1111 Bayou
La Marque, Texas 77568
409.938.9202

Mayor Bobby Hocking
Mayor Pro- Tem Keith Bell- District A
Councilmember Chris Lane- District B
Councilmember Connie Trube- District C
Councilmember Clent Brown- District D

****

OFFICIALLY POSTED ON THE WEB:
DATE: **12.11.14** TIME: **4:15 p.m.**

ORDINANCE O-2014-0023
RESOLUTION R-2014-0027

AGENDA

Notice is hereby given that the City Council of the City of La Marque, Texas will conduct a Special Meeting on Monday, December 15, 2014 at 6:00 p.m. at 1109-B Bayou Road for the purpose of considering the following agenda:

(1) CALL MEETING TO ORDER

(2) ROLL CALL

(3) INVOCATION AND PLEDGE OF ALLEGIANCE

(4) PRESENTATION

a. Introduction of New Employee- Brittany Smith, Police Officer
b. Introduction of New Employees-Rosemary Bell, Court Clerk and Jill Cutchin, Deputy Court Clerk
c. Swear in and Administer Oath to Vicki King as the new Chief of Police

(5) CITIZEN'S PARTICIPATION

Comments from the Public (At this time, any person with city-related business who has signed up may speak to Council (limited to three (3) minutes). In compliance with Texas Open Meeting Act the City Council may not deliberate on comments. Personal attacks will not be allowed, and personnel matters should be addressed to the City Manager during normal business hours.

(6) PUBLIC HEARING

a. Conduct Public Hearing to hear public input regarding Ordinance No. **O-2014-0023**, amending Section 74.24 (a), Planning and Zoning Commission (a) Organization of Planning and Zoning Commission of the City of La Marque Code of Ordinances by authorizing City Council to appoint five (5) members and two (2) alternates to the Planning and Zoning Commission, per City Charter Amendment – City Manager C. Buttler

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(7) OLD BUSINESS

a. Discussion/possible action regarding Ordinance No. **O-2014-0023**, amending Section 74.24 (a), Planning and Zoning Commission (a) Organization of Planning and Zoning Commission of the City of La Marque Code of Ordinances by authorizing City Council to appoint five (5) members and two (2) alternates to the Planning and Zoning Commission, per City Charter Amendment – City Manager C. Buttler **THIS IS THE SECOND AND FINAL READING.**

b. Discussion/possible action regarding the award of the purchase of portable and mobile radio equipment to Motorola in the amount of $218,696.60 – Interim Police Chief K. Jackson

(8) NEW BUSINESS

a. Discussion/possible action to approve a Post Issuance Compliance Policy and Procedure Manual on City of La Marque debts – Finance Director S. Kou

b. Discussion/possible action to approve a set of Disclosure Procedures to ensure compliance with Federal and State securities laws – Finance Director S. Kou

c. Discussion/possible action regarding authorizing City Manager to enter into an agreement with Cobb Fendley to proceed with the bidding/construction process for the 2014-2015 Streets Project – Public Works Director L. Rumburg

d. Discussion/possible action regarding the reappointment of Don Johnson to the Harris-Galveston-Subsidence for a two-year term – Mayor Hocking

(9) EXECUTIVE SESSION

The City Council for the City of La Marque, Texas reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized the Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.086 (Economic Development)

(10) REQUESTS AND ANNOUNCEMENTS

Requests by Mayor and Council Members for items to be placed on future City Council agendas and announcements on city events/community interests TEX. GOV'T CODE §551.415. (b), "items of community interest" includes:
(1) expressions of thanks, congratulations, or condolence;
(2) information regarding holiday schedules;
(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;

(4) a reminder about an upcoming event organized or sponsored by the governing body;
(5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality or county; and
(6) announcements involving an imminent threat to the public health and safety of people in the municipality or county that has arisen after the posting of the agenda.

(11) ADJOURNMENT

CERTIFICATION:
I hereby certify that the above notice of meeting was posted at 1109-B Bayou Road, La Marque, Texas on or before December 11, 2014 before 5:00 p.m.

____
Robin Eldridge, TRMC
City Clerk

This facility is wheelchair accessible and accessible parking spaces are available. Request for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Clerk's office at (409) 938-9259, or Fax (409) 935-0401, or e-mail cityclerk@cityoflamarque.org for further information.

CITY COUNCIL AGENDA FORM

Meeting Date:	December 15, 2014	Agenda item:	6&7a
Prepared by:	Robin Eldridge	Reviewed by:	Carol Buttler
Department:	City Clerk		

AGENDA ITEM DESCRIPTION: Discussion/possible action regarding Ordinance No. **O-2014-0023**, amending Section 74.24 (a) of the City of La Marque Code of Ordinances by authorizing City Council to appoint five (5) members and two (2) alternates to the Planning and Zoning Commission, per Charter Amendment. **THIS IS THE SECOND AND FINAL READING**

[x] Attachments for reference
1. Ordinance
2. Copy of previous portion of City Charter (Section 10.01)
3. Copy of amended portion of City Charter (Section 10.01)

Staff Briefing:
- Previously, in the La Marque City Charter, Section 10.01. - (Planning Commission), read that City Council shall appoint a planning commission which would consist of five (5) members.

History:
- In the City of La Marque, like in several other cities, it has become more and more difficult to reach a quorum for meetings of the Boards and Commissions.

Target Implementation: After second and final reading of Ordinance No. **O-2014-0023**, is approved by City Council.

