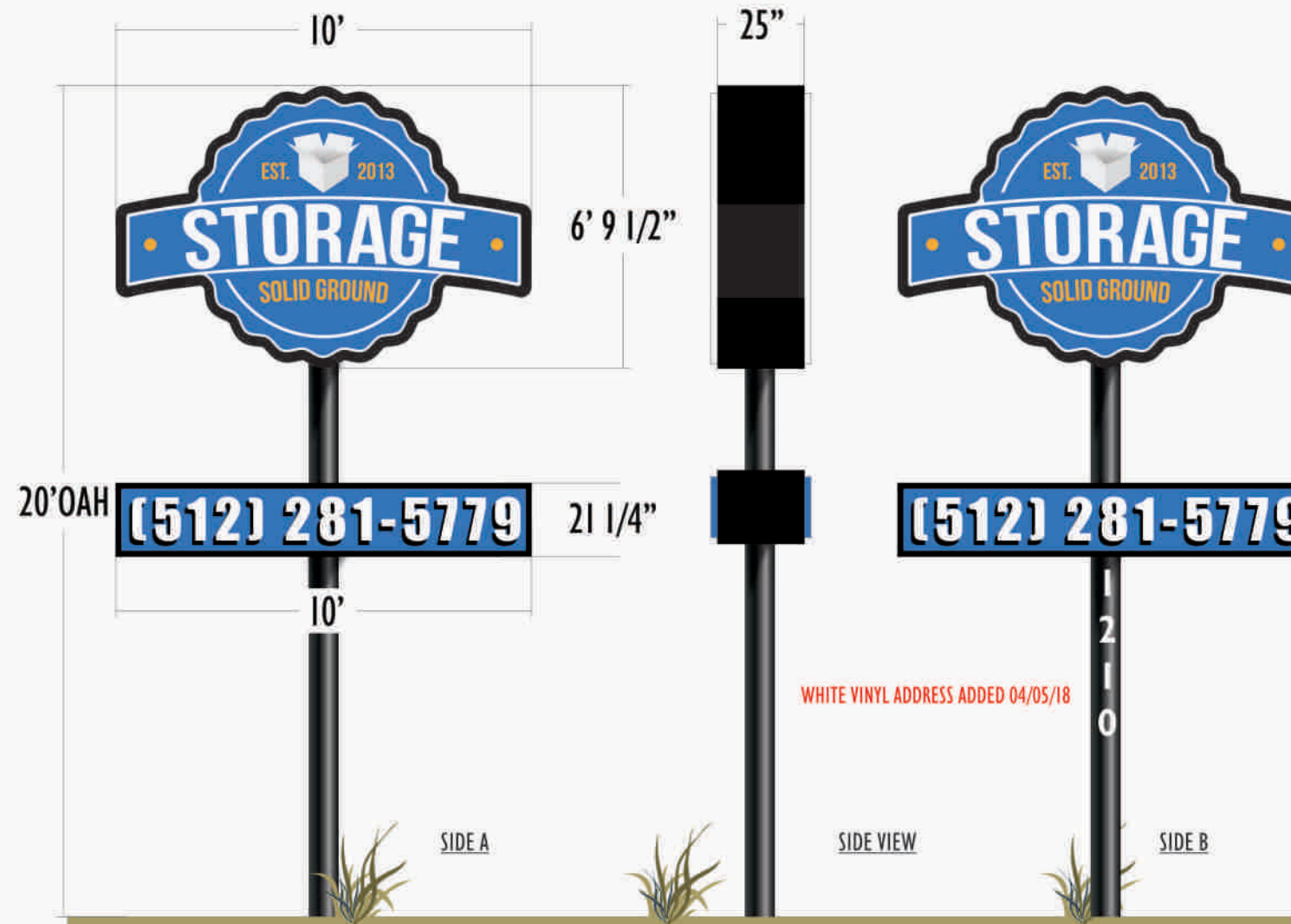
Southside Market and BBQ, Inc.
Master Sign Plan
Sign Table

SIGN #	SIGN NAME	SIGN SIZE	AREA (SQ FT)	HEIGHT	COMMENTS
1	SG POLE	10' X 8' 6 3/4"	85.61	20'	EXISTING
2	WALL LOGO SIGN	10' X 8' 6 3/4"	85.61	20'	EXISTING
3	SSM POLE	22' X 11'	242.9	40'	EXISTING
4	ADDT'L CABINET	11' 8" X 3' 11"	45.69	SAME 40'	PROPOSED
5	MONUMENT	8' X 10'	80	9'	PROPOSED
6	DRIVE THRU	6' 6" X 4'	26	8'	PROPOSED
7	MENU BOARD	7' 6" X 6' 2"	43.16	7'	PROPOSED
8	BLADE	8' X 1' 4"	10.66	18'	PROPOSED
9	MONUMENT	7' X 10'	70	8' 6"	PROPOSED
10	CANOPY PRICE ID	3' 6" X 4' 4"	15.16	22' 6"	PROPOSED
11	POLE	11' 9 3/8 X 7' 6"	78	35'	PROPOSED
12	FUEL PRICE	7' X 7' 1/8"	56	SAME 35'	PROPOSED
13	WALL	3' 11 1/4" X 14' 2"	55.78	16'	PROPOSED
14	CANOPY ID	3' 6" X 4' 4"	15.16	22' 6"	PROPOSED
15	BUILDING ID	4' 1 1/2" X 4' 8 1/2"	20	14' 8 1/2'	PROPOSED
16	MONUMENT	5' X 10'	50	6' 6"	PROPOSED

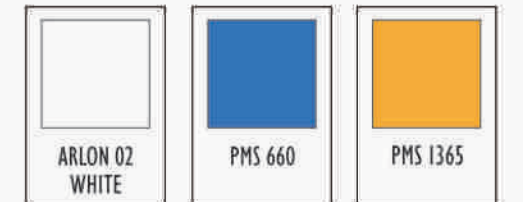


EXISTING SIGN (NOT TO SCALE)

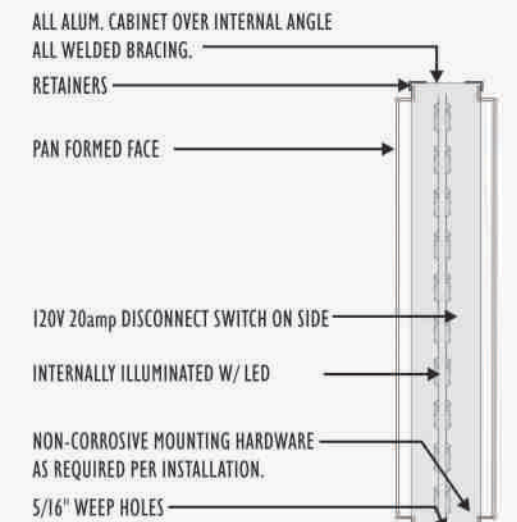
1
EXISTING POLE SIGN



1	EXISTING D/F POLE SIGN	SCALE: 1/4" = 1'
	FONT: CUSTOMER SUPPLIED	EXISTING SQ. FT: 85.61
SCOPE OF WORK: EXISTING SIGN ON SITE		
QUANTITY: ONE (1) DOUBLE SIDED		
CABINET: ALUMINUM SKINNED CABINET WITH WELDED INNER ANGLE FRAME. CABINET PAINTED BLACK		
PAN FACE: WHITE PAN FORMED FLAT FACES WITH BACKSPRAYED PAINTED GRAPHICS MATCHING PMS 660 AND PMS 1365		
ILLUMINATION: WHITE LEDS		
POLE: POLE PAINTED BLACK / 8 STD PIPE OD: 8.63" WALL .322"		
ADDRESS: ARLON 02 WHITE VINYL APPLIED TO BOTH SIDES OF EXISTING POLE		



PAN FACE



SECTION DETAIL
D/F CABINET LED ILLUMINATED NTS

LANDLORD APPROVAL: _____

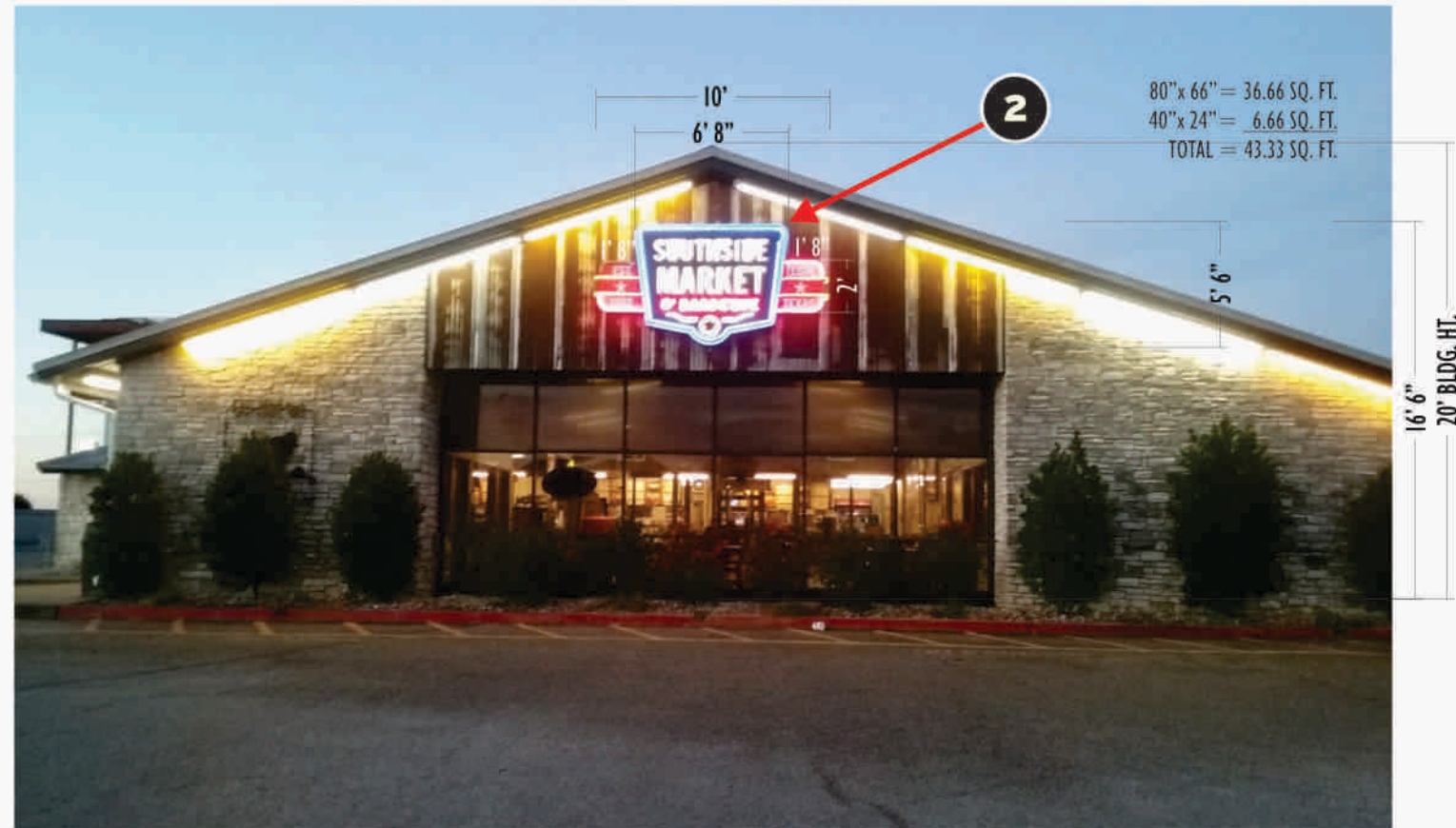
CLIENT APPROVAL: _____

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2 EXISTING S/F LOGO WALL SIGN SCALE: AS NOTED

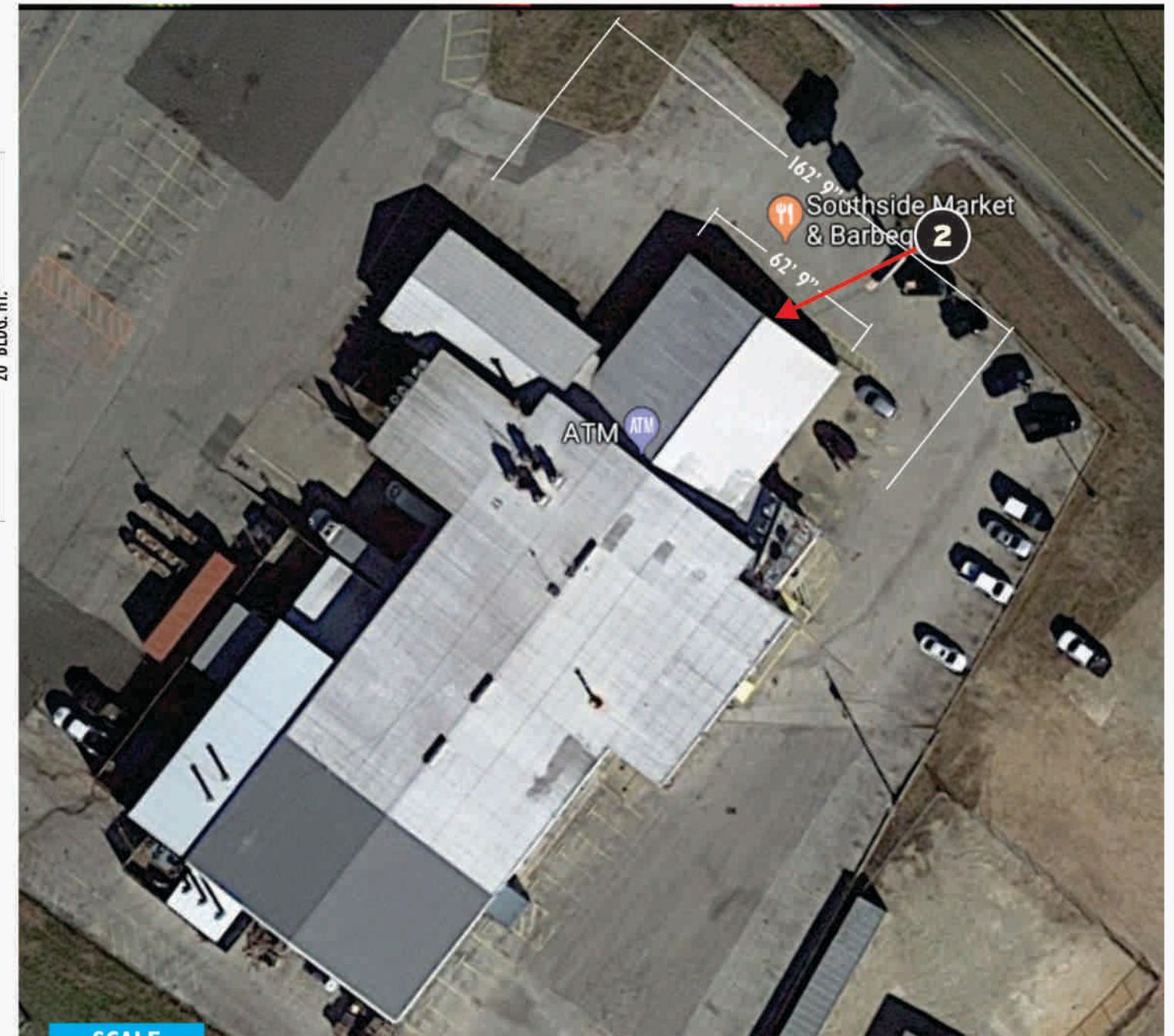
FONT: CUSTOMER SUPPLIED

EXISTING SQ. FT: 43.33



SCALE: 1/8" = 1'

EXISTING LOGO WALL SIGN



SCALE

— 50'

BLDG FRONTAGE EXHIBIT

LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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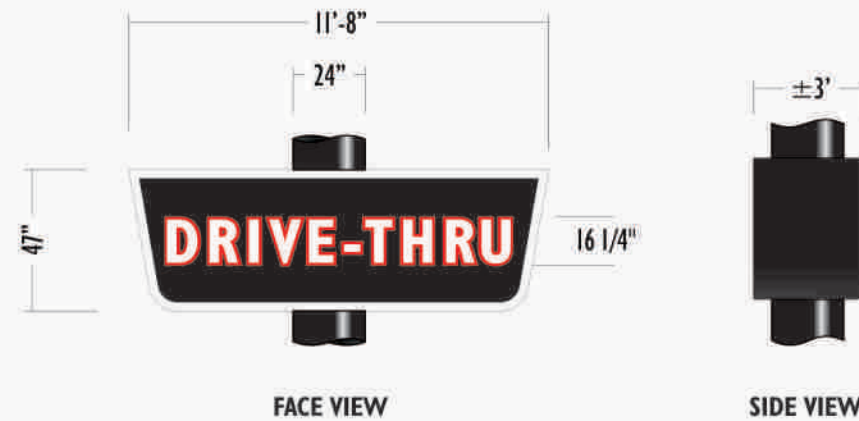
LEWIS SIGN
DESIGN • FABRICATION • INSTALLATION

16910 South IH 35, Buda, TX 78610 Office: 512-312-4555 Fax: 512-312-4551 www.LewisSign.com

SOUTHSIDE MARKET & BBQ 1212 US HWY 290 ELGIN, TX 78621	CUSTOMER	L. APOSTOLO	ACCT. EXEC.	07-042 R3	DWG.#	REVISIONS	NO.	DATE	BY	DESCRIPTION
	LOCATION		DESIGNER		PAGE		1	01/03/19	EM	SHOW EXISTING POLE SIGN
	CITY, ST				2		01/09/19	EM	REVISE MONUMENT	
							3	01/30/19	EM	REVISE MONUMENT
		E. MARTIN		07/30/18	ORIG. DATE					

MANDATED BY STATE STATUTE: Anyone selling, installing or servicing electrical signs, outline lighting, lighted awnings, signals, LEDs and existing outdoor electric discharge lighting must maintain an Electric Sign Contractors license. These license holders are regulated by the Texas Department of Licensing and Regulation. For compliance verification or complaints contact TDLR in Austin at 1-800-803-9202, 512-463-6599 or online.