Significant Action Dates:
November 4, 2014 – Special Election held to allow the voters to vote for or against ten (10) amendments to the City Charter, one of which included Section 10.01 pertaining to the number of members appointed by City Council to the Planning Commission
December 8, 2014 – Ordinance passed on the first reading authorizing City Council to appoint members to the Planning and Zoning Commission

---

Action:

[X] Ordinance
[ ] Resolution
[ ] Proclamation
[ ] Special Presentation
[ ] Finance Report
[ ] Public Hearing
[ ] Other

[x] Check box if there is no conflict with City Charter, ordinances, resolutions, or policies.

Cost Details:	
Budgeted	NA
Actual Bid	NA
Estimated Expenditure	NA
Acct. Name	NA
Line Items #	NA
Other Funding	NA

CITY COUNCIL AGENDA FORM

Staff's Recommendation: Motion to adopt Ordinance No. **O-2014-0023**, amending Section 74.24 (a) of the City of La Marque Code of Ordinances by authorizing City Council to appoint five (5) members and two (2) alternates to the Planning and Zoning Commission, per Charter Amendment. **THIS IS THE SECOND AND FINAL READING**

Fiscal Impact: Boards and Commission members serve without pay.

ORDINANCE NO. O-2014-0023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS, AMENDING CHAPTER 71, ZONING, SEC. 71-24(a), OF THE CODE OF ORDINANCES, CITY OF LA MARQUE, TEXAS, TO PROVIDE FOR A PLANNING AND ZONING COMMISSION.

WHEREAS, until a recent Charter amendment election, Article X, Section 10.01, of the City Charter provided for the creation of a planning and zoning commission; and

WHEREAS, on November 4, 2014, a Special Election was held wherein a majority of voters adopted Proposition 10 amending Article X, Section 10.01, of the City Charter, to provide that the City Council shall appoint a Planning and Zoning Commission as prescribed by City Council by City Ordinance.

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

SECTION 1.

That the City Council finds that the above statements are true and correct.

SECTION 2.

That Chapter 71, Zoning, Section 71-24(a), of the Code of Ordinances, City of La Marque, Texas, is hereby amended to read as follows:

"(a) Organization of Planning and Zoning Commission.

There is hereby created a Planning and Zoning Commission. The Commission shall be composed of five (5) regular members, all of whom shall be residents and real property taxpayers of the City of La Marque, and none of whom shall hold any other position in the City government. Three (3) members of the first Commission shall be appointed for a term of two (2) years and two (2) for a term of one (1) year, and service shall be without pay. Thereafter, new members shall be appointed for a term of two (2) years. Any vacancy shall be immediately filled for the unexpired term. A Chairperson shall be elected from among the appointed members to serve for a term of one (1) year. The City Council shall appoint two (2) alternate members of the Commission for a term of two (2) years who shall serve in the absence of one or more of the regular members when requested to do so by the Chairperson of the Commission. The members of the Commission shall be appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation. Members may be removed by the City Council only for inefficiency, neglect of duty, or malfeasance in office. Three (3) members, regular or alternate, shall constitute a quorum."

SECTION 3.

It is hereby declared to be the intention of the City Council that the above section, paragraph, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by a valid judgment or decree of any court of competent jurisdiction, such constitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

PASSED AND APPROVED by the City Council of the City of La Marque, Texas on the first reading this the 8th day of December, 2014.

PASSED AND APPROVED by the City Council of the City of La Marque, Texas on the second and last reading this the _____ day of _____________, 2014.

____
Bobby Hocking, Mayor
City of La Marque, Texas

ATTEST:

____
Robin Eldridge, TRMC
City Clerk

APPROVED AS TO FORM:

____
Ellis J. Ortego
City Attorney

Previous - Charter Section

Section 10.01. - Planning Commission.

The city council shall appoint a planning commission which shall consist of five members, each member being a resident and a real property taxpayer of the City of La Marque, and none of whom shall hold any other position in the city government. Three members of the first commission shall be appointed for a term of two years and two for a term of one year, and service shall be without pay. Thereafter new members shall be appointed for a term of two years. Any vacancy shall be immediately filled for the unexpired term. A chairman shall be elected from among the appointive members to serve for a term of one year. The mayor, city manager, and city engineer shall serve as non-voting members of the commission.

Proposals. The City Council shall have the discretion of remaining with the current depository or proceeding with the selection of a new depository."

Votes	For the Amendment:	1503
Votes	Against the Amendment:	525

Proposition 8

"Shall Section 11.04, C. Personal interest, Article XI be amended to read: Personal interest in city business. No member of the City Council or employee of the City shall personally engage in any business with the City or have a substantial interest in a business entity doing business with the City without making disclosure thereof. As used in this Section, the term "substantial interest in a business entity" shall have the same meaning as set forth in Section 171.002, et. Seq., of the Texas Local government Code [V.T.C.A., Local Government Code § 171.002 et seq.]. Any willful violation of this section shall constitute malfeasance in office, and any such member of City Council or City employee guilty thereof shall hereby forfeit his position or employment. Any violation of this section with the express or implied knowledge of the person or entity doing business with the city shall render the contract voidable by the City Council."

Votes	For the Amendment:	1685
Votes	Against the Amendment:	368

Proposition 9

"Shall Section 11.05, C. No officer or employee to accept gifts, Article XI be amended to read: Code of Ethic and Conduct. The City Council shall adopt, by ordinance, a Code of Ethics and Conduct that is consistent with the provisions of this Charter and the laws of the State of Texas. The Code of Ethics and Conduct shall be applicable to all elected officers, appointed Board, Commission, and Committee members, employees and volunteers of the City."