This firm's license is **TSCL 18067 & SIGN MASTERS LICENSE 7312**. To verify a company's license, log onto www.license.state.tx.us/disclosuresearch. Enter the company's name in the "Inquire by Name" field.



3 EXISTING D/F ILLUMINATED POLE SIGN SCALE: 3/16" = 1'-0"
FONT: EXISTING EXISTING SQ. FT: 242.9

4 D/F ILLUMINATED CABINET SCALE: 3/16" = 1'-0"
FONT: HUMANST521 CN BT SQ. FT: 45.69

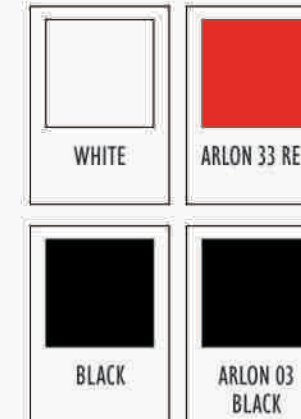
SCOPE OF WORK: FABRICATE & INSTALL DOUBLE FACE DRIVE-THRU CABINET, LOWER THE EXISTING MARQUEE READER CABINET 3 FEET

QUANTITY: TWO BACK TO BACK CABINETS WITH ALUMINUM FILLER

CABINETS: ALUMINUM SKINNED CABINETS WITH WELDED INNER ANGLE FRAME WITH FABRICATED 2.5" REMOVABLE RETAINERS PAINTED WHITE, CABINETS & FILLER PAINTED BLACK, WHITE PLASTIC FACE WITH FIRST SURFACE ARLON 33 RED, AND 03 BLACK VINYL.

ILLUMINATION: WHITE LEDS

MOUNTING: MOUNTED TO EXISTING POLE BETWEEN EXISTING POLE CABINETS



**** IMPORTANT NOTE ****
PHOTO RENDERING IS FOR VISUALIZATION ONLY. ACTUAL SIGN(S) MAY BE LARGER OR SMALLER THAN DEPICTED

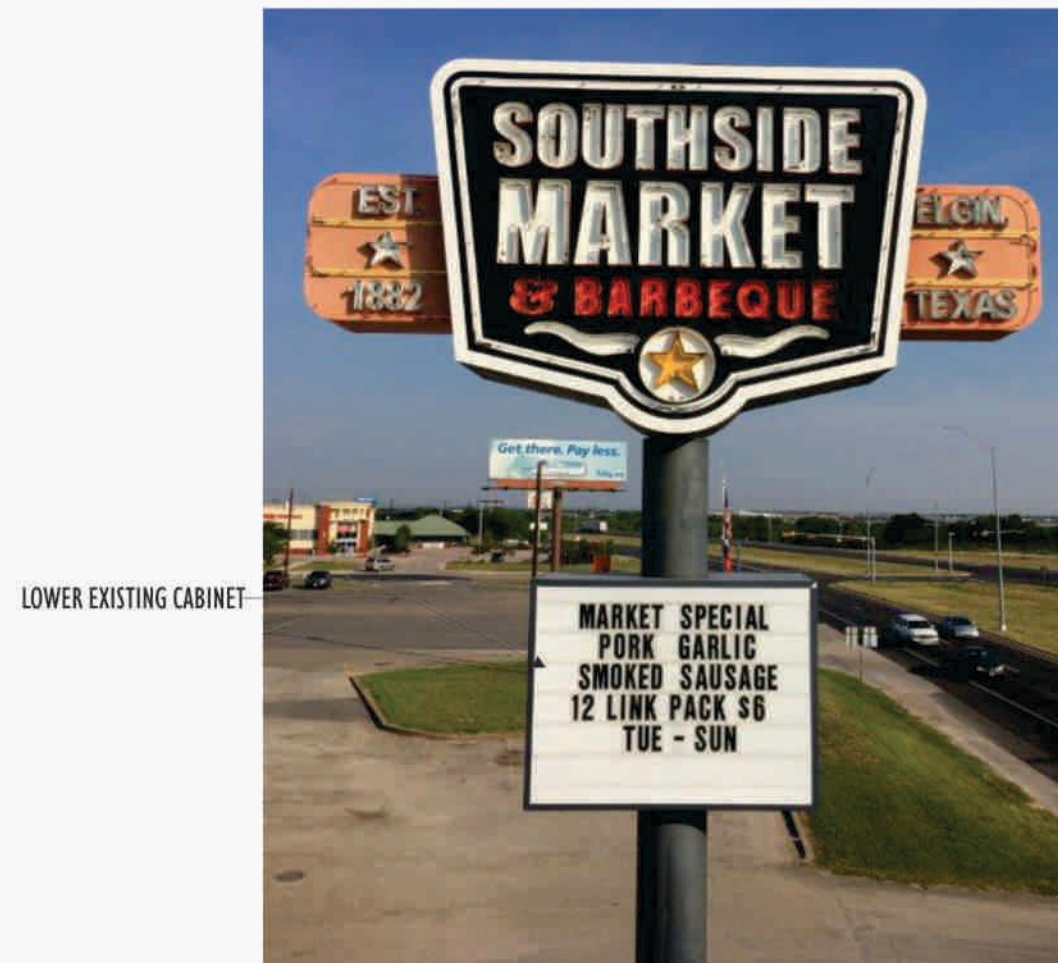
**** PLEASE READ AND INITIAL ****

ELECTRICAL CONNECTION: LEWIS SIGN ONLY CONNECTS TO EXISTING POWER/J-BOX WITHIN 10'-0" OF SIGN. IF PRIMARY POWER/J-BOX IS FURTHER THAN 10'-0", FINAL CONNECTION TO BE BY CLIENT'S ELECTRICIAN.

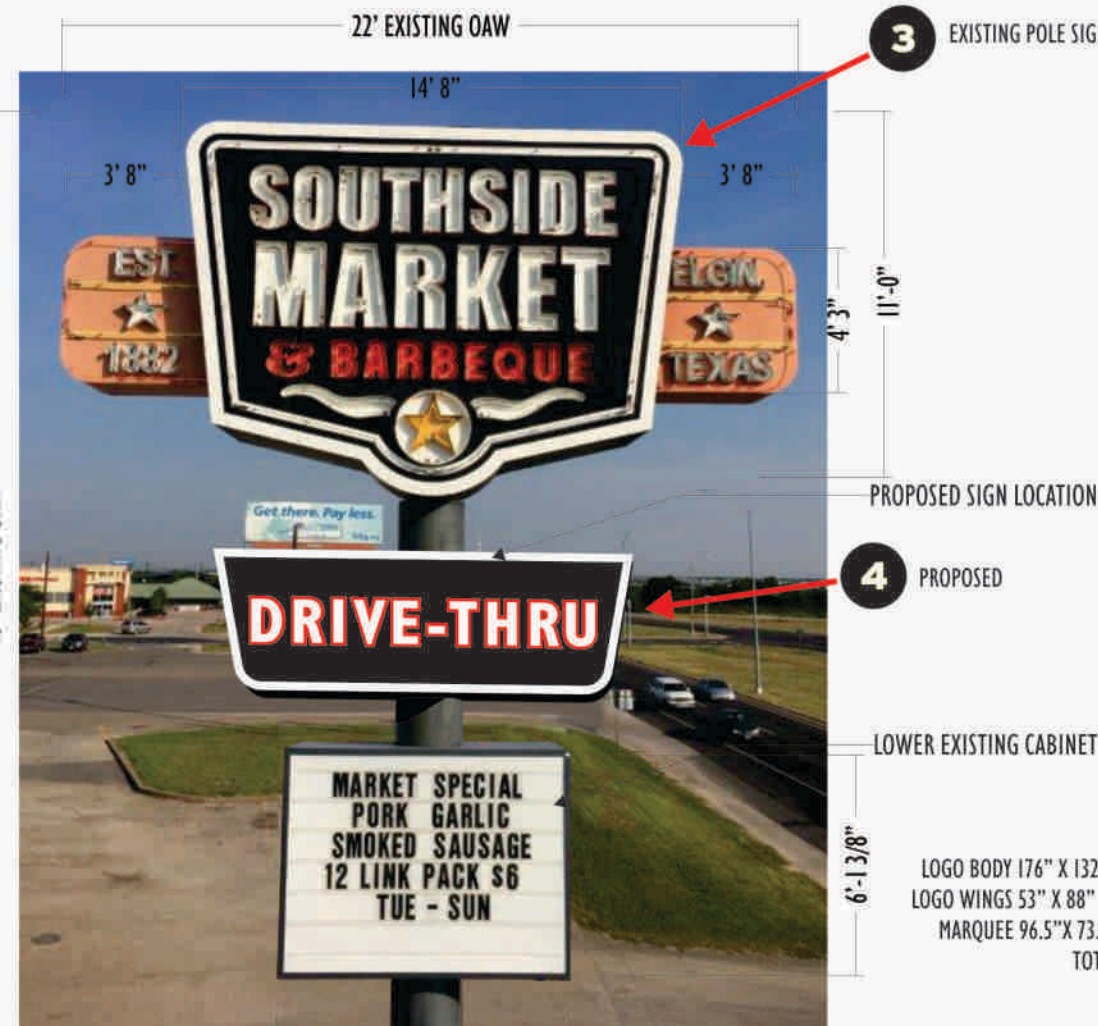
CLIENT INITIALS:

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

EXISTING SQ. FT.
LOGO BODY 176" X 132" = 161.33 SQ. FT.
LOGO WINGS 53" X 88" = 32.38 SQ. FT.
MARQUEE 96.5" X 73.5" = 49.25 SQ. FT.
TOTAL = 242.9 SQ. FT.



EXISTING (NTS)

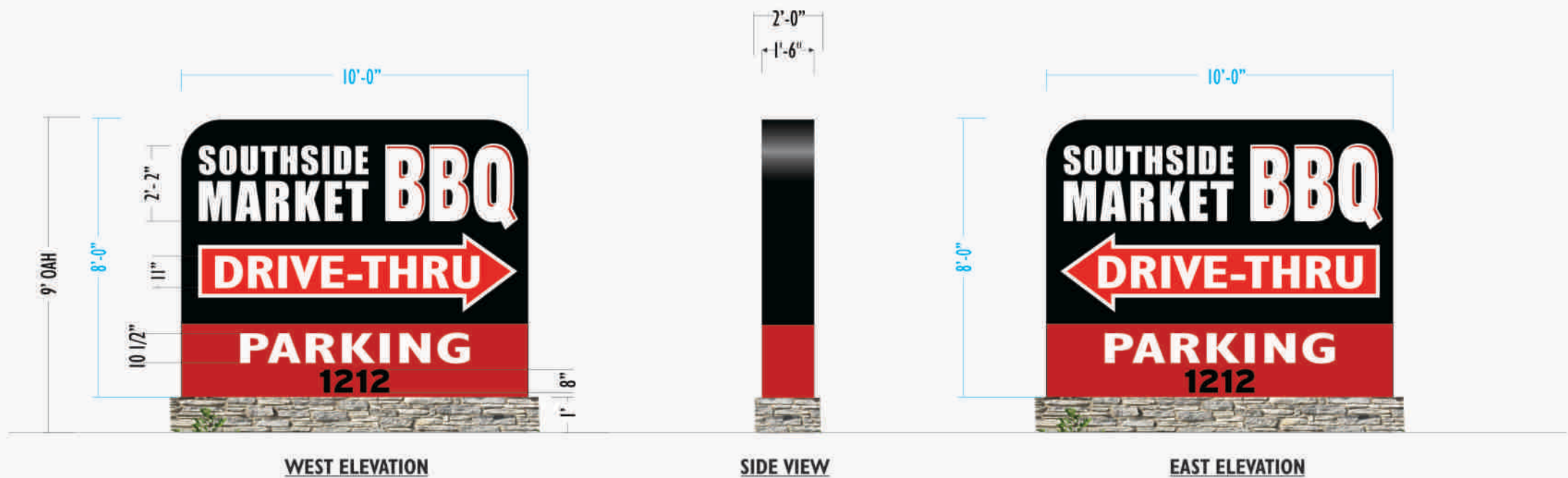


PROPOSED (NTS)

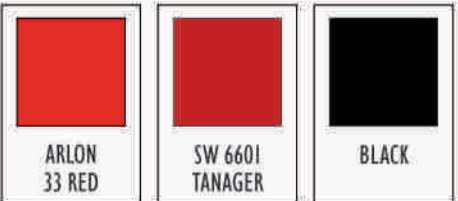
LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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- SCOPE OF WORK:** FABRICATE & INSTALL FREESTANDING, ROUTED FACE, ILLUMINATED, DIRECTIONAL SIGN CABINET
- QUANTITY:** ONE (1)
- CABINET:** ALUMINUM SKINNED CABINET WITH WELDED INNER ANGLE FRAME. CABINETS PAINTED BLACK AND TO MATCH SW 6601 TANAGER
- ROUTED ARROW & TEXT: "SOUTHSIDE MARKET, BBQ" & "PARKING BACKED W/ WHITE PLASTIC FACE W/ 1ST SURFACE ARLON 73 DARK RED VINYL ON ARROW & ACCENTS ON "BBQ"
- ILLUMINATION:** WHITE LEDS
- MOUNTING:** 1' LIMESTONE BASE, MOUNTING PER ENGINEERING



**** IMPORTANT NOTE ****

PHOTO RENDERING IS FOR VISUALIZATION ONLY. ACTUAL SIGN(S) MAY BE LARGER OR SMALLER THAN DEPICTED

**** PLEASE READ AND INITIAL ****

ELECTRICAL CONNECTION: LEWIS SIGN ONLY CONNECTS TO EXISTING POWER/J-BOX WITHIN 10'-0" OF SIGN. IF PRIMARY POWER/J-BOX IS FURTHER THAN 10'-0", FINAL CONNECTION TO BE BY CLIENT'S ELECTRICIAN.

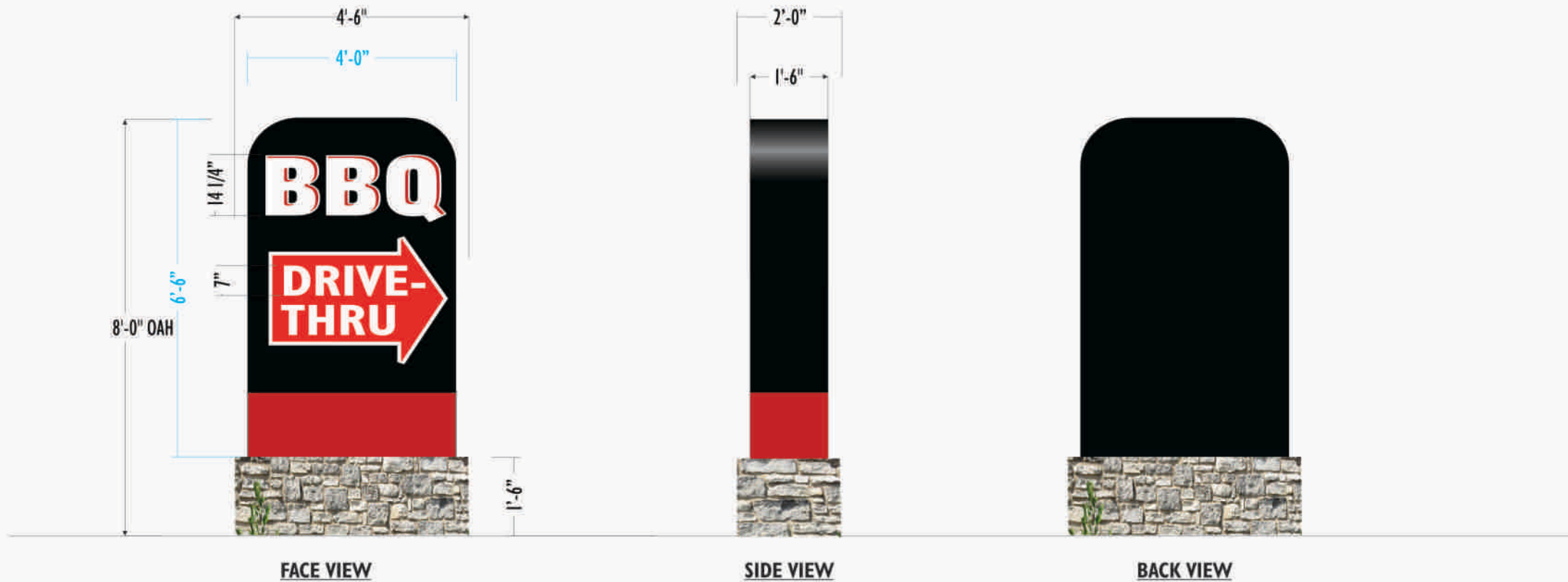
CLIENT INITIALS:

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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6 S/F ILLUMINATED CABINET **SCALE: 3/8" = 1'**
FONT: HUMANST521 CN BT, DIN NEXT LT PRO HEAVY **SQ. FT: 26**