Votes	For the Amendment:	1741
Votes	Against the Amendment:	343

Proposition 10

"Shall Section 10.01, C. Planning Commission, Article X be amended to read: The City Council shall appoint a Planning and Zoning Commission as prescribed by City Council by City Ordinance."

Votes	For the Amendment:	1616
Votes	Against the Amendment:	484

PASSED AND ADOPTED on the 17th day of November, 2014.

CITY COUNCIL AGENDA FORM

Meeting Date:	**December 15, 2014**	Agenda item:	**7b**
Prepared by:	**Interim Chief Kirk Jackson**	Reviewed by:	*Carol Buttler*
Department:	**Police Department**		

AGENDA ITEM DESCRIPTION: Discussion/possible action regarding the award of the purchase of portable and mobile radio equipment to Motorola in the amount of $218,696.60.

X **Attachments for reference**

1. Vendor comparison bid tabulation sheet for equipment and financing
2. Vendor comparison analysis
3. Request for Proposals (LM-2014-RFP-02)

Staff Briefing:

- LM-2014-RFP-02 was published two times in the Galveston County Daily News; Once on **August 19th** and then again on **August 25th 2014**.
- LM-2014-RFP-02 was posted to the City's web-site on **August 18th 2014**.
- All known interested vendors were contacted and made aware of the publication of LM-2014-RFP-02 and where it could be obtained.
- Only two vendors responded to LM-2014-RFP-02. Out of those two, only one was responsive to the Request for Proposals.
- Each vendor's proposal was evaluated by criteria in order of importance.
- The proposal process was discussed with the City Attorney.
- Both the Police and Fire Departments evaluated demonstration portable radios from Motorola and Kenwood, however the Kenwood radio tested is not the one being proposed.

History:

- During the preparations for Fiscal Year 2013-2014 the Police and Fire Department began working toward compliance with the FCC mandate related to P25 Phase 2 radio communications.
- City Council heard workshops discussing the implementation of P25 Digital phase 2 radio equipment for Public Safety.
- On **June 30, 2014**, at the regularly held La Marque City Council Meeting, City Council directed the City Manager to formally bid the P25 Digital Radio project.
- At the **October 13, 2014** City Council meeting, Council tabled the radio project until a new Police Chief could be afforded the opportunity to give his or her opinion on radio brands.
- On November 5, 2014 Staff was notified by email that Motorola's "interest Free' financing package would expire at the end of calendar year 2014.
- The prospective Police Chief candidate was polled on her radio preference. The radio of preference was determined to be Motorola.

CITY COUNCIL AGENDA FORM

Target Implementation: Final acceptance will be granted following a **thirty (30) day** period without any major communication or operational failures.

Significant Action Dates:
August 26, 2013 – Special Council Workshop (Public Safety Radios Replacement)
April 8, 2014 – Fiscal Affairs Committee (discussion of lease purchase of radios)
May 19, 2014 – Regular City Council Meeting (Discussion/possible action regarding award of the lease/purchase of police and fire radios through "HGAC" (Houston/Galveston Area Council)
June 9, 2014 – Special Council Workshop (Presentation/Discussion and provide direction to City Manager for lease/purchase of police, fire, and code enforcement radios not to exceed $350,000.00)
June 30, 2014 – Special Called City Council Meeting (Discussion/possible action regarding directing City Manager to proceed with the formal bid process for lease/purchase of police, fire, and code enforcement radios not to exceed $350,000.00)
October 13, 2014 – Regular held City Council meeting (Discussion/possible action regarding the award of the purchase of portable and mobile radio equipment to Motorola in the amount of $218,696.60)

Action:

- [ ] Ordinance
- [ ] Resolution
- [ ] Special Presentation
- [ ] Proclamation
- [ ] Finance Report
- [ ] Public Hearing
- [X] Other – Lease / Purchase

Cost Details:	
Budgeted	$350,000.00
Actual Bid	$218,696.60
Estimated Expenditure	
Acct. Name(s)	
Line Items #	
Other Funding	

- [X] Check box if there is no conflict with City Charter, ordinances, resolutions, or policies

---

Staff's Recommendation: Motion to award the purchase of portable and mobile Public Safety radio equipment to Motorola in the amount of $218,696.60.

Fiscal Impact: The total cost of the radios will be $218,696.60; however the entire financial impact will not be realized during this fiscal year because of the financing package.

LM-2014-RFP-02 BID TABULATION

	D&G Communications Kenwood NX-5400	Motorola APX 6000 Li 2.5
Mid-Tier Portable	2,281.00	2,329.00
Charger	70.00	93.75
Mic.	130.00	80.25
Unit Total	**2,481.00**	**2,503.00**
Quantity	53	53
Qty total	131,493.00	132,659.00

	*EF Johnson VM 600	APX 4500
Low-Tier Mobile	2,080.00	2,007.20
(Antenna and cable)	65.00	(included)
Unit Total	**2,145.00**	**2,007.20**
Quantity	33	33
Qty total	70,785.00	66,237.60

Project Total	**202,278.00**	**198,896.60**

5 /year warranty cost

Unit cost Portable	70.00	27.75
Quantity	53	53
Portable wnty total	3710.00	1470.75
Unit cost Mobile	130.00	52.80
Quantity	33	33
Mobile wnty total	4290.00	1742.40
Warranty total	**8000.00**	**3213.15**

*** The EF Johnson VM 600 was quoted with a two (2) year warranty, not the required three (3) year warranty**

The NX-5400 radios are available with AES/DES Multi-key encryption at the above quoted price. The AES/DES Multi-key encryption is an option that Motorola charges for. It is not included in the above Motorola pricing.

LM-2014-RFP-02 BID TABULATION

	D&G Communications Kenwood NX-5400	Motorola APX 6000 Li 2.5
Mid-Tier Portable	2,281.00	2,329.00
Charger	70.00	93.75
Mic.	130.00	80.25
Unit Total	**2,481.00**	**2,503.00**
Quantity	53	53
Qty total	131,493.00	132,659.00

	EF Johnson VM600	APX 6500 Li
Mid-Tier Mobile	2,794.00	2,607.20
(Antenna and cable)	65.00	(included)
Unit Total	**2,859.00**	**2,607.20**
Quantity	33	33
Qty total	94,347.00	86,037.60

Project Total	**225,840.00**	**218,696.60**

5 /year warranty cost

Unit cost Portable	70.00	27.75
Quantity	53	53
Portable wnty total	3710.00	1470.75
Unit cost Mobile	130.00	52.80
Quantity	33	33
Mobile wnty total	4290.00	1742.40
Warranty total	**8000.00**	**3213.15**

*** The EF Johnson VM 600 was quoted with a two (2) year warranty, not the required three (3) year warranty**

The NX-5400 radios are available with AES/DES Multi-key encryption at the above quoted price. The AES/DES Multi-key encryption is an option that Motorola charges for. It is not included in the above Motorola pricing.

LM-2014-RFP-02 BID TABULATION
FINANCING PACKAGES

MOTOROLA

PACKAGE 1

Amount	$198,896.60	
Down Payment	$0.00	
Lease term	Five (5) Years	Seven (7) Years
Payment Frequency	Annual	Annual
Payment Structure	Arrears	Arrears
Lease Rate	0.00%	1.34%
Lease Factor	0.200000	0.150616
Lease Payment	$39,779.32	$29,957.05

PACKAGE 2

Amount	$218,696.60	
Down Payment	$0.00	
Lease term	Five (5) Years	Seven (7) Years
Payment Frequency	Annual	Annual
Payment Structure	Arrears	Arrears
Lease Rate	0.00%	1.34%
Lease Factor	0.200000	0.150616
Lease Payment	$46,569.52	$35,070.62

D&G COMMUNICATIONS

(Non-responsive to the financing package as specified in the RFP)

MID-TIER DIGITAL PORTABLE

Feature	D & G Communications	Motorola
Up to 150 modes/channels available	Yes	Yes
2 lines 10 character backlit alphanumeric LCD display	Yes	Yes
Limited keypad	Yes	Yes
Status icon	Yes	Yes
Adaptive power control	**No**	Yes
Emergency button	Yes	Yes
P25 Phase II TDMA	Yes	Yes
P25 Phase I FDMA	Yes	Yes
OTAP	Yes	Yes
OTAR	Yes	Yes
Radio Packet Data (required for OTAP)	Yes	Yes
Radio Authentication	Yes	Yes
Multi-Key AES/DES encryption*	Yes	**No**
Project 25 (CAI) Common Air Interface	Yes	Yes
GPS enabled	Yes	Yes
Bluetooth enabled	Yes	Yes

***Motorola offers this as an optional feature at a cost of $500 per unit.**

MID-TIER DIGITAL MOBILE

Feature	D & G Communications	Motorola
Up to 100 modes/channels available	Yes	Yes
8 character back lighted alphanumeric display	Yes	Yes
Limited keypad	Yes	Yes
P25 Phase II TDMA	Yes	Yes
P25 Phase I FDMA	Yes	Yes
OTAP	Yes	Yes
OTAR	Yes	Yes
Radio Packet Data (required for OTAP)	Yes	Yes
Radio Authentication	Yes	Yes
Multi-Key AES/DES encryption	Yes	Yes
Project 25 (CAI) Common Air Interface	Yes	Yes
GPS enabled	Yes	Yes

PROPOSAL MANDATES

Proposal received by the stated deadline (Cover Sheet)	Yes	Yes
Clearly and properly marked package (Cover Sheet)	Yes	Yes
Required quantity of proposals included (Cover Sheet)	Yes	Yes
Included 3 references of agencies using proposed radios (page 1)	**No**	Yes
Proposal included specified financing option (page 2)	**No**	Yes
Batteries are "intrinsically safe" (page 9)	Yes	Yes
All radio equipment quoted with minimum 3 year warranty (page 3)	**No**	Yes
Pricing for 5 year warranty included in response (page 3)	Yes	Yes

PROPOSAL OPTIONS

Buy-back agreement (pg. 2)	**No**	Yes
Trade-in option (pg. 1)	**No**	Yes

GENERAL REQUIREMENTS

Products meet or exceed P25 CAP testing (and provided a summary report)	**No**	Yes
Explanation of system's ability to address high ambient noise	Yes	Yes
P25 Phase 1 FDMA Compliant	Yes	Yes
P25 Phase 2 TDMA Complaint	Yes	Yes

TECHNICAL SPECIFICATIONS

System busy – audible indication	Yes	Yes
Automatic unit identification	Yes	Yes
Dynamic talkgroup reconfiguration	Yes	Yes
System access priority	Yes	Yes
Central controller failure operating mode	Yes	Yes

Wide-area operation capability	Yes	Yes
Selective inhibit and uninhibit	Yes	Yes
Visual and audible notification when reduced functionality occurs	Yes	Yes
Multi-key encryption	Yes	Yes
P25 700/800 MHz	Yes	Yes
Wide Area operation	Yes	Yes
Selector switches are rotary	Yes	Yes
Battery chargers meet specifications on pg. 11*	**Unknown**	Yes

*** D&G Communication did not include any information on the battery chargers. The cost was not included in the proposal. The cost was obtained during a phone call with the Kenwood sales rep.**

CITY OF LA MARQUE
REQUEST FOR PROPOSALS #LM-2014-RFP-02

The City of La Marque, Texas is accepting sealed proposals for the procurement of P25 Radio Equipment.