SCOPE OF WORK: FABRICATE & INSTALL FREESTANDING, ROUTED FACE, ILLUMINATED, DIRECTIONAL SIGN CABINET

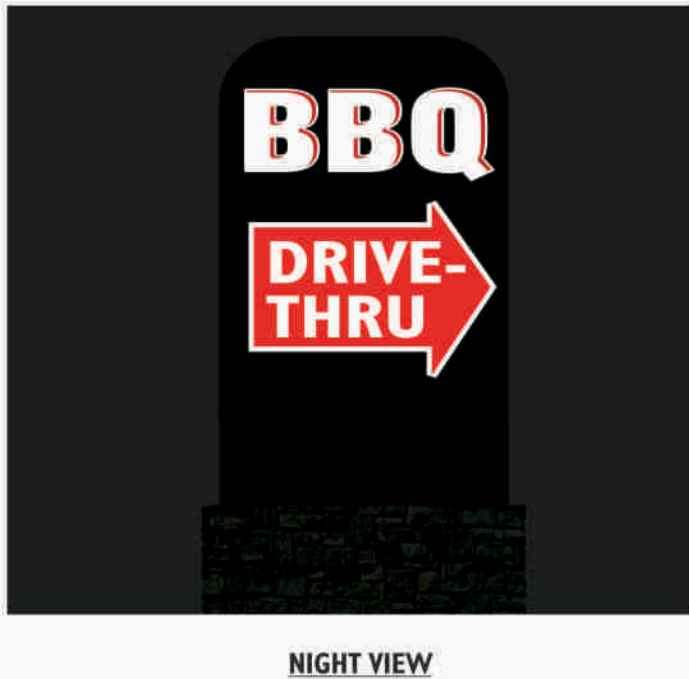
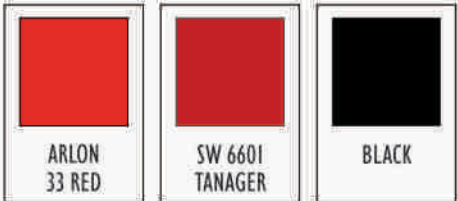
QUANTITY: ONE (1)

CABINET: ALUMINUM SKINNED CABINET WITH WELDED INNER ANGLE FRAME. CABINETS PAINTED BLACK AND TO MATCH SW 6601 TANAGER

ROUTED COPY "BBQ" & (ARROW), BACKED W/ WHITE PLASTIC FACE W/ 1ST SURFACE ARLON 73 DARK RED VINYL ON ARROW & ACCENTS ON "BBQ"

ILLUMINATION: WHITE LEDS

MOUNTING: 1'-6" LIMESTONE BASE, MOUNTING PER ENGINEERING



****** IMPORTANT NOTE ******
PHOTO RENDERING IS FOR VISUALIZATION ONLY. ACTUAL SIGN(S) MAY BE LARGER OR SMALLER THAN DEPICTED

****** PLEASE READ AND INITIAL ******

ELECTRICAL CONNECTION: LEWIS SIGN ONLY CONNECTS TO EXISTING POWER/J-BOX WITHIN 10'-0" OF SIGN. IF PRIMARY POWER/J-BOX IS FURTHER THAN 10'-0", FINAL CONNECTION TO BE BY CLIENT'S ELECTRICIAN.

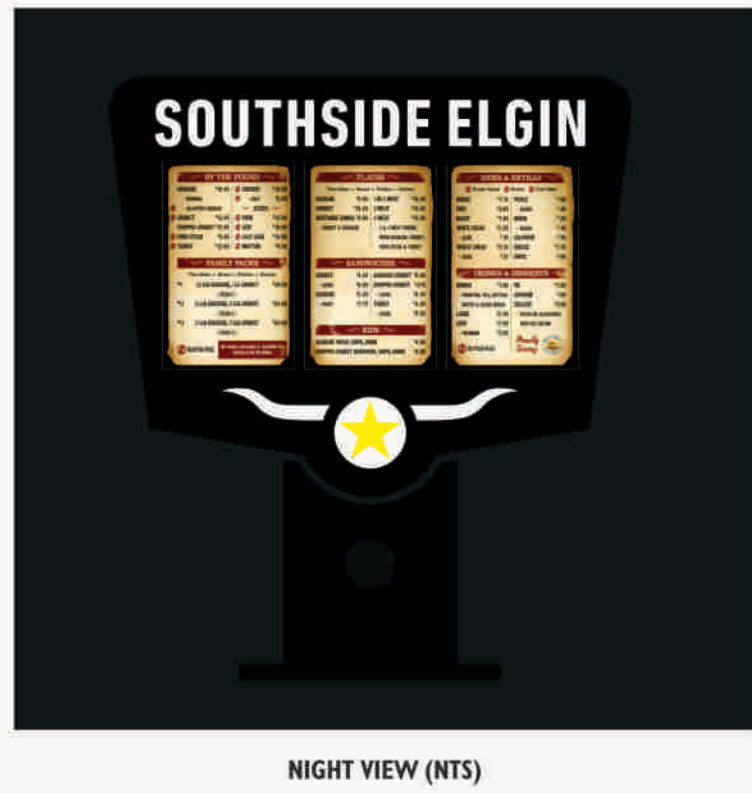
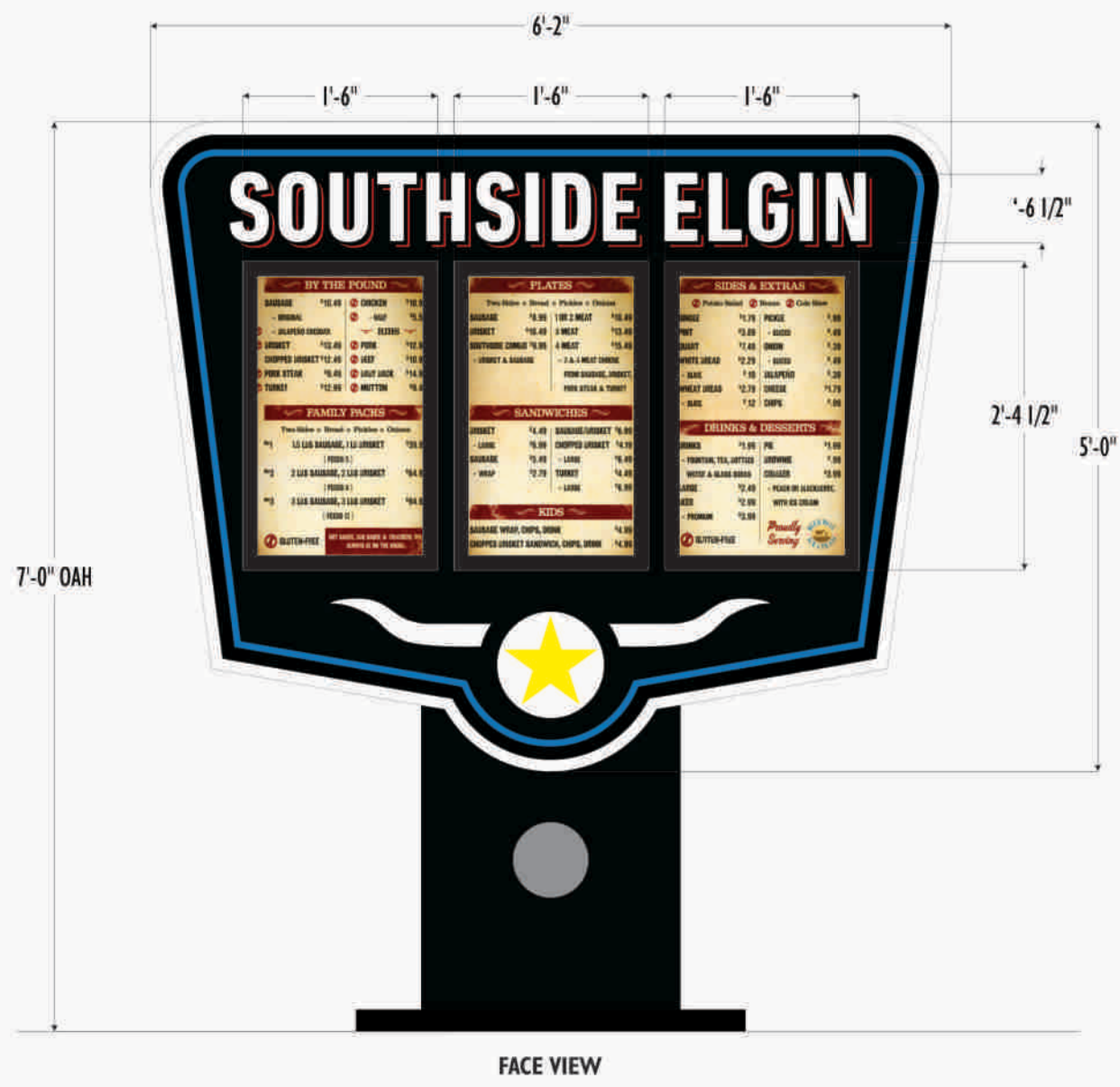
CLIENT INITIALS:

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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BLACK

ARLON 223
PEACOCK RED

ARLON 250
INTENSE BLUE

ARLON 15
YELLOW

SCOPE OF WORK: FABRICATE & INSTALL FREESTANDING, SINGLE FACE, ILLUMINATED, MENU CABINET

QUANTITY: ONE (1)

CABINET: ALUMINUM SKINNED CABINET WITH WELDED INNER ANGLE FRAME. CABINET PAINTED BLACK WITH WHITE BORDER ON FACE, BLACK RETURNS. FIRST SURFACE ARLON 223 PEACOCK RED DETAIL FIRST SURFACE ARLON 250 INTENSE BLUE BORDER DETAIL ROUTED COPY "SOUTHSIDE MARKET" AND LOGO W/ 1/2" WHITE PUSH-THROUGH ACRYLIC. FIRST SURFACE ARLON 15 YELLOW STAR ON LOGO.

MENU BOARDS: SIGN COMP ILLUMINATED SLIM SNAP-FRAMES: SIGN COMP LARGE SNAP FRAMES (#1898) WITH FLAT COVERS (#1895A) AND ARCHITECTURAL EXTRUSIONS (#1120 SERIES 2/2" BLEED BODY) PAINTED BLACK

3/16" WHITE PLEX WITH FIRST SURFACE DIGITAL PRINT WITH GRAFFITI-RESISTANT GLOSS LAMINATE

GRAPHICS TO BE PROVIDED BY CUSTOMER

ILLUMINATION: WHITE LEDS

MOUNTING: MOUNTED WITH SINGLE POLE SUPPORT AND FOUNDATION AS REQUIRED BY ENGINEERING

NOTES: INTERCOM/SPEAKER DRIVE-THRU KIT BY OTHERS

**** IMPORTANT NOTE ****

PHOTO RENDERING IS FOR VISUALIZATION ONLY. ACTUAL SIGN(S) MAY BE LARGER OR SMALLER THAN DEPICTED

**** PLEASE READ AND INITIAL ****

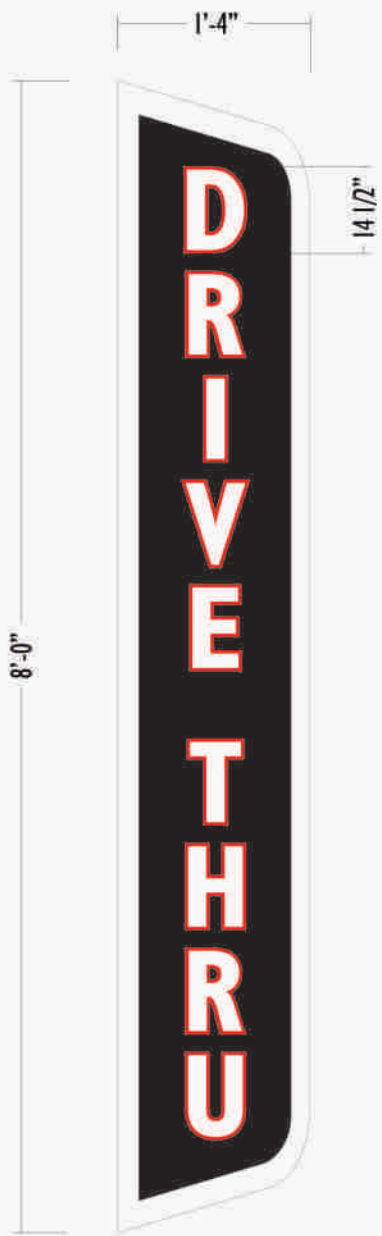
ELECTRICAL CONNECTION: LEWIS SIGN ONLY CONNECTS TO EXISTING POWER/J-BOX WITHIN 10'-0" OF SIGN. IF PRIMARY POWER/J-BOX IS FURTHER THAN 10'-0", FINAL CONNECTION TO BE BY CLIENT'S ELECTRICIAN.

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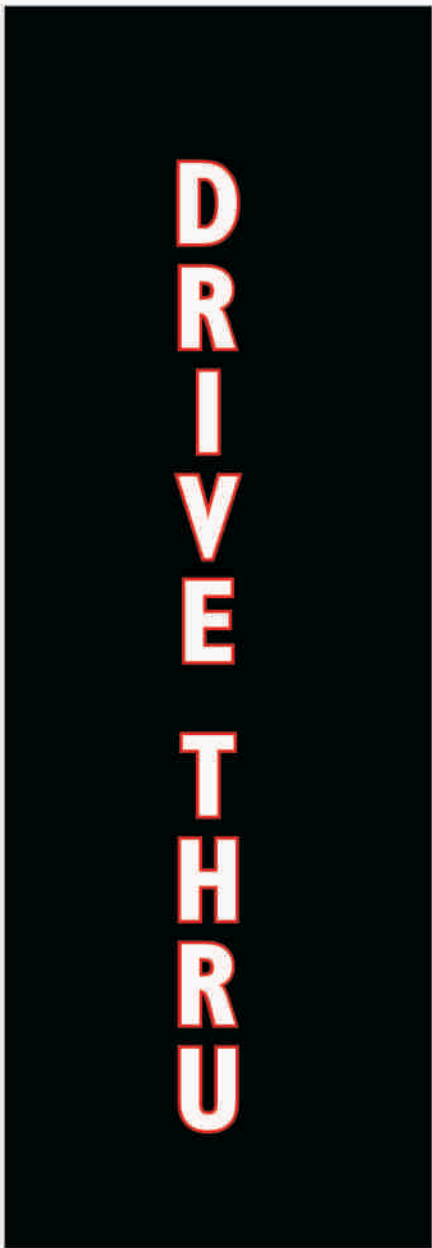
ELEVATION RENDERING (NTS)



FACE VIEW



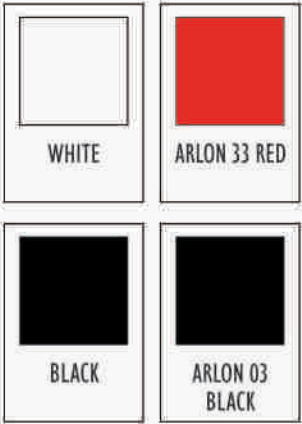
SIDE VIEW



NIGHT VIEW

8 ILLUMINATED S/F BLADE CABINET SCALE: 3/4" = 1'-0"
FONT: HUMANST521 CN BT SQ. FT: 10.66

SCOPE OF WORK:	FABRICATE & INSTALL SINGLE FACE DRIVE-THRU CABINET,
QUANTITY:	ONE (1)
CABINETS:	ALUMINUM SKINNED CABINET WITH WELDED INNER ANGLE FRAME WITH FABRICATED 1 1/2" REMOVABLE RETAINERS PAINTED WHITE, CABINET PAINTED BLACK, WHITE PLASTIC FACE WITH FIRST SURFACE ARLON 33 RED, AND 03 BLACK VINYL.
ILLUMINATION:	WHITE LEDS
MOUNTING:	MOUNTED TO CORRUGATED WALL WITH NON-CORROSIVE HARDWARE PER WALL CONSTRUCTION, ALL PENETRATIONS SEALED WITH CLEAR SILICONE