RFPS must be received in the City Clerk's Office at the City of La Marque, 1111 Bayou Road, La Marque, Texas 77568, no later than 10:00 A.M. on Wednesday, September 3, 2014. Immediately following, all sealed proposals received shall be opened publicly. **NO RFPS WILL BE ACCEPTED AFTER THAT DATE AND TIME.** All RFPS received after that date and time, will be considered unresponsive and rejected.

The RFP submission packets may be downloaded from our website: www.cityoflamarque.org They will also be available in hard copy at the La Marque Police Department, 431 Bayou Road, La Marque, Texas 77568.

All RFPs submitted for consideration must be clearly marked on the outside of the sealed envelope with the words **"REQUEST FOR PROPOSALS #LM-14-RFP-02, P25 -Radio Equipment Attention: Robin Eldridge, City Clerk**, and must contain the name of the company submitting the RFP. Responding firms must submit four (4) complete sets of the RFP submission packets for consideration. **FACSIMILE TRANSMITTALS SHALL NOT BE ACCEPTED.**

It is understood that the City of La Marque reserves the right to negotiate all elements that comprise the submission and to accept or reject part or all of any submission. The City reserves the right to reject any or all RFPs and waive any or all irregularities or to proceed otherwise when in the best interest of the City. RFPs shall be valid for a period of one hundred eighty (180) days from submission date.

Robin Eldridge, TRMC
City Clerk
City of La Marque

Posted: August 18, 2014 on (City of La Marque website)

Published: August 19, 2014 (Galveston Daily News) and also on August 25, 2014

CITY OF
LA MARQUE, TX
GATEWAY TO THE GULF

August 18, 2014

The City of La Marque would like to invite the submission of proposals for the procurement of P25 radio equipment. The project will supply the City of La Marque's Public Safety agencies with radio equipment compliant with the newest digital technology.

Prospective vendors are asked to review the following document and prepare a response to the specifications contained herein.

The deadline for submission of proposals is 10:00 a.m. **on Wednesday, September 3, 2014, which will then be publicly opened in the Conference Room located at 1111 Bayou Road, La Marque, Texas.**

All proposal responses should be delivered or mailed to:

The City of La Marque
Attn: City Clerk
1111 Bayou Road
La Marque, Texas 77568

Thank you in advance for your interest in the City of La Marque's P25 Digital radio project.

Kirk A. Jackson

City of La Marque
Invitation for Proposals
LM-2014-RFP-02

The City of La Marque is seeking proposals for the procurement of P25 Radio equipment that will include portable and mobile. The radios are for Public Safety operations which will include Police, Fire and EMS. The infrastructure on which the radios will operate is a Motorola 700/800 MHz APCO P25 trunked simulcast system. The quantities for purchase will be as follows:

1. Fifty-three (53) Portable radios with noise cancelling shoulder microphone and rapid battery charger
2. Thirty-three (33) Mobile radios with palm microphone.

The City of La Marque, if it deems to be in the best interest of its citizens, reserves the right to do the following:

a. To reject any and all proposals and to accept the proposal or proposals which, in its opinion, is most advantageous to the City.
b. Accept a proposal from, and enter into agreement with, a responder other than the lowest price proposal.
c. Negotiate terms and conditions as well as price with more than one responder.
d. Hold discussions with responders submitting acceptable proposals, although award may be made without discussion.
e. Request a responder to give a presentation of its proposal in person at a time scheduled by the City of La Marque.
f. Request a change of personnel servicing the City of La Marque contract.
g. Exercise any right at any time without liability to any responder.

Each vendor who responds to this invitation must provide three (3) references of agencies that currently use the proposed radios on a P25 Motorola 700/800 MHz trunked simulcast system.

As a component of the proposal selection process, the City reserves the right to conduct an evaluation period of each prospective vendor's product. Each prospective vendor agrees to provide radio equipment (to be specified by the City) to be loaned to the City during the evaluation period.

The City of La Marque currently has MTS and MCS Motorola radios as well as EF Johnson portable radios. The City will also be interested in any trade in incentives of our existing radio fleet that the responding vendors could propose.

Timeline for Vendor Response

- Request for proposals issued: 08/18/2014
- Request for proposals due: 09/03/2014

Any and all questions pertaining to this invitation for proposals shall be submitted in written format to:

La Marque Police Department
Attn: Lieutenant Kirk A. Jackson
431 Bayou Road
La Marque, Texas 77568
k.jackson@cityoflamarque.org

Each vendor who responds to this invitation must include a financing option for five year term. That financing package will be for all components of the radio project. In the event the City accepts the financing proposal, payments will begin following final acceptance.

Final acceptance will be granted following a thirty (30) day period without any major communication or operational failures.

The City of La Marque will take into consideration during the proposal award process any vendor who agrees to buy back any and all components if within the first twelve (12) months following final project acceptance:

a. Any requirements specified in this invitation for proposals is found to have not been met (or)
b. The City believes, based on measurable events, that the equipment does not fit the needs for which the request so promised (or)
c. Product hardware or software shows a pattern of sub-standard performance (or)
d. The City believes that the equipment delivered did not arrive pre-configured to be optimized for use on the 700/800 P25 Regional System.

The prohibition against gratuities and kickbacks shall be conspicuously set forth in every contract and solicitation therefor.