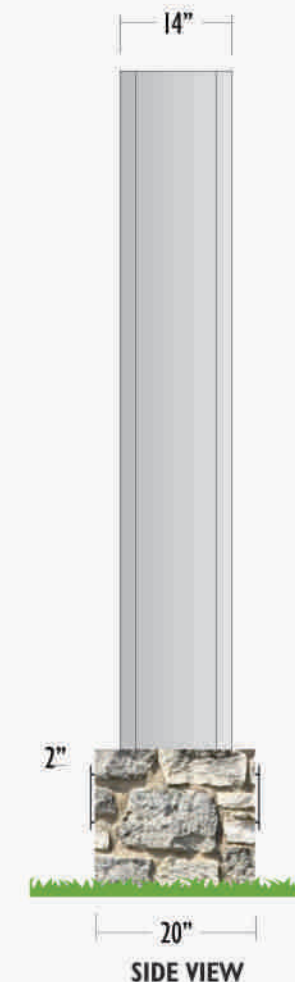
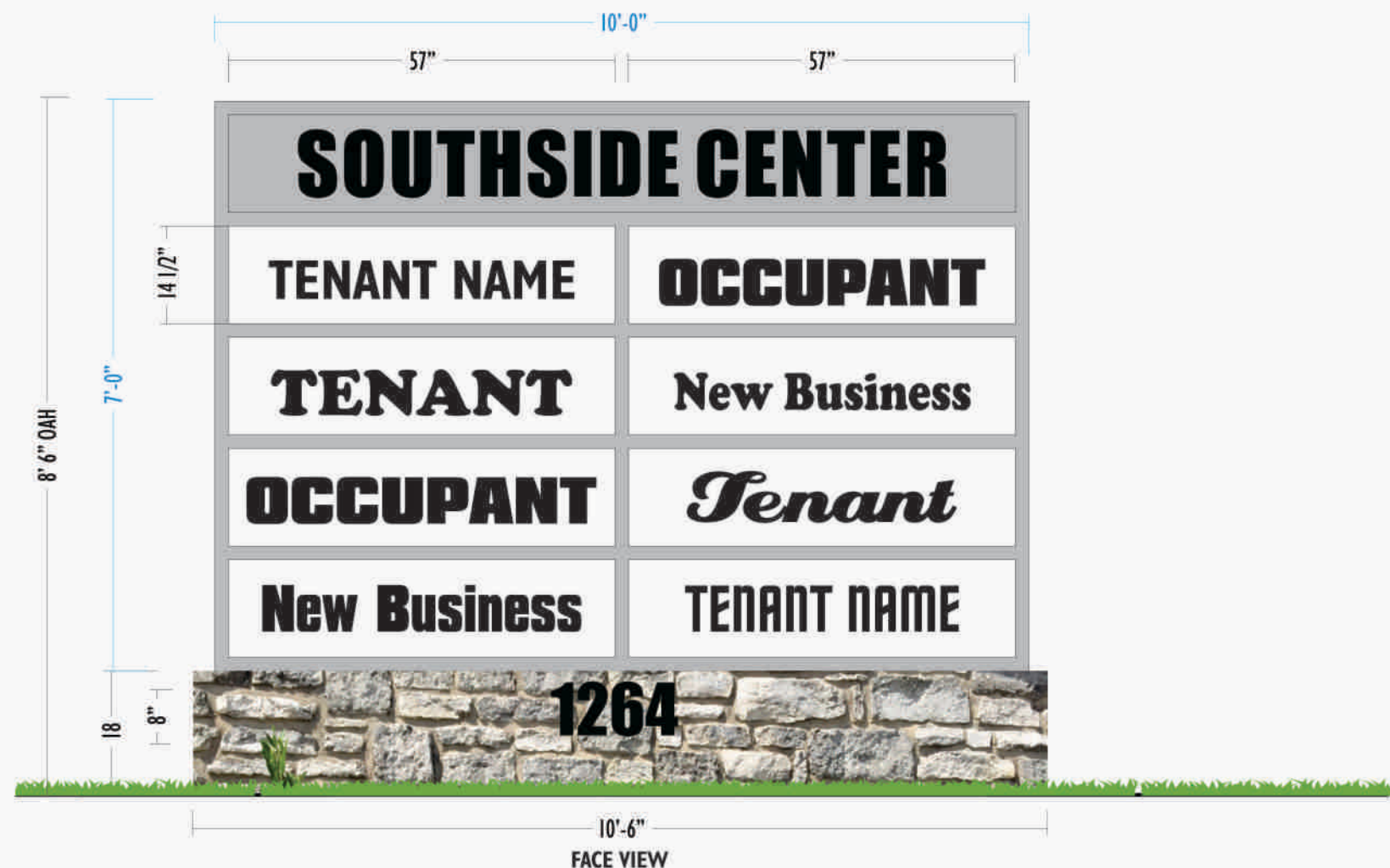
**** IMPORTANT NOTE ****
PHOTO RENDERING IS FOR VISUALIZATION ONLY. ACTUAL SIGN(S) MAY BE LARGER OR SMALLER THAN DEPICTED

**** PLEASE READ AND INITIAL ****
ELECTRICAL CONNECTION: LEWIS SIGN ONLY CONNECTS TO EXISTING POWER/J-BOX WITHIN 10'-0" OF SIGN. IF PRIMARY POWER/J-BOX IS FURTHER THAN 10'-0", FINAL CONNECTION TO BE BY CLIENT'S ELECTRICIAN.
CLIENT INITIALS:
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LANDLORD APPROVAL: _____

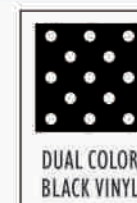
CLIENT APPROVAL: _____

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9 D/F MULTI-TENANT MONUMENT SCALE: 1/2" = 1'-0"
FONT: IMPACT SIGN CABINET SQ. FT: 70

SCOPE OF WORK:	FABRICATE & INSTALL ILLUMINATED, FREESTANDING, TENANT PANEL MONUMENT
QUANTITY:	ONE (1)
TENANT CABINET:	ALUMINUM CABINET W/ WELDED FRAME & 2" RETAINERS PAINTED MP BRUSHED ALUMINUM, WHITE PLASTIC TENANT PANELS W/ 1ST SURFACE VINYL GRAPHICS (TBD)
ID FACES:	ROUTED ALUMINUM PANELS PAINTED MP BRUSHED ALUMINUM, BACKED W/ WHITE PLASTIC FACES W/ 1ST SURFACE BLACK PERFORATED VINYL
FCOs:	.125" ALUMINUM ADDRESS NUMBERS PAINTED BLACK, STUD-MOUNTED 1/8" OFF ROCK BASE
ILLUMINATION:	WHITE LED MODULES
MOUNTING:	MOUNTED W/ 2' STONE BASE PER ENGINEERING STONEWORK PROVIDED BY CUSTOMER



**** IMPORTANT NOTE ****
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SIGN(S) MAY BE LARGER OR SMALLER THAN DEPICTED

**** PLEASE READ AND INITIAL ****
ELECTRICAL CONNECTION: LEWIS SIGN ONLY CONNECTS
TO EXISTING POWER/J-BOX WITHIN 10'-0" OF SIGN. IF PRIMARY
POWER/J-BOX IS FURTHER THAN 10'-0", FINAL CONNECTION TO
BE BY CLIENT'S ELECTRICIAN.
CLIENT INITIALS:
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ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER
APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING
AND BONDING OF THE SIGN.

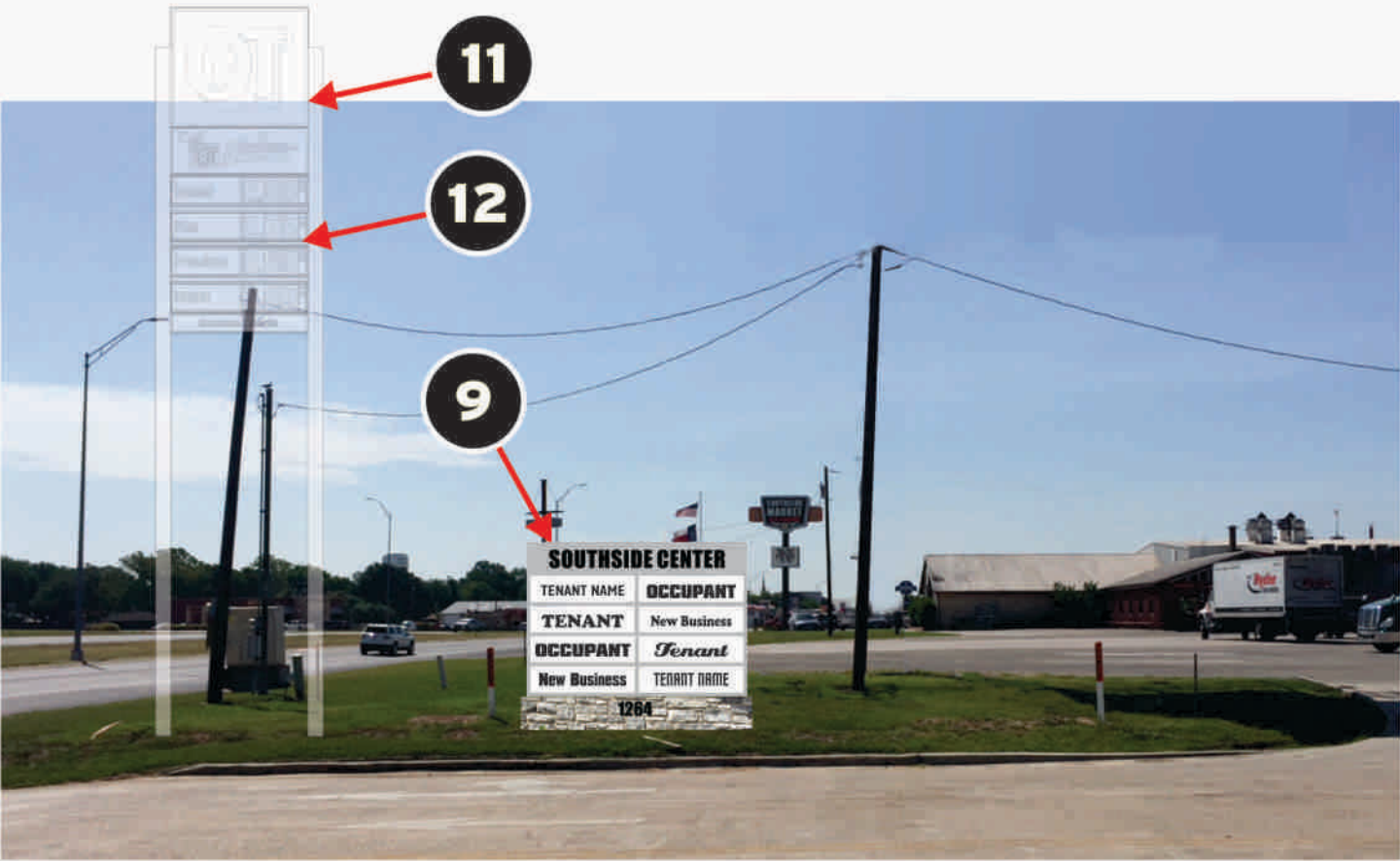
LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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EXISTING VIEW FACING EAST



PRIMARY SIGN - FACE VIEW (NTS)



EXISTING VIEW FACING WEST



PRIMARY SIGN - BACK VIEW (NTS)

**** IMPORTANT NOTE ****
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CLIENT INITIALS:
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LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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LEWIS SIGN

DESIGN • FABRICATION • INSTALLATION

16910 South IH 35, Buda, TX 78610

Office: 512-312-4555

Fax: 512-312-4551

www.LewisSign.com

40 YEARS

CUSTOMER

SOUTHSIDE CENTER

LOCATION

1264 US HWY 290

CITY, ST

ELGIN, TX 78621

ACCT. EXEC.

L. APOSTOLO

DESIGNER

E. MARTIN

DWG.#

08-001 R4

PAGE

ORIG. DATE

08/01/18

NO.

1

DATE

08/03/18

BY

EM

DESCRIPTION

ADD D/F ILLUMINATED OPTION

NO.

2

DATE

10/19/18

BY

EM

DESCRIPTION

ADJUST DIMENSIONS

NO.

3

DATE

01/03/19

BY

EM

DESCRIPTION

SHOW PRIMARY & SECONDARY SIGNS

NO.

4

DATE

01/30/18

BY

EM

DESCRIPTION

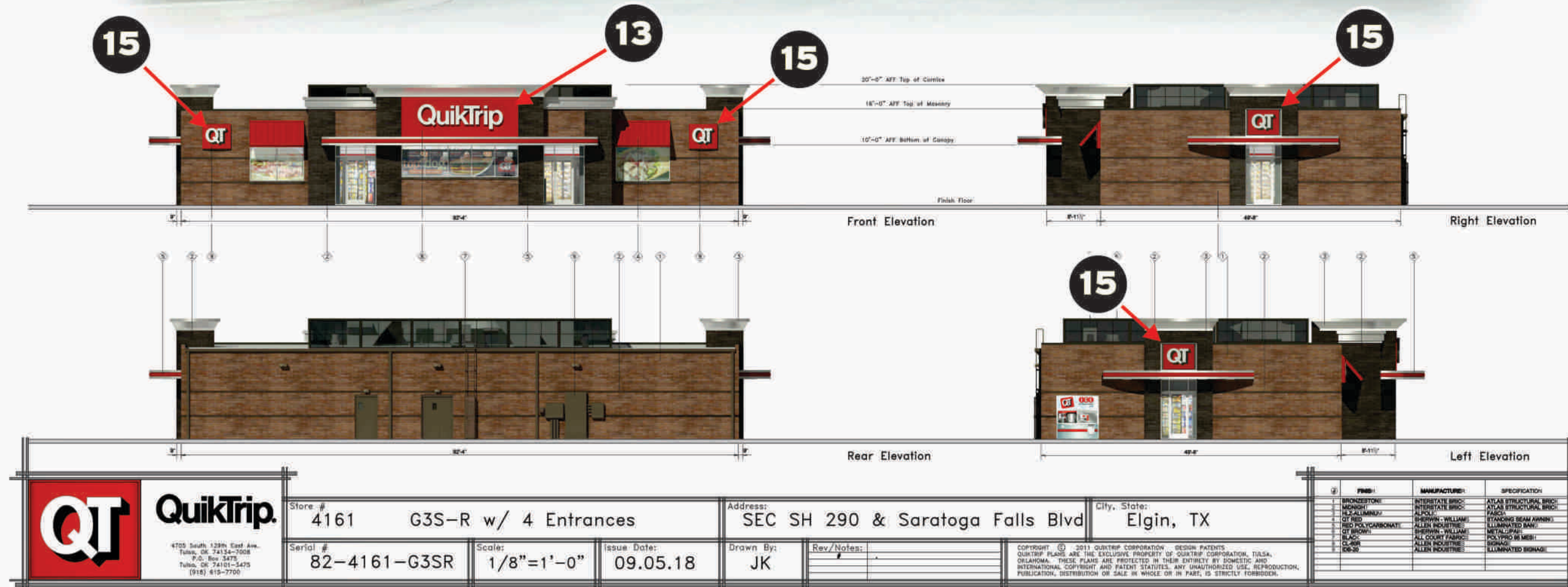
REVISE SIZES

MANDATED BY STATE STATUTE:

Anyone selling, installing or servicing electrical signs, outline lighting, lighted awnings, signals, LEDs and existing outdoor electric discharge lighting must maintain an Electric Sign Contractors license. These license holders are regulated by the Texas Department of Licensing and Regulation. For compliance verification or complaints contact TDLR in Austin at 1-800-803-9202, 512-463-6599 or online.

THIS FIRM'S LICENSE IS

TSCL 18067 & SIGN MASTERS LICENSE 7312. To verify a company's license, log onto www.license.state.tx.us/licensesearch. Enter the company's name in the "Inquire by Name" field.

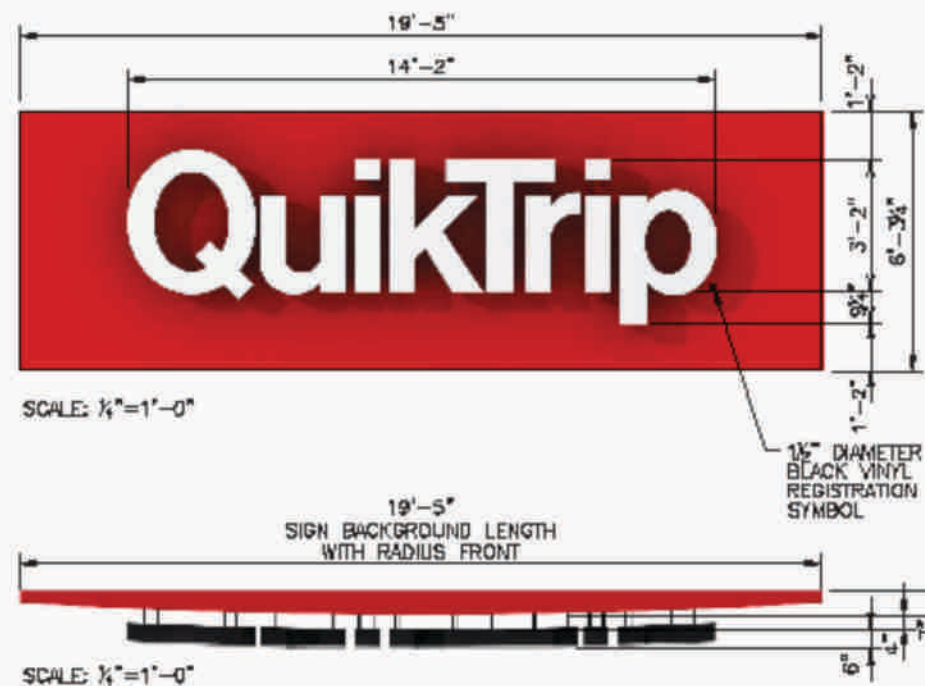
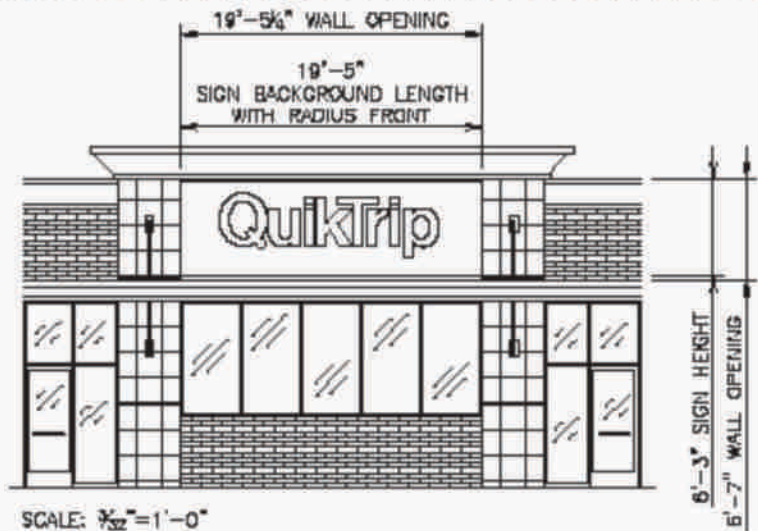


LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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13



SPECIFICATIONS:

Letters
6" deep Channel Letters, 3/16" formed Cyro Translucent White face, Aluminum Construction. Letter Returns painted Benjamin Moore 2134-30 Iron Mountain. Internally illuminated with GE Tetra MiniMax 65K White/GE P512-60 Power Supplies. Halo backlit illuminated with Red GE Tetra MiniMax/GE P512-60 Power Supplies. Letters are projected 4" off back panel with Lag Bolts.

Red Back Panel
.125 thick Aluminum, painted to match 3M Cardinal Red Translucent #3632-53 with Akzo Nobel, Satin Finish.

QuikTrip

Channel Letters
Wall Sign
CL-60R

NOTES	EXPLAN BY	DATE
		11/03/12

SQUARE FOOTAGE	TYPE	INCHES	NO.
	TYPE	INCHES	NO.
	TYPE	INCHES	NO.

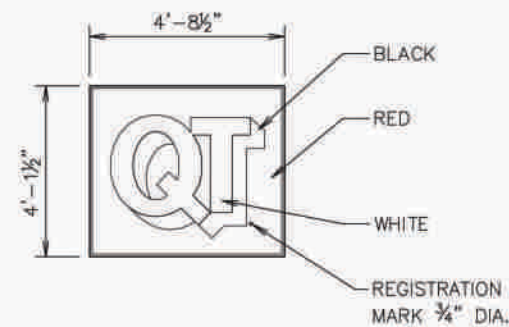
SCALE:
AS NOTED

SERIAL NUMBER:

CL-60R

STORE NUMBER:

15



QuikTrip

\ Building/
IDB-20

NOTES	EXPLAN BY	DATE
		11/03/12

SQUARE FOOTAGE	TYPE	INCHES	NO.
	TYPE	INCHES	NO.
	TYPE	INCHES	NO.

SPECIFICATIONS:

LOGO
Flat Solar grade, Clear Cyro Face, .177" thickness, painted on 2nd surface to match 3M Cardinal Red Translucent #3632-53 no embossment

LOGO Cabinet
Aluminum Construction, Internally illuminated with GE Tetra PowerStrip DS65/GE P524 Power Supplies. Painted Akzo Nobel 9141 Low Gloss

SCALE:

1 1/4" = 1'

SERIAL NUMBER:

IDB-20

STORE NUMBER:

LANDLO

QUICK TRIP #4161

US HWY 290 E. and SARATOGA FARMS BLVD.

ELGIN, TX 78621

CUSTOMER

LOCATION

CITY, ST

ACCT. EXEC.

L. APOSTOLO

DESIGNER

E. MARTIN

02-001

DWG#

PAGE

02/01/19

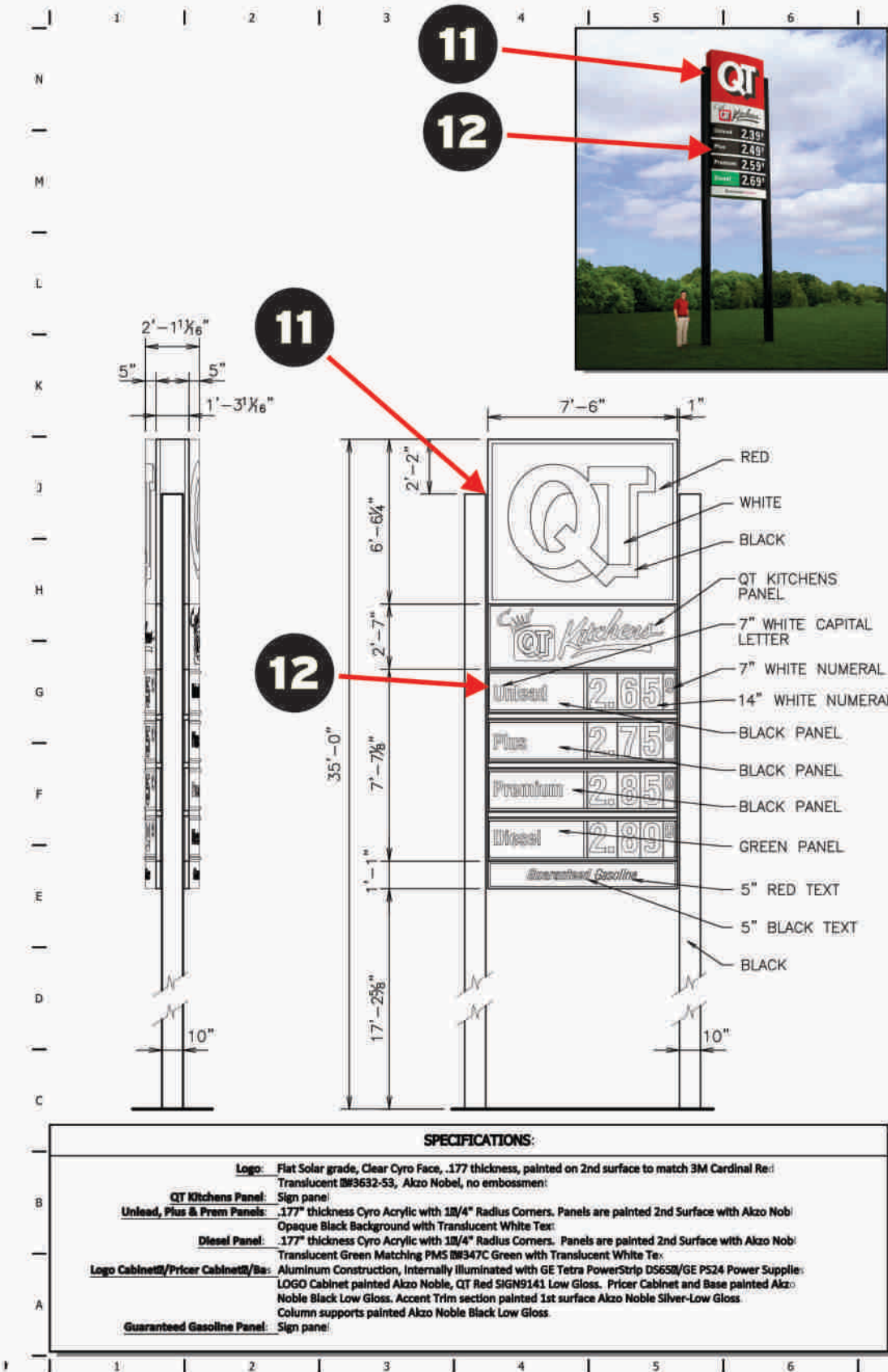
ORIG. DATE

NO.	DATE	BY	DESCRIPTION

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Vertical
Custom Pole Sign
PV14-E4PGQ @ 35FT

NOTES	
DRAWN BY	JK
ISSUE DATE	07/05/18

SQUARE FOOTAGE	
TYPEFACE	
INCHES ON	1/32
ENTIRE SIGN	

SCALE
3/16" = 1'-0"
SERIAL NUMBER
PV14-E4PGQ-35FT
STORE NUMBER
4161

LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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LEWIS SIGN
DESIGN • FABRICATION • INSTALLATION

★ 16910 South IH 35, Buda, TX 78610 ★ Office: 512-312-4555 ★ Fax: 512-312-4551 ★ www.LewisSign.com

40 YEARS

QUICK TRIP #4161	CUSTOMER
US HWY 290 E. and SARATOGA FARMS BLVD.	LOCATION
ELGIN, TX 78621	CITY, ST

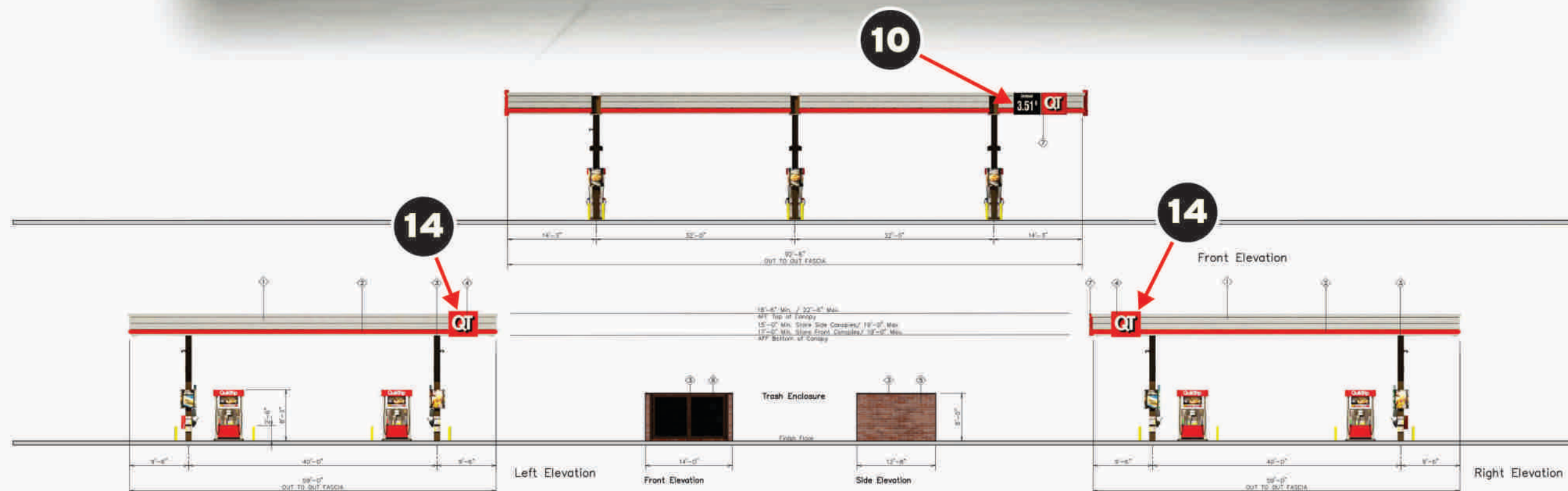
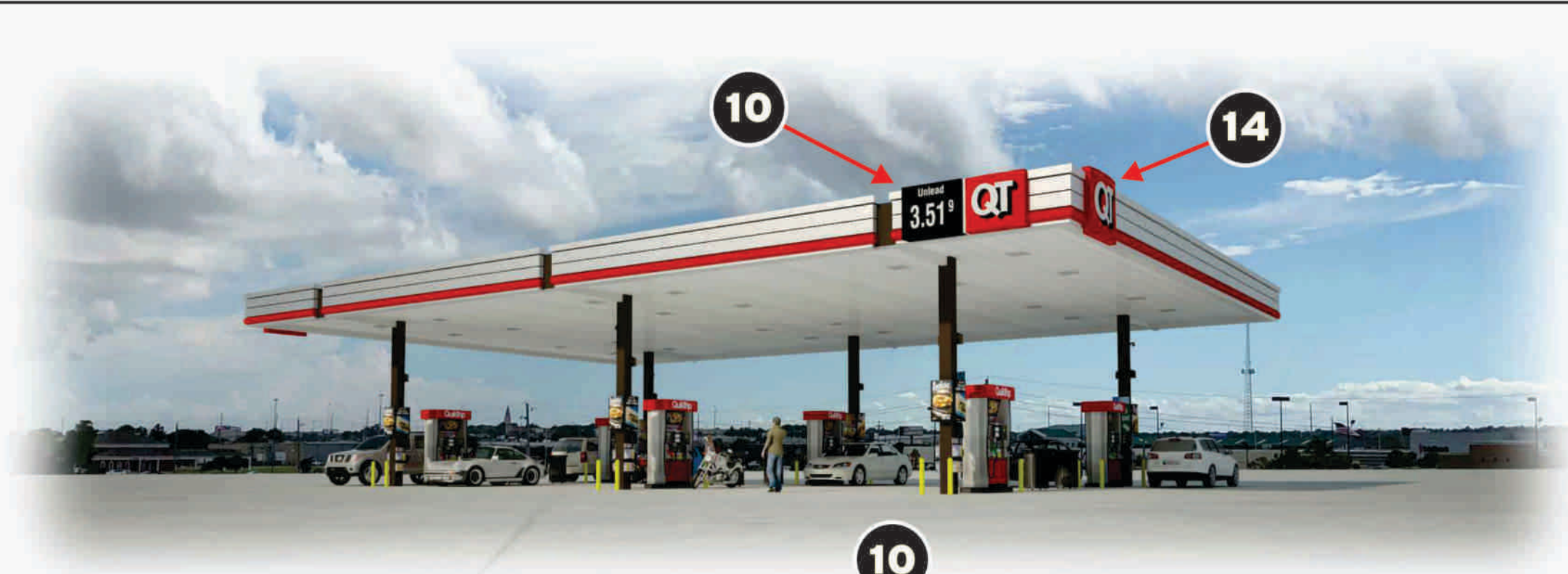
ACCT. EXEC.	L. APOSTOLO
DESIGNER	E. MARTIN

02-001	DWG.#
	PAGE
02/01/19	ORIG. DATE

NO.	DATE	BY	DESCRIPTION

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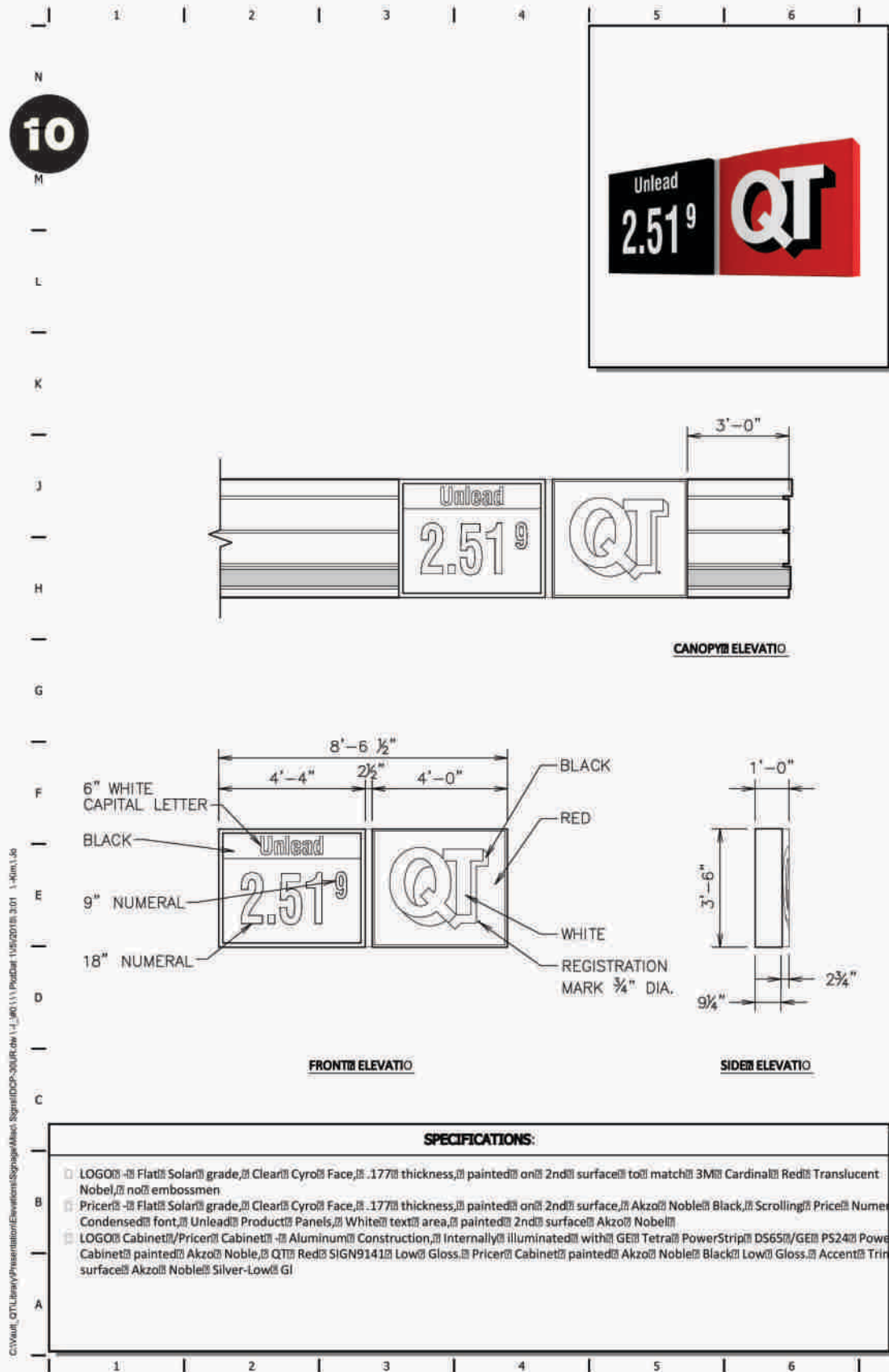
Store # 4161 Double Stack 6 Canopy Elevations Address: SEC SH 290 & Saratoga Falls Blvd City, State: Elgin, TX
Serial # 82-4161-GD06 Scale: 1/16"=1'-0" Issue Date: 10.15.18 Drawn By: JK
Rev/Notes: _____
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Q	FINISH	MANUFACTURER	SPECIFICATION
1	ALUMINUM	QUICK	ALUMINUM
2	PAINT	QUICK	PAINT
3	GLASS	QUICK	GLASS
4	GLASS	QUICK	GLASS
5	GLASS	QUICK	GLASS
6	GLASS	QUICK	GLASS
7	GLASS	QUICK	GLASS
8	GLASS	QUICK	GLASS
9	GLASS	QUICK	GLASS
10	GLASS	QUICK	GLASS

LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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QuikTrip

Canopy Price 1 IDC-30UR

NOTE:

SQUARE FOOTAGE:

TYPE: 14

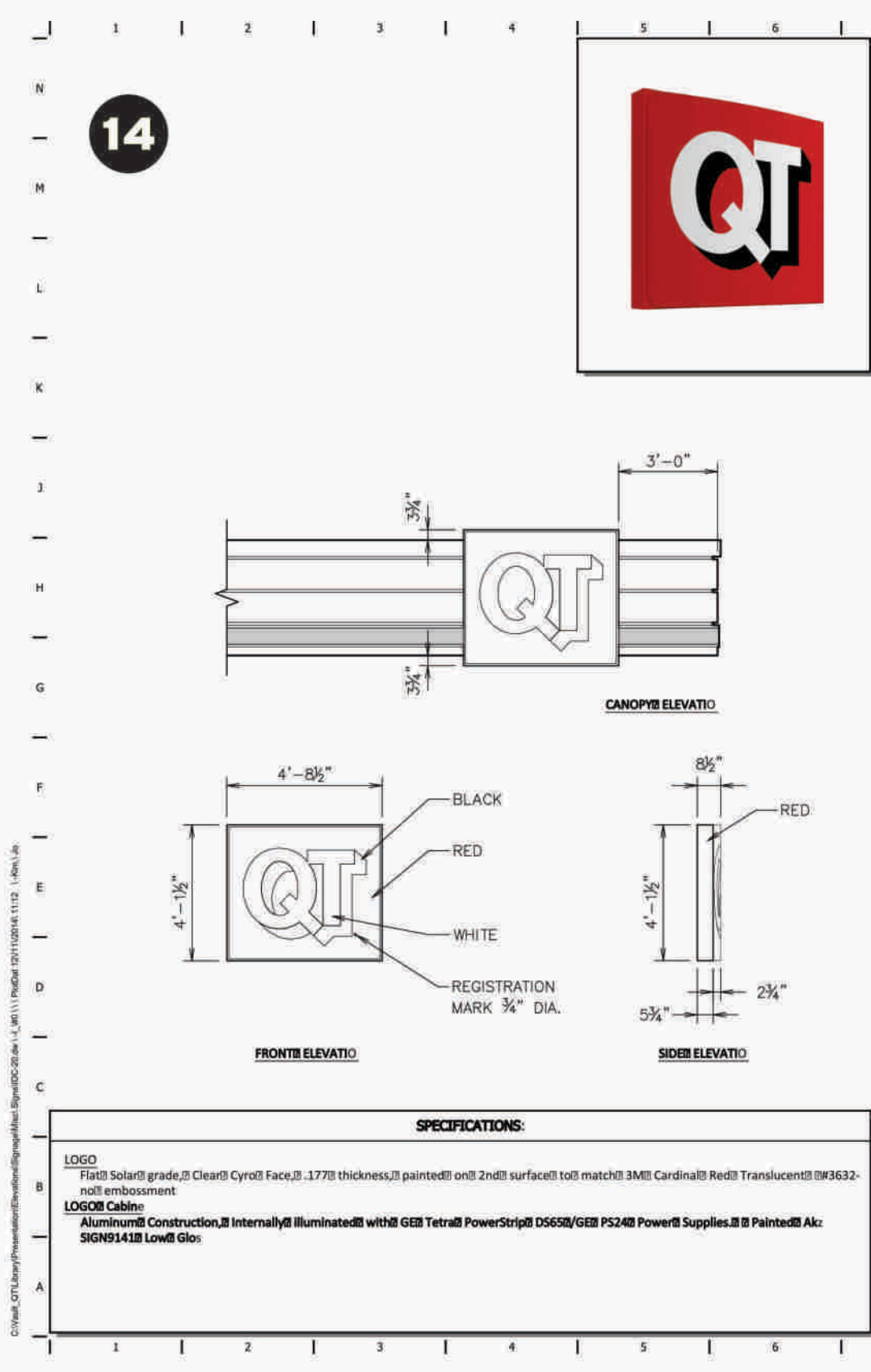
DESIGNER: L. APOSTOLO

DATE: 02/01/19

SCALE: 1/4" = 1'

SERIAL NUMBER: IDC-30UR

STORE NUMBER: \



QuikTrip

Canopy IDC-20

NOTE:

SQUARE FOOTAGE:

TYPE: 10

DESIGNER: L. APOSTOLO

DATE: 02/01/19

SCALE: 1/4" = 1'

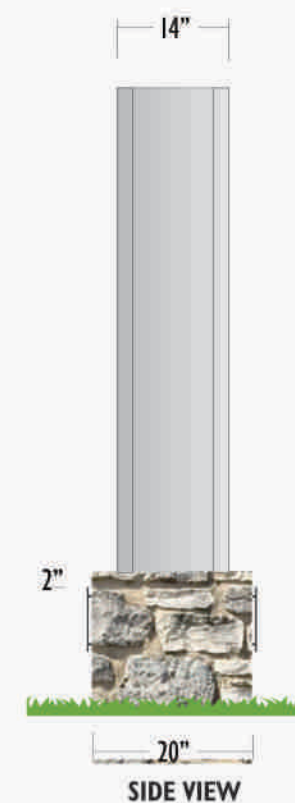
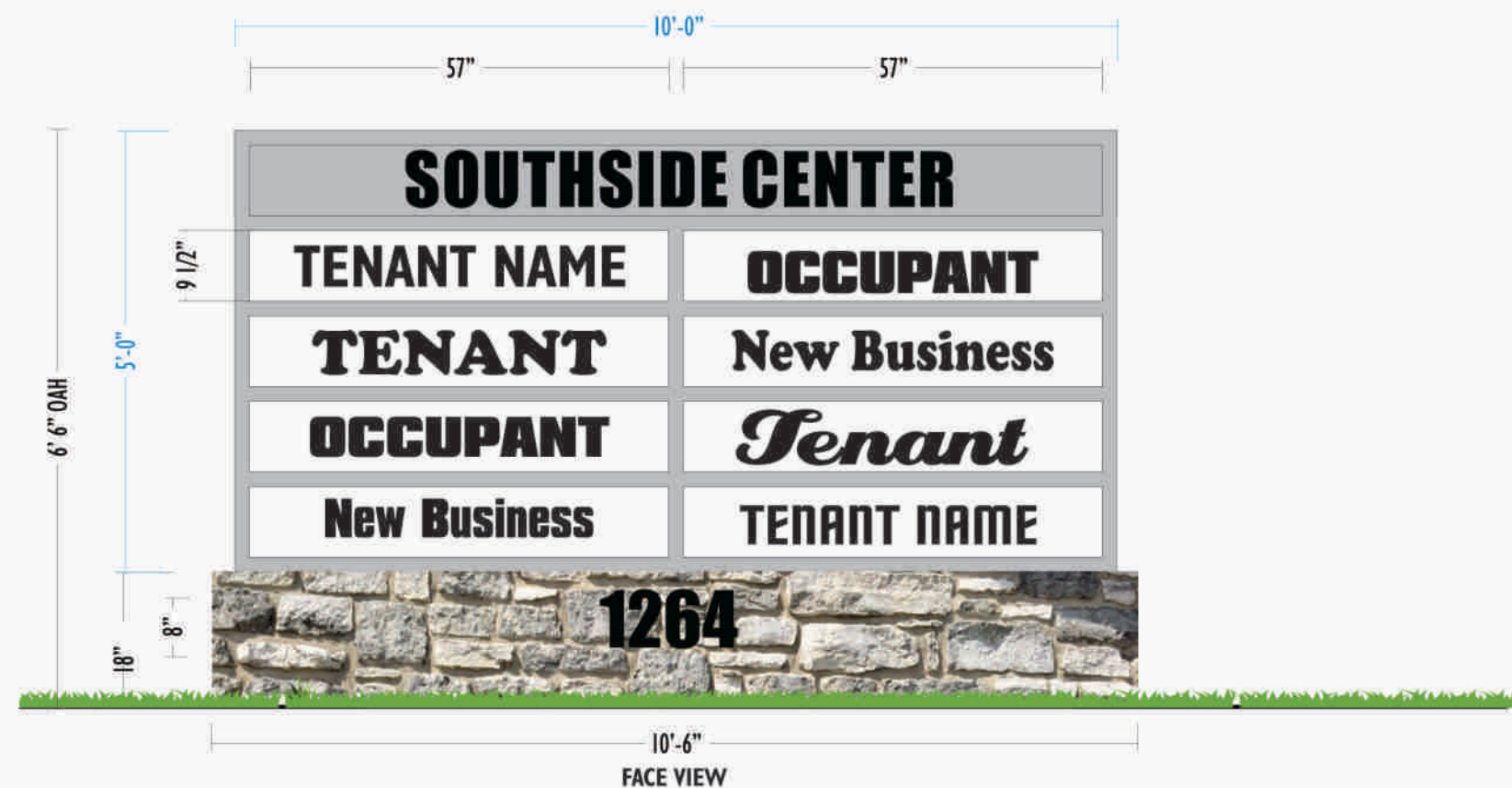
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STORE NUMBER: \

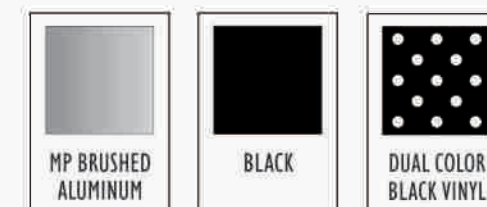
LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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SCOPE OF WORK:	FABRICATE & INSTALL ILLUMINATED, FREESTANDING, TENANT PANEL MONUMENT
QUANTITY:	ONE (1)
TENANT CABINET:	ALUMINUM CABINET W/ WELDED FRAME & 2" RETAINERS PAINTED MP BRUSHED ALUMINUM, WHITE PLASTIC TENANT PANELS W/ 1ST SURFACE VINYL GRAPHICS (TBD)
ID FACES:	ROUTED ALUMINUM PANELS PAINTED MP BRUSHED ALUMINUM, BACKED W/ WHITE PLASTIC W/ 1ST SURFACE BLACK PERFORATED VINYL
FCOs:	.125" ALUMINUM ADDRESS NUMBERS PAINTED BLACK, STUD-MOUNTED 1/8" OFF ROCK BASE
ILLUMINATION:	WHITE LED MODULES
MOUNTING:	MOUNTED W/ 2' STONE BASE PER ENGINEERING STONEWORK PROVIDED BY CUSTOMER



**** IMPORTANT NOTE ****

PHOTO RENDERING IS FOR VISUALIZATION ONLY. ACTUAL SIGN(S) MAY BE LARGER OR SMALLER THAN DEPICTED

**** PLEASE READ AND INITIAL ****

ELECTRICAL CONNECTION: LEWIS SIGN ONLY CONNECTS TO EXISTING POWER/J-BOX WITHIN 10'-0" OF SIGN. IF PRIMARY POWER/J-BOX IS FURTHER THAN 10'-0", FINAL CONNECTION TO BE BY CLIENT'S ELECTRICIAN.

CLIENT INITIALS:

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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FUTURE RETAIL SIGN REQUIREMENTS

SOUTHSIDE CENTER
1212 Hwy 290
Elgin, TX 78621

I. GENERAL

- A. Tenant shall be required to identify tenant's demised premises by signage. Tenant shall furnish and install all signs at his cost. Each tenant will be allowed one sign. Corner tenants may have two signs if they have two perpendicular sign bands and if permitted by the City of Elgin. All proposed sign drawings and signs are subject to landlord's written approval.
- B. If tenant installs any sign without landlord's prior written approval, tenant shall remove such sign within five (5) days from the receipt of written notice from landlord demanding removal of such sign. In the event tenant fails to remove any such sign within a five (5) day period, landlord may remove such without further notice to tenant, and tenant shall reimburse landlord the amount of expenses incurred by landlord in removing such signs.
- C. Each tenant is responsible for its sign conforming to the ordinances and codes of the City of Elgin. Each tenant shall be responsible for obtaining all required permits prior to the commencement of installation.
- D. The advertising of informative content of all exterior signs shall be limited to letters designating the store name. The use of a crest, shield, logo or other established incorporate insignia which has been customarily displayed or associated with the store name, shall not be used without the prior written consent of landlord. In no case shall a logo, if permitted, exceed 18" in height.
- E. No exposed ballast boxes, sign cabinets, or electrical transformers shall be permitted. Sign company names or stamps shall be concealed. Internal sign illumination shall not be permitted.
- F. Tenant shall submit for landlord's approval two (2) copies of shop drawings for tenant's proposed sign which shall show (a) complete sign layout at a scale not less than 1-1/2"=1'; (b) typical cross sections of letters at a scale of 3"=1'; (c) mounting details at a scale of 3"=1', and (d) all dimensions, materials and colors.
- G. Any deviations from this Sign and Storefront Agreement are subject to prior written approval by the landlord. Upon receipt of written consent from the City, landlord has the right to change or waive any provisions listed herein. Waiver in a single instance shall not necessarily constitute a waiver to any other store. Tenants requesting a *Consent for Waiver* from the City of Elgin shall follow the same procedures and satisfy the same criteria as applicable to sign variances under the City's Code of Ordinances.
- H. Tenant is to provide access from lease space to soffit attic for sign repair, such access to be either through removable ceiling tiles or access door to be approved by landlord.

II. DESIGN

A. General Requirements:

- 1. Exterior signs shall be limited to individual metal, back illuminated letters as indicated on the attached drawing. All faces of letters shall be metal fabricated with welded and finished seams and shall be painted with an enamel as specified herein.
- 2. The internal sign framework shall be adequate to support the weight of the sign.
- 3. The vertical height of all signs shall be a maximum of 18" on one horizontal line of lettering. If necessary to use two horizontal lines of lettering, tenant's signs shall not exceed 24" in height inclusive of lettering and spacing.
- 4. The maximum overall length of signs shall not exceed 75% of the storefront width. In no case shall any sign or portion of any sign extend beyond the tenant's lease line, unless approved by landlord. Where allotted fascia length is less than the storefront width (as at corners), the sign shall be no longer than 90% of the allotted space or 75% of the storefront width, whichever is less. The maximum area of the sign is limited to 24 square feet. The method for calculating the area and length of the rectangular "block" is measured from the outside edge of the letters both horizontally and vertically.
- 5. Each tenant is encouraged to use individualized style of lettering. Any strokes which exceed the height limitations as set forth in Item #3 above shall be approved in writing by landlord and City.

Sign finishes in all instances shall be as follows: All signs must be made of non-corrosive materials throughout.

Sign Faces and Sides:

QUANTITY: One (1) set	
Max. Allowed Height:	Letters- 18", inclusive of lettering and spacing
Overall Length:	Varies per Tenant. Not to exceed city sign code.
Total Sq.Ft.:	Varies per Tenant. Not to exceed city sign code.
Returns:	Black Gloss
Trimcap:	Black Jewelite
Face:	7328 White Plex
First-surface translucent vinyl:	per client artwork
Raceway:	Painted to match Building, TBD
Illumination:	White LEDs

6. Back Illumination of lettering shall be limited to white LEDs. No deviation from this color will be allowed and color intensity shall be indicated on all sign drawings.

7. Signage depth shall be 3-1/2" not including mounting brackets.

8. Sign letters are to be attached to masonry surfaces as shown on attached mounting detail A. No mounting brackets will be allowed to penetrate the brick surfaces. Flexibility of the design as shown allows all letters, no matter what style, to be mounted with anchor bolts in mortar joints only.
9. Removable transformers behind wall are required. All wiring, ballasts, lighting and reinforcing shall be in a remote transformer located in building as shown on attached drawing A. No signage should have fastening bolts or exposed fasteners which are visible from bottom, or sides of letter enclosures. Only with written permission of landlord should transformers be built concealed in letters.

B. Construction:

1. All signs shall be in the form of individual face channel letters, back wall illuminated with LED's of colors as specified above. All signs shall fully comply with the City of Elgin sign ordinance and sign installer shall be on the approved list of sign manufacturers as maintained by the landlord.
2. Materials of Construction
 - a. Metal portions of letters shall be of baked enamel, painted or pre-finished with colors as specified above.
 - b. Letter faces and enclosures are to be constructed so that seams are not visible and shall either be butt jointed with adhesive or welded and ground smooth before receiving finish coat.
 - c. White LEDs
3. All sign support shall be painted to match brick.
 - a. Sign support brackets and anchor bolts shall be galvanized to prevent rusting and rust staining on brick surfaces.

III. MOUNTING

- A. All signs are to be electrified using tenant's power, but must be wired to switch on/off concurrently with landlord's sign/soffit light circuit. This insures that all tenant signs will become illuminated at the same time.
- B. All signs and connections shall be soundly constructed, securely attached and be weather tight. All signs should be mounted with good quality.
Workmanship – landlord reserves the right to be the sole judge of whether quality workmanship has been achieved. Sign mounting must comply with the City of Elgin sign ordinance.
- C. All fasteners, screws, bolts, etc. used in the fabrication and mounting of the sign shall be rustproof.

- D. Any damage done to any part of the building during the mounting or removal of signs shall be promptly repaired to "like new condition" by the tenant at tenant's expense.