It shall be a breach of ethics to offer, give or agree to give any employee or former employee of the City of La Marque, or for any employee or former employee of the City of La Marque to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor pending before the City of La Marque.

It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for The City of La Marque, or any person associated therewith, as an inducement for the award of a subcontract or order.

The responder shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official or agent of the City of La Marque.

All radio equipment shall come with a minimum of a three (3) year parts and service warranty. Pricing for a five (5) year warranty will be included in the response.

SPECIFICATIONS

If the proposing vendor should take exception to any of the specifications set forth below, said exception(s) should be submitted **in writing** denoting the section number and should be appended to the response.

SCOPE

The City of La Marque is accepting proposals from qualified vendors to provide Project 25 (P25) subscribers for operation on the P25 'TXWARN' radio system.

General Requirements

Overview:

Proposed subscribers must meet or exceed P25 CAP compliance testing. The P25 Compliance Assessment Program (CAP) formally recognizes test laboratories for competence to conduct a predetermined set of tests on P25 products. The tests those laboratories execute will demonstrate product compliance with a select group of requirements within the suite of P25 standards. Proposer will provide summary reports of the test results and a Supplier's Declaration of Compliance (SDoC) with each model of radio submitted.

Mobile and portable radios will fall into several classes, from those with the most features and flexibility such as P25 (CAI), alpha-numeric displays, full DTMF key pads, public safety speaker/microphone/antenna assemblies, etc. to more standard models.

Digital Operation & High Ambient Noise:

Due to the concern voiced by the Public Safety sector, especially Fire Departments, the Proposer shall explain how their digital system addresses the operation of their digital radios in the presence of high ambient noise sources such as the low pressure alarm of self-contained breathing apparatus (SCBA) as well as other common foreground noise or in other situations where a high level of background noise is present. The explanation shall be clearly presented in the proposal and referenced to this Section.

Phase 1 compliance

All subscribers shall be fully Project 25 Phase I compliant.

Phase 2 compliance

All subscribers shall be fully Project Phase II Compliant.

Technical Specifications

Mobile Radio, 700/800 MHz:

All Mobile and Portable Radios are to be delivered, pre-configured to be optimized for use on the 700/800 P25 Regional System. All time out timers signal thresholds, filters, hold-delays etc. will come pre-configured as default settings. Radios to be programmed for use on the P25 Regional System should only need to have system specific information added by the programmers. The system specific information would include such parameters as system number, talkgroups, control channels, menu choices, scan lists etc. All parameters that allow the radio to operate optimally on the system need to be default settings.

Mobile radios supplied under this procurement shall be Project 25 frequency synthesized and furnished to operate on all channels in the 700/800 MHz land mobile bands. Specific channel assignment will be made by the trunking control system.

Mobile radios shall be capable of performing all functions and features of the system, including wide area operation capability, that is, the ability to roam into other compatible radio systems, given that the proper programming and permission(s) are in place.

Frequency programming shall be accomplished through the use of EE-PROMs. Proposer must furnish all cables needed to do programming per model (if different). The unit shall be 100% solid-state. The RF output power into 50 Ohms shall be 15 Watts minimum for mobile radios.

All mobile stations shall have an engraved or stamped multi-digit unique serial number applied to each unit. These shall be of such type, and located in such a position that their removal or alteration is as difficult to do and as obvious to spot as economically feasible. It is not the intent of the City in requiring this identification to raise the cost of the units by any significant percentage. Proposers must be aware of this intent when proposing a suitable method of identification.

Additionally, the selected contractor must provide the City with a paper copy and an electronic copy (inventory) of a complete listing of all equipment delivered with unique serial numbers used for identification, and must also maintain a copy in its records to facilitate system support and future purchases.

The mobile station exterior housing shall be made of plated or painted steel or aluminum of sufficient gauge to provide for adequate protection and theft deterrence. Plastic, nylon or other suitable synthetic material may be used for the radio enclosure/housing if its usage is adequately justified and it can meet the required performance specifications.

The interconnecting cable, including + and - DC power, shall be of such construction that frequent exposure to hydraulic fluids and petroleum based oils will cause minimal damage such as cracking or softening of the cable jacket.

A transmitter timeout-timer must be provided to limit key-down time.

All mobile units supplied must be fully compatible with the fixed station equipment provided under this procurement.

The Contractor shall be required to provide microprocessor-based equipment that is totally functional in the vehicular environment, which the City intends it to be used. This shall include, but not be limited to RF immunity, DC input voltage fluctuations, noise introduced in the DC line and typical usage impact. Any degradation of functional parameters of the equipment supplied due to normal or emergency operation of the vehicle in which it is installed shall be corrected by the Contractor.

External heat radiators shall be used to keep the RF power transistors within conservative operating temperature, without allowing airborne contaminants to enter the interior portion of the radio. The housing shall be devoid of any louvers or other openings thereby protecting the radio set from dirt, dust, and moisture and splashing water.

The mobile radio shall be capable of operation from a nominal 12-volt dc primary power source, with positive action reverse polarity protection to avoid damage if the radio were to be incorrectly installed. In that event, the only damage allowed shall be blown fuses if the radio were turned "ON". The radio set shall operate from a negative ground primary source and shall be wired to the "cold" side of the vehicle ignition switch.

All power should be derived directly from the vehicle battery, without using active components such as transistors in an oscillator circuit, step-up transformers, or rectifiers. Primary power input shall be adequately fused to assure fast and positive action.

Mobile radios will require priority-scanning capability. These units shall be capable of scanning a minimum of ten (10) talkgroups; however the City would be interested in the capability of scanning more if possible. Accordingly, Proposers shall provide the maximum number of talkgroups that can be placed in a scan list. The operator shall be readily able to select the Talk Groups to be scanned, to designate and change the priority channel, and to enable or disable the scanning mode.

The City requests that Proposers include information regarding the use of GPS for Mobile radios.

System Compatibility - Mobile and portable radios shall be equipped and compatible with software related features of the trunking system:

1. System busy – audible indication shall be provided for a system busy indication
2. Automatic unit identification – radios shall transmit a digital ID upon push to talk
3. Dynamic talkgroup reconfiguration
4. System access priority
5. Central controller failure operating mode
6. Wide-area operation capability
7. Selective inhibit and uninhibit
8. Visual and audible notification whenever any reduced backbone functionality occurs or operation is localized to autonomous subsystems
9. Multikey Encryption

Emergency Alarm Switch – Mobile radios shall be equipped with an emergency switch which will encode a unit identification and emergency status message when depressed. This indication shall be placed onto the system immediately, and shall be decoded and displayed at the user's dispatch center.

Status Tones: Shall provide audible indication of the following conditions:

1. System busy
2. Call back when channel available
3. Central controller failure operation
4. Time out timer activation
5. Access to system denied
6. Out of trunked radio system range
7. Master Network Controller failure
8. Other reduced capability indicator

Control – The following specifications shall be considered pertaining to mobile unit control requirements

1. Mounting - Shall provide for mounting on vertical or horizontal plane mounting surface
2. Displays - Shall be clearly labeled and shall be backlit for nighttime visibility
3. Microphone - Palm type, with push to talk switch
4. Selector Switches - Rotary selectors and volume controls are required, instead of rocker buttons
5. Multiple control heads - Some vehicles may require a front and rear control head
6. An "on-off" switch shall control primary power to the radio set.
7. A volume control shall regulate the audio level of the speaker.
8. Indicators (either incandescent, LED, or LCD devices) shall be provided which indicate "radio set on" and "transmitter carrier on" functions.
9. A channel, fleet and/or sub fleet selector switch or switches, if applicable.

Service Facilities - A central metering jack shall be provided for connecting test apparatus to the radio for measuring transmitter and receiver circuitry alignment.

Selective Signaling and Alert Decoder

1) Shall allow for selective signaling of mobile units
2) Shall provide a visual or audible indication on the control head of a call waiting

Talk-around and Conventional Operation - Shall provide for direct, simplex, mobile-to-mobile communication on the base station transmit frequency or other frequency, and conventional mobile relay operation

Transmission Lines and Antennas – Two types of mobile antennas are to be provided by the proposers allowing for the City to select the type of antenna that best suits the needs of the particular vehicle. As part of the standard package, the collinear roof or trunk mount antenna (Antenna Type 1) shall be proposed. Antenna types to be proposed are:

Antenna Type 1 - Collinear Roof or Trunk Mount Gain Antenna	
Mounting:	¾" Hole Roof Top Mount
Gain:	+3 dB with respect to Quarter Wave
Cable:	Antenna Specialists Proflex or equivalent, minimum 27' in length
Connector:	To Match Mobile Radio
Antenna Type 2 - Collinear Roof or Trunk Mount ¼ Wave Antenna	
Mounting:	¾" Hole Roof Top Mount
Gain:	Unity referenced to a Quarter Wave
Cable:	Antenna Specialists Proflex or equivalent, minimum 27' in length
Connector:	To Match Mobile Radio

All mobile connections must be weatherproof to minimize corrosion.

The City envisions that at least three tiers of mobile radio products will be available for consideration. At a minimum, the particular Tier of radio should meet the following specifications:

High Tier Digital Mobile:

1. Up to 250 modes/channels available
2. 2 line 10 character back lighted alphanumeric display
3. Full keypad
4. P25 Phase II TDMA
5. P25 Phase I FDMA
6. OTAP
7. OTAR
8. Radio Packet Data (required for OTAP)
9. Radio Authentication
10. Multi-Key AES/DES encryption
11. Project 25 (CAI) Common Air Interface
12. GPS enabled

Mid Tier Digital Mobile:

1. Up to 100 modes/channels available
2. 8 character back lighted alphanumeric display
3. Limited keypad
4. P25 Phase II TDMA
5. P25 Phase I FDMA
6. OTAP
7. OTAR
8. Radio Packet Data (required for OTAP)
9. Radio Authentication
10. Multi-Key AES/DES encryption
11. Project 25 (CAI) Common Air Interface
12. GPS enabled

Low Tier Digital Mobile:

1. Up to 40 modes/channels available
2. 8 character back lighted alphanumeric display
3. No keypad
4. P25 Phase II TDMA
5. P25 Phase I FDMA
6. OTAP
7. Radio Packet Data (required for OTAP)
8. Radio Authentication
9. Project 25 (CAI) Common Air Interface

Each Proposer shall provide information about the digital subscriber unit's analog capability.

Each Proposer shall provide information about the digital subscriber unit's multiband capability (VHF, UHF).