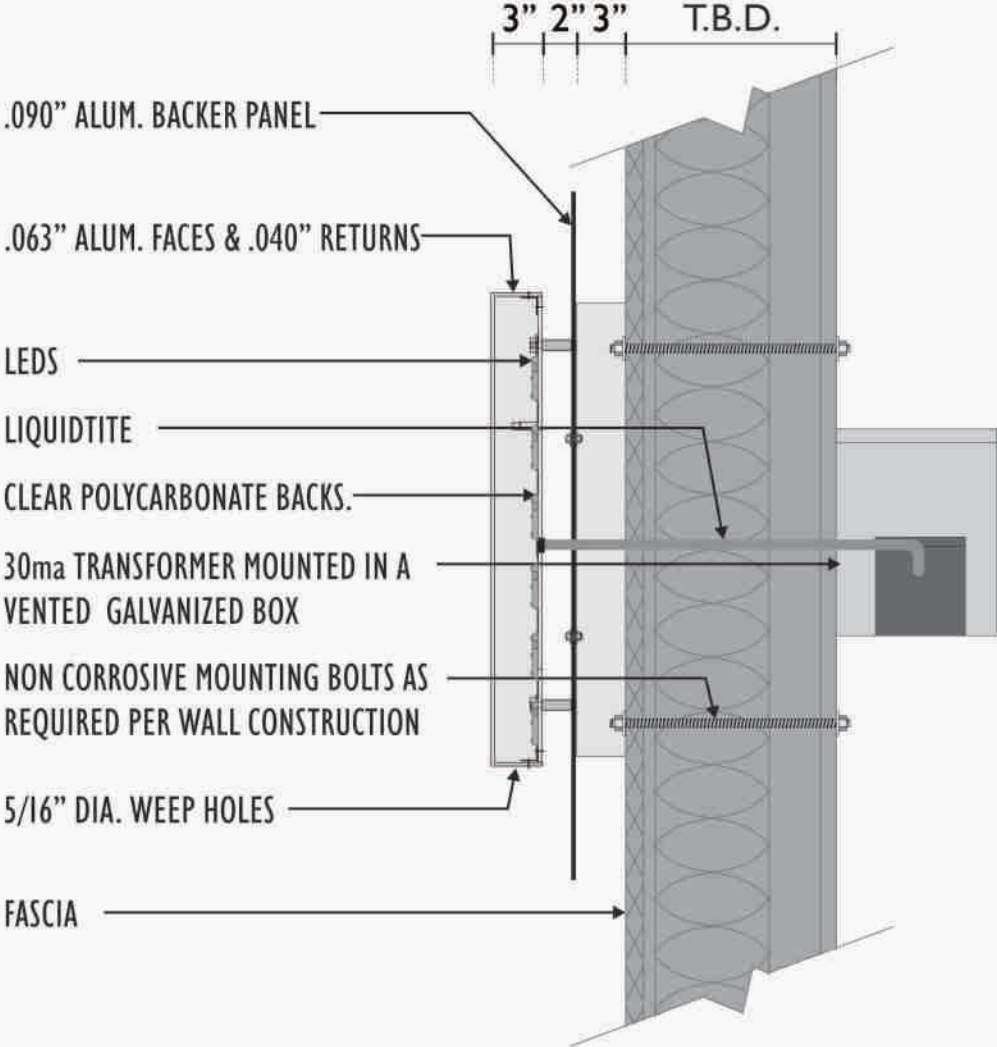
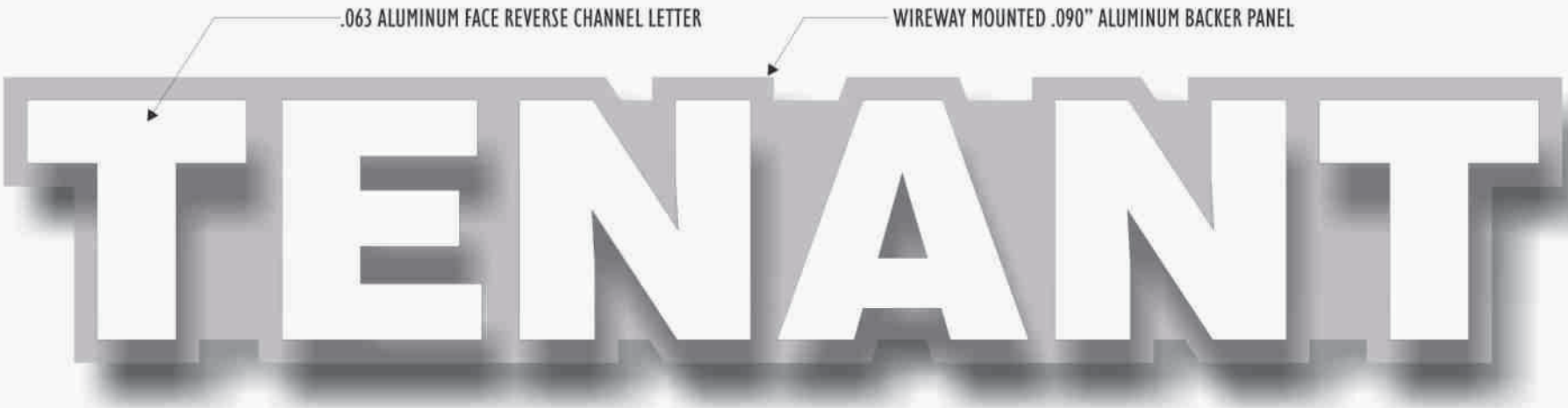
IV. SECONDARY SIGNS

- A. No secondary signs are to be placed on building wall elevations. Landlord will allow letters not to exceed 5" to be placed on the rear door for identification purposes. Color to be black.
- B. No "sandwich" or easel/portable signs are allowed.
- C. No window signs are permitted without the prior written approval of the landlord and the City of Elgin.
- D. Standard address numerals for postal identification of premise will be permitted. Numeral height shall be 4". Color to be white.
- E. "Grand Opening" signs in moderation and good taste shall be permitted at the landlord's discretion. Such signs will be permitted for a period of ten (10) working days only. Such signs must be located so as not to obstruct access either visually or physically to any other tenant space or common area. Tenant must obtain written approval prior to erecting any such sign from both the landlord and the City of Elgin.
- F. Mounting: Signs are to be mounted as shown on attached sign detail. In no case are any mounting elements, including bolts, shields, or brackets to be constructed of any materials that are not rustproof.
- G. Design Approval: All signs shall be approved as to design and construction type by landlord. Please Reference Figure A - attached sign specifications

PROHIBITED SIGNS:

1. Temporary trailer signs.
2. Marquee signs.
3. Iridescent painted signs.
4. Dayglo colors.
5. Signs which make or create noise.
6. Box type signs.
7. Banner flags or pendants.
8. "Sandwich" or easel/portable signs.

FIGURE A: REVERSE CHANNEL LETTER EXAMPLE



SECTION DETAIL, TYP NTS
REVERSE LIT CHANNEL LETTERS LED ILLUMINATED
ON A BACKER PANEL WIREWAY MOUNTED.

LANDLORD APPROVAL: _____

CLIENT APPROVAL: _____

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LEWIS SIGN

DESIGN • FABRICATION • INSTALLATION

40

YEARS

★ 16910 South IH 35, Buda, TX 78610 ★ Office: 512-312-4555 ★ Fax: 512-312-4551 ★ www.LewisSign.com

SOUTHSIDE CENTER	CUSTOMER	ACCT. EXEC.	08-001 R4	DWG#	NO.	DATE	BY	DESCRIPTION
1264 US HWY 290	LOCATION	L. APOSTOLO		PAGE	1	08/03/18	EM	ADD D/F ILLUMINATED OPTION
ELGIN, TX 78621	CITY, ST	DESIGNER			2	10/19/18	EM	ADJUST DIMENSIONS
		E. MARTIN			3	01/03/19	EM	SHOW PRIMARY & SECONDARY SIGNS
			08/01/18	ORIG. DATE	4	01/30/18	EM	REVISE SIZES

MANDATED BY STATE STATUTE: Anyone selling, installing or servicing electrical signs, outline lighting, lighted awnings, signals, LEDs and existing outdoor electric discharge lighting must maintain an Electric Sign Contractors license. These license holders are regulated by the Texas Department of Licensing and Regulation. For compliance verification or complaints contact TDLR in Austin at 1-800-803-9202, 512-463-6599 or online. This firm's license is **TSCL 18067 & SIGN MASTERS LICENSE 7312**. To verify a company's license, log onto www.license.state.tx.us/licensesearch. Enter the company's name in the "Inquire by Name" field.

BOARD OF ADJUSTMENTS
PUBLIC HEARING/ REGULAR MEETING
WEDNESDAY NOVEMBER 19, 2008, 7:00 P.M.
CITY HALL ANNEX – COUNCIL CHAMBERS
310 N. MAIN STREET
MINUTES

1. Call to order: Called the meeting to order at 7:10 pm with the following present:

Present: Franklin Boettcher, Ruby Simms, Shifton McShan, Lynn Cottle, Gary N. Cooke, Secretary,
Janette Thompson, Staff

Absent: Antonio Prete,

Guest: Ernest Bracewell, Tom Abney, Joe Cottle, Ernest Bracewell Jr.

2. Minutes: Lynn Cottle made a motion to accept the minutes of May 21, 2008 Ruby Simms seconds, motion passed unanimously.
3. REVIEW AND TAKE ACTION ON A REQUEST FILED BY BRACEWELL LIMITED PARTNERSHIP FOR SOUTHSIDE MARKET, FOR A VARIANCE TO INCREASE THE SIZE OF THE SIGN FACE OF ONE HUNDRED AND FIFTY (150) SQUARE FEET, AS ALLOWED, TO ONE HUNDRED AND NINETY-EIGHT (198) SQUARE FEET, AS SPECIFIED IN THE CITY OF ELGIN CODE, CHAPTER 4, SEC. K., (8) (c) (iii) AT THEIR PROPERTY LOCATED AT 1212 HIGHWAY 290. Gary N. Cooke addressed the Board and told them that City Council recommended the approval of the variance. Mr. Tom Abney asked to change the request from one hundred and ninety-eight (198) square feet to two-hundred eight and a half (208.5) square feet. After a short discussion Ruby Simms made a motion to approve the variance to include the change to two-hundred eight and a half (208.5) square feet, but not to exceed the two-hundred ten (210) square feet maximum, Lynn Cottle seconds, motion passed unanimously.
4. Announcements: There has been a request to hold a meeting on December 17, 2008 and the Board was asked if this would be alright, everyone in attendance stated that it there would not be any conflict with the upcoming holiday. Also there still needs to be two more Board members.
5. Meeting adjourned at 7:20 pm.



Gary N. Cooke, Secretary

Summary and Recommendations for Southside Center Master Sign Plan

The attached Master Sign Plan includes the following:

- 3 pole signs, two existing and one new with fuel price
- 1 addition to existing pole sign
- 3 new monument signs
- 1 new illuminated directional sign
- 1 new menu sign
- 1 new marquee sign
- 2 wall signs, one existing and one new
- 2 new canopy signs with fuel price

In all they are proposing a total of 14 signs at this time with 3 existing. A retail shopping center is planned for Lot 4 of this development and wall signs will be allowed for each tenant.

It is important to note that the large billboard on the corner of Highway 290 and Saratoga Farms Boulevard will be completely removed and will not be part of this Master Sign Plan.

Sign 1 – Existing Solid Grounds Pole Sign

This sign was previously permitted and is now considered legal non-conforming.

No increase to the size of the sign will be allowed.

Sign 2 – Existing Southside Market wall sign

This sign was previously permitted and conforms to City code.

Sign 3 – Existing Southside Market Pole Sign

A variance for this sign was previously granted by the Board of Adjustment to increase the sign area to a maximum 210 s.f. which is 40% larger than allowed by code.

Sign 4 – Proposed 45.69 s.f. addition to Southside Market Pole Sign

As stated above, the sign area already exceeds the 150' maximum per code via a Variance and they are now requesting to add an additional 4' X 11' sign to the pole.

Recommendation: Staff cannot recommend approval of this sign addition based on size.

Sign 5 – Proposed monument sign

Height is 9' OAH vs. 7' OAH allowed by City code

Sign area is 80 s.f. vs 50 s.f. allowed by City code

Exceeds the allowable number of free standing signs per code (1 vs 2) as well as the maximum sign area and height per code.

Recommendation: Allow second free standing sign but reduce sign area to 50 s.f. and 7' tall maximum OAH

Sign 6 – Proposed illuminated directional sign

Height is 8' OAH and sign area is 26 s.f. vs 4 s.f. allowed by City code

Exceeds the allowable number of total signs per code (6 vs 4 allowed per code).

Recommendation: Allow additional sign but reduce sign area to 5.6 s.f.

Sign 7 – Proposed menu board sign

Height is 7' OAH and sign area is 43.16 s.f.

Exceeds the allowable number of total signs per code (6 vs 4 allowed per code).

Recommendation: Allow additional sign as proposed.

Sign 8 – Proposed blade (marquee) sign attached to building

Height is 8' and sign area is 10.66 s.f. with a 10' clearance from ground elevation

Exceeds the allowable number of total sign for code; there will be a total of 6 signs for Soutside Market vs. 4 signs allowed by City code.

Recommendation: Allow additional sign as proposed.

Sign 9 – Proposed primary project monument sign

Height is 8'6" OAH vs 7' OAH allowed by City code

Sign area is 70 s.f. vs 50 s.f. allowed by City code

The proposed location of this sign is on the corner of Highway 290 and Saratoga Farms Blvd. very near the Quik Trip pole sign. Code does not allow a free standing sign to be placed within 100' of another free standing sign. (36-168)

Recommendation: Since three of the four lots in this development will have pole signs; this sign becomes redundant and a visual obstruction so it should be eliminated.

Sign 10 – Proposed Quik Trip canopy price ID sign

Sign area is 14.88 s.f. and code allows a maximum of 16 s.f.

Recommendation: Allow sign as proposed.

Sign 11 - Proposed Quik Trip pole sign

Height is 35' OAH vs 40' allowed by City code.

Sign area is 78 s.f. vs 57.79 s.f. allowed per code, this is an increase of 20.21 s.f. or 35% and within what the Board of Adjustments would be allowed to grant

Recommendation: Allow sign as proposed.

Sign 12 - Proposed Quik Trip fuel price sign

Sign area is 56 s.f. vs 40 s.f. allowed by City code, this is an increase of 16 s.f. or 40% and within what the Board of Adjustments would be allowed to grant.

Recommendation: Allow sign as proposed.

Sign 13 - Proposed Quick Trip wall sign

Sign area is 55.78 s.f. vs 71 s.f. (including double frontage) allowed by code

Recommendation: Allow sign as proposed.

Sign 14 - Proposed Quik Trip canopy ID sign

Considered a logo and is therefore exempt

Recommendation: Allow sign as proposed.

Sign 15 - Proposed Quik Trip wall signs

Considered a logo and is therefore exempt

Recommendation: Allow sign as proposed.

Sign 16 – Proposed monument sign

Height is 6'6" OAH vs 12'OAH allowed per City code

Sign area is 50 s.f. vs 80 s.f. allowed per code

Recommendation: Allow sign as proposed.

FUTURE RETAIL SIGN REQUIREMENTS

SOUTHSIDE CENTER
1212 Hwy 290
Elgin, TX 78621

I. GENERAL

- A. Tenant shall be required to identify tenant's demised premises by signage. Tenant shall furnish and install all signs at his cost. Each tenant will be allowed one sign. ~~Corner tenants may have two signs if they have two perpendicular sign bands and if permitted by the City of Elgin.~~ All proposed sign drawings and signs are subject to landlord's written approval.
- B. If tenant installs any sign without landlord's prior written approval, tenant shall remove such sign within five (5) days from the receipt of written notice from landlord demanding removal of such sign. In the event tenant fails to remove any such sign within a five (5) day period, landlord may remove such without further notice to tenant, and tenant shall reimburse landlord the amount of expenses incurred by landlord in removing such signs.
- C. Each tenant is responsible for its sign conforming to the ^{MASTER SIGN PLAN AND} ordinances and codes of the City of Elgin. Each tenant shall be responsible for obtaining all required permits prior to the commencement of installation.
- D. The advertising of informative content of all exterior signs shall be limited to letters designating the store name. The use of a crest, shield, logo or other established incorporate insignia which has been customarily displayed or associated with the store name, shall not be used without the prior written consent of landlord. In no case shall a logo, if permitted, exceed 18" in height.
- E. No exposed ballast boxes, sign cabinets, or electrical transformers shall be permitted. Sign company names or stamps shall be concealed. Internal sign illumination shall not be permitted.
- F. Tenant shall submit for landlord's approval two (2) copies of shop drawings for tenant's proposed sign which shall show (a) complete sign layout at a scale not less than 1-1/2"=1'; (b) typical cross sections of letters at a scale of 3"=1'; (c) mounting details at a scale of 3"=1', and (d) all dimensions, materials and colors.
- G. Any deviations from this Sign and Storefront Agreement are subject to prior written approval by the landlord. Upon receipt of written consent from the City, landlord has the right to change or waive any provisions listed herein. Waiver in a single instance shall not necessarily constitute a waiver to any other store. Tenants requesting a *Consent for Waiver* from the City of Elgin shall follow the same procedures and satisfy the same criteria as applicable to sign variances under the City's Code of Ordinances.
- H. Tenant is to provide access from lease space to soffit attic for sign repair, such access to be either through removable ceiling tiles or access door to be approved by landlord.

AND THE
CITY OF
ELGIN

II. DESIGN

A. General Requirements:

1. Exterior signs shall be limited to individual metal, back illuminated letters as indicated on the attached drawing. All faces of letters shall be metal fabricated with welded and finished seams and shall be painted with an enamel as specified herein.
2. The internal sign framework shall be adequate to support the weight of the sign.
3. The vertical height of all signs shall be a maximum of 18" on one horizontal line of lettering. If necessary to use two horizontal lines of lettering, tenant's signs shall not exceed 24" in height inclusive of lettering and spacing.
4. The maximum overall length of signs shall not exceed 75% of the storefront width. In no case shall any sign or portion of any sign extend beyond the tenant's lease line, ~~unless approved by landlord~~. Where allotted fascia length is less than the storefront width (as at corners), the sign shall be no longer than 90% of the allotted space or 75% of the storefront width, whichever is less. The maximum area of the sign is limited to 24 square feet. The method for calculating the area and length of the rectangular "block" is measured from the outside edge of the letters both horizontally and vertically.
5. Each tenant ~~is encouraged to~~ ^{SHALL} use individualized style of lettering. Any strokes which exceed the height limitations as set forth in Item #3 above shall be approved in writing by landlord and City.

Sign finishes in all instances shall be as follows: All signs must be made of non-corrosive materials throughout.

Sign Faces and Sides:

QUANTITY:	One (1) set
Max. Allowed Height:	Letters- 18", inclusive of lettering and spacing
Overall Length:	Varies per Tenant. Not to exceed city sign code.
Total Sq.Ft.:	Varies per Tenant. Not to exceed city sign code.
Returns:	Black Gloss
Trimcap:	Black Jewellite
Face:	7328 White Plex
First-surface translucent vinyl:	per client artwork
Raceway:	Painted to match Building, TBD
Illumination:	White LEDs

6. Back illumination of lettering shall be limited to white LEDs. No deviation from this color will be allowed and color intensity shall be indicated on all sign drawings.
7. Signage depth shall be 3-1/2" not including mounting brackets.

8. Sign letters are to be attached to masonry surfaces as shown on attached mounting detail A. No mounting brackets will be allowed to penetrate the brick surfaces. Flexibility of the design as shown allows all letters, no matter what style, to be mounted with anchor bolts in mortar joints only.
9. Removable transformers behind wall are required. All wiring, ballasts, lighting and reinforcing shall be in a remote transformer located in building as shown on attached drawing A. No signage should have fastening bolts or exposed fasteners which are visible from bottom, or sides of letter enclosures. Only with written permission of landlord should transformers be built concealed in letters.

B. Construction:

1. All signs shall be in the form of individual face channel letters, back wall illuminated with LED's of colors as specified above. All signs shall fully comply with the City of Elgin sign ordinance and sign installer shall be on the approved list of sign manufacturers as maintained by the landlord.
2. Materials of Construction
 - a. Metal portions of letters shall be of baked enamel, painted or pre-finished with colors as specified above.
 - b. Letter faces and enclosures are to be constructed so that seams are not visible and shall either be butt jointed with adhesive or welded and ground smooth before receiving finish coat.
 - c. White LEDs
3. All sign support shall be painted to match brick.
 - a. Sign support brackets and anchor bolts shall be galvanized to prevent rusting and rust staining on brick surfaces.

III. MOUNTING

- A. All signs are to be electrified using tenant's power, but must be wired to switch on/off concurrently with landlord's sign/soffit light circuit. This insures that all tenant signs will become illuminated at the same time.
- B. All signs and connections shall be soundly constructed, securely attached and be weather tight. All signs should be mounted with good quality.
Workmanship -- landlord reserves the right to be the sole judge of whether quality workmanship has been achieved. Sign mounting must comply with the City of Elgin sign ordinance.
- C. All fasteners, screws, bolts, etc. used in the fabrication and mounting of the sign shall be rustproof.

- D. Any damage done to any part of the building during the mounting or removal of signs shall be promptly repaired to "like new condition" by the tenant at tenant's expense.

IV. SECONDARY SIGNS

- A. No secondary signs are to be placed on building wall elevations. Landlord will allow letters not to exceed 5" to be placed on the rear door for identification purposes. Color to be black.
- B. No "sandwich" or easel/portable signs are allowed.
- C. No window signs are permitted without the prior written approval of the landlord, and the City of Elgin.
- D. Standard address numerals for postal identification of premise will be permitted. Numeral height shall be 4". Color to be white.
- E. "Grand Opening" signs in moderation and good taste shall be permitted at the landlord's discretion. Such signs will be permitted for a period of ten (10) working days only. Such signs must be located so as not to obstruct access either visually or physically to any other tenant space or common area. Tenant must obtain written approval prior to erecting any such sign from both the landlord and the City of Elgin. **NO BALLOONS OR INFLATABLE SIGNS OR ANIMATED SIGNS SHALL BE ALLOWED FOR GRAND OPENINGS.**
- F. Mounting: Signs are to be mounted as shown on attached sign detail. In no case are any mounting elements, including bolts, shields, or brackets to be constructed of any materials that are not rustproof.
- G. Design Approval: All signs shall be approved as to design and construction type by landlord.
Please Reference Figure A - attached sign specifications

PROHIBITED SIGNS:

1. Temporary trailer signs.
2. Marquee signs.
3. Iridescent painted signs.
4. Dayglo colors.
5. Signs which make or create noise.
6. Box type signs.
7. Banner flags or pendants.
8. "Sandwich" or easel/portable signs.

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING A MASTER SIGN PLAN FOR SOUTHSIDE CENTER LOCATED AT SOUTHSIDE MARKET SUBDIVISION, BLOCK A, LOTS 1-4.

WHEREAS, the City of Elgin has received an application for a Master Sign Plan from Bracewell Land Management LTD, Jeanne Bracewell Investments LLC, and 169 Properties LTD; and

WHEREAS, the combines properties span an area of 12.79 acres; and

WHEREAS, the City of Elgin Sign Ordinances allows for a Master Sign Plan for nonresidential development in commercial and industrial districts for tracts larger than ten acres;

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

1. That the City approve the Southside Center Master Sign Plan.
2. This resolution shall take effect immediately upon passage.

Passed and approved this _____ day of _____, 2019.

Chris Cannon, Mayor

Amelia Sanchez, City Secretary



Elgin City Council Meeting Agenda Item Executive Summary

ITEM: A resolution of the City Council of the City of Elgin, Texas, authorizing an encroachment agreement between Eddie and Maria Rodriguez and the City of Elgin for the property located at 405 North Avenue E and authorizing the Mayor to act as the city's executive officer and authorized representative to execute the agreement.

DEPARTMENT: Administration

PROPOSED ACTION:

Discussion, consideration and action on an Encroachment Agreement between Eddie and Maria Rodriguez, owners of the property located at 405 North Avenue E, in the Puckett Subdivision, Block 6, Lot 4D (1/2), Elgin, Texas, Bastrop County, and The City of Elgin.

BACKGROUND:

The property owner is requesting that the City acknowledge and allow the encroachment on or over a portion of the 20' alley Right-Of-Way. The house at the rear of the property was built in 1972, thus it is considered a legal non-conforming structure/lot. The house is 0.8' or approximately 10" over the rear property line and the concrete steps and the concrete walkway are wholly in the ROW. This agreement would allow the encroachments to remain in their current state (they cannot be enlarged) and once removed, they cannot be replaced. The City retains the right to remove the encroachments at any time. The city attorney has reviewed and approved the proposed Encroachment Agreement.

BUDGET/FINANCIAL IMPACT:

Funding for this item was { } included { } not included in the current-year budget {X} N/A

RECOMMENDATION:

Approval of the resolution granting an Encroachment Agreement to Eddie and Maria Rodrigues for 405 North Avenue E, City of Elgin, County of Bastrop, Texas.

ATTACHMENTS:

Executive Summary
Encroachment Agreement and Exhibit "A"
Resolution

- { } Staff will be making a detailed presentation on this agenda item at the meeting.
- { } Staff will provide brief comments and answer questions on this item at the meeting.
- {X} This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

ENCROACHMENT AGREEMENT

This Encroachment Agreement, hereinafter "Agreement," is made and entered into between EDDIE and MARIA RODRIGUEZ, hereinafter referred to as the "Owner," whose address is 401 EAST EGGLESTON, MANOR, TX 78653, and the City of Elgin, Texas, hereinafter the "City," a municipal home-rule corporation whose address is P.O. Box 591, Elgin, Texas 78621, and becomes effective on the date this document is approved by Elgin City Council and signed by the Mayor of the City of Elgin. The City and the Owner agree as follows:

- A. The Owner is the record owner of certain property described as:

Puckett, Block 6, Lot 4D (1/2), City of Elgin, Deed Records, Plat Records,
Bastrop County, Texas

See sketch attached hereto as Exhibit "A" and made a part hereof for all
intent and purposes hereto.

- B. City is the record holder of the Alley between North Avenue E and North Avenue F twenty foot (20') right-of-way (hereinafter the "ROW"), which is indicated as "20' ALLEY" in Exhibit "A".
- C. The Owner has requested that the City allow an encroachment on or over a portion of the ROW, with the encroaching structures being in the nature of one (1) one-story frame building, concrete steps, a concrete walkway as called out in Exhibit "A".
- D. By execution of this Agreement, the City grants its limited consent for the Owner to encroach on or over a portion of the ROW ***strictly subject to the following conditions:***
- (1) The encroaching structures may be located only as depicted on the attached Exhibit "A", and that no further encroachment or improvements of any kind in the ROW belonging to the City shall be allowed;
 - (2) The existence of the encroaching structures shall be subject to any and all relevant requirements of the Elgin Code of Ordinances, including but not limited to the Building Code;
 - (3) Use, maintenance, repair and removal of the encroaching structures shall be solely at the risk and liability of the Owner, and not at the risk and liability of the City in any manner whatsoever;
 - (4) Removal of the encroaching structures, or a portion thereof, shall cause the immediate termination of this Agreement;

- (5) The permission of the City in allowing such encroachment shall be strictly limited to this particular request, and shall not ever be construed as establishing any precedent whatsoever;
- (6) The parties expressly agree that the City has full authority in an emergency to remove or permit to be removed, in whole or part, the encroaching structures, and such removal shall be allowed without notice to the Owner and without any obligation whatsoever on the part of the City to replace or repair any part or the whole of the encroaching structures;
- (7) In a non-emergency situation, the Owner agree to be solely responsible for removal of the encroaching structures to the City's satisfaction, and such removal shall be completed by the Owner within forty-eight (48) hours of actual notice to the Owner of the City's directive to remove same. The parties expressly agree that, in the event the Owner fails to remove the encroaching structures to the City's satisfaction following notice, then and in that event the City may cause the encroaching structures to be removed at the expense of the Owner;
- (8) The parties expressly agree that the City shall never be responsible in any manner whatsoever for damage caused to the encroaching structures related to the City's use or maintenance of the ROW;
- (9) The Owner shall indemnify and hold the City harmless from any and all loss, damage, penalty, liability, cost and expense, including without limitation reasonable attorney's fees, that may be incurred by, imposed upon, or asserted by reason of any suit, action, legal proceeding, claim, demand, regulatory proceeding, or litigation arising from any act done or omitted to be done by any party, excepting only any loss, damage, penalty, liability, cost or expenses resulting from negligence or willful misconduct of the City. Nothing herein shall be deemed to limit the rights (including but not limited to the right to seek contribution) of the City or the Owner against any third party who may be liable for an indemnified claim. The parties agree that in no event shall the City be liable to the Owner for any incidental, indirect, special, punitive, consequential or similar damages of any kind including without limitation loss of profits, loss of business or interruptions of business, whether such liabilities are predicated on contract, tort, strict liability or any other legal theory. This indemnification shall apply to the Owner, and to each of its successors, assigns, officers, employees and officials. The parties agree that the provisions of this section shall survive the termination of this agreement; and

- (10) Relative to any subsequent purchaser of the encroaching structures, the Owner expressly agrees to adequately inform any such purchaser of the property as to the existence of this Agreement and provide a copy of same.
- (11) The City reserves the right to rescind this Agreement at any time, with or without cause.

By execution below by the Owner and the respective appropriate authorities of the City of Elgin, Texas, the signatories bind the entities to obey all conditions of this Agreement.

The Owner

By: Eddie Rodriguez
Eddie Rodriguez

Date Signed: 2-25-19

By: Maria Rodriguez
Maria Rodriguez

Date Signed: 2/25/19

City of Elgin, Texas

By: _____
Chris Cannon, Mayor

Date Signed: _____

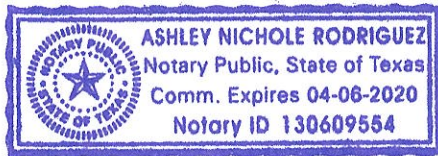
ATTEST:

Amelia Sanchez, City Secretary

ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF BASTROP

This instrument was acknowledged before me on this 25th day of February, 2019,
by EDDIE RODRIGUEZ, whose name is subscribed to the preceding instrument, and
acknowledged to me that he executed it for the purposes and consideration expressed in it.

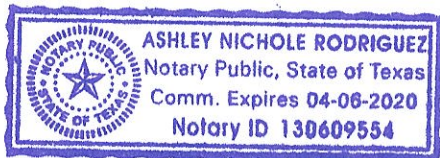


Ashley N. Rodriguez
Notary Public in and for the State of Texas

ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF BASTROP

This instrument was acknowledged before me on this 25th day of February, 2019,
by MARIA RODRIGUEZ, whose name is subscribed to the preceding instrument, and
acknowledged to me that she executed it for the purposes and consideration expressed in it.



Ashley N. Rodriguez
Notary Public in and for the State of Texas

ACKNOWLEDGMENT

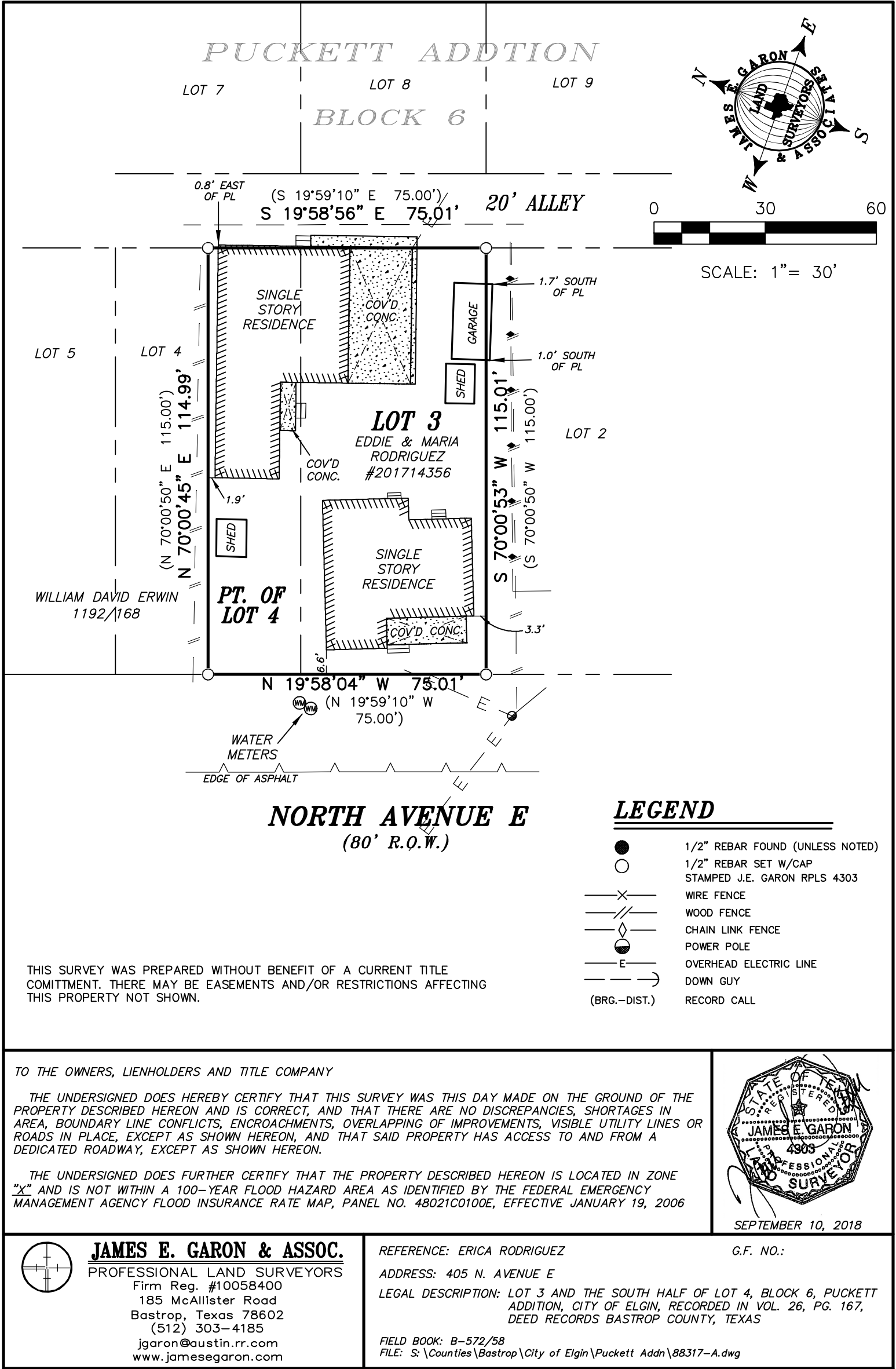
THE STATE OF TEXAS
COUNTY OF BASTROP

This instrument was acknowledged before me on this ____ day of _____, 2019,
by Chris Cannon, Mayor of the City of Elgin, in the capacity and for the purposes and
consideration therein indicated.

Notary Public in and for the State of Texas

After recording please return to:
City of Elgin
Attn: Melissa Lipiec
P O Box 591
Elgin, TX 78621

Exhibit "A"



Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING AN ENCROACHMENT AGREEMENT BETWEEN EDDIE AND MARIA RODRIGUEZ AND THE CITY OF ELGIN FOR THE PROPERTY LOCATED AT 405 NORTH AVENUE E AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Elgin has received a request to acknowledge and allow an encroachment; and

WHEREAS, the encroachment is in the nature of one (1) one-story frame building, concrete steps and a concrete walkway on or over a portion of the twenty foot (20') Alley; and

WHEREAS, the City Attorney has reviewed and approved the prepared Encroachment Agreement;

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

1. That the City grant an Encroachment Agreement.
2. That the City Council directs and designates the Mayor as the City's Chief Executive Officer and Authorized Representative to act as the City's executive officer and authorized representative to execute the Encroachment Agreement.

Passed and approved this _____ day of _____, 2019.

Chris Cannon, Mayor

Amelia Sanchez, City Secretary