Additional Specifications are found in the following table for mobile station equipment

SPECIFICATIONS	MOBILE
Power Requirements	11-16 VDC, negative ground
Temperature	-30° to +60° C (Full Performance)
Humidity	95% @ 50° C
Duty Cycle	20% Tx 100% Rx
Shock & Vibration	MIL 810 C/D/E
Tx RF Output Power	15 watts minimum adjustable
Tx RF Output Impedance	50 □
Tx Frequency Stability	±0.00015% -30°/+60° C
FCC Emission Designator	16F3
Tx Audio Response	+1, -3 dB, 6 dB pre-emphasis
Tx Audio Distortion	≤3% @ 1 kHz
Tx Spurious & Harmonic	≥-75 dB
Tx FM Noise	≥-40 dB @ 3.3 kHz deviation & 1.0 kHz modulation
Rx Frequency Stability	±0.00015% -30°/+60° C
Rx Sensitivity (EIA SINAD)	0.35μV/12dB SINAD
Rx Selectivity (12.5kHz Channel)	≥-63 dB
Rx Intermod Rejection	≥-70 dB
Rx Spurious & Image Rejection	≥-75 dB
Rx Audio Response	+1, -3 dB, 6dB/octave de-emphasis
Rx Audio Output	5 or 10 watts, ≤3% distortion @ max. rated output

Portable Radio, 700/800 MHz:

The portable radios shall meet MIL 810 C, D, and E standards for shock, vibration, salt, fog, dust and rain, and shall consist of weather resistant, FM transmitter, receiver battery power supply and operating controls; all housed in a durable, attractive, and weather resistant enclosure. The case of the unit shall fit comfortably in, and permit, one hand operation. Power output of the transmitter shall be 3 Watts minimum. Antenna must be of highest gain available.

The portable radio, all of its accessories and battery must be capable of operating in hazardous environments where the presence of a potential spark, heat or flame could potentially create a safety hazard.

Portable radios shall be capable of performing all functions and features of the system, including wide area operations capability.

Portable radios supplied under this procurement shall be frequency synthesized and furnished to operate on all frequencies in the 700/800 MHz land mobile bands in a trunked convention and talk-around mode. Specific channel assignment will be made by the trunking control system. In the event the system control should fail at the MNC, prime site, or individual site level, an indication will be heard on the unit's speaker and a visible indication shall appear on the unit's display. In the event that trunking capability is lost, the unit shall be switched to a pre-programmed RF channel to operate in the conventional mode. Proposers shall state whether such switching is performed automatically or by an operator's manual act. If both methods are available, automatic switching shall be quoted in the basic proposal, and manual switching as a cost reducing option.

The frequency programming shall be accomplished through the use of EE-PROMS. Proposer must furnish all cables needed to do programming per model (if different).

Proposers shall indicate the weight of their radio with a battery attached. Solid-state circuitry shall be used throughout. The radio set shall be capable of withstanding severe operating conditions. The portable housing shall be constructed of high impact resistant material. It shall be sealed and gasketed to protect internally mounted circuitry against dust, foreign particles, moisture and splashing water. Opening the battery compartment shall not break the seal to the radio circuitry.

The radio shall be single battery operated to insure uniform battery depletion. It shall use a rechargeable Li-ion battery, which shall be quickly and easily removed. Battery life, based on a 10% transmit, 10% receive, 80% stand-by duty cycle, measured in accordance with EIA RS-316 at 250 milliwatts of audio output, shall be at least twelve (12) hours. Batteries must be capable of full recharge in one (1) hour or less. Batteries provided must be capable of withstanding a 3' drop test to concrete without damaging battery performance or visibly cracking the battery housing.

The volume and mode selection controls on the Public Safety portable radio models shall be mounted on the top of the unit for easy access. A rotary control knob shall be provided to select fleet/sub-fleets as desired, simultaneously selecting the correct transmitter and receiver digital code. Other controls shall include a volume control/on-off switch. A sealed transmitter "push-to-talk" (PTT) switch shall be provided on the side of the unit, and an emergency switch shall be provided for user defined quantities of radios. The switch(es) shall not rotate through more than 355 degrees.

Keypads shall be provided for units that require them.

All portables shall be available with a variety of devices such as belt clips, leather cases, etc.

A variable automatic transmit timer shall be provided for carrying all radios which shall turn off the transmitter after a predetermined length of transmission and alert the operator that his transmitter is off with a 1000 Hz tone. The audio output level of the tone shall be independent of the volume control.

Public safety speaker/microphone assemblies and materials needed to wear said unit as part of the user's uniform or other clothing shall be available and thoroughly described in the proposal. Further, it must be possible for an operator to remove the public safety speaker/microphone assembly from a portable radio without the use of tools, and then operate the radio in normal fashion. Speaker/microphones shall use **either coiled "telephone style" or uncoiled cord to connect the speaker microphone to the radio, and shall be available in at least 3 different lengths.**

Pricing for noise canceling and non-noise canceling speaker microphones shall be provided.

Unit Identification - Shall transmit a digital unit identification when the push to talk switch is depressed

The City requests that Proposers include information regarding the use of GPS for portable unit tracking purpose, any such option available for the high tier portable units being proposed shall be included in the proposal along with a full description of the feature and supporting system components.

All portable radios will require priority-scanning capability. These units shall be capable of scanning a minimum of ten (10) talkgroups; however the City would be interested in the capability of scanning more if possible. Accordingly Proposers shall provide the maximum number of talkgroups that can be placed in a scan list. The operator shall be readily able to select the talkgroups to be scanned, to designate and change the priority channel, and to enable or disable the scanning mode.

System Compatibility - Radios shall be equipped and compatible with the following trunked system software or firmware related functions:

1. Dynamic talkgroup reconfiguration
2. System access priority
3. Central controller failure operating mode
4. Wide area operation capability
5. Selective inhibit and uninhibit
6. Visual and audible notification whenever any reduced backbone functionality occurs or operation is localized to autonomous subsystems
7. Multikey Encryption (Public Safety radios – limited number of Public Safety radios)

Emergency Alarm Switch - An emergency button/switch shall be provided for those units as noted in the pricing section, which, when activated, permits immediate access to a channel and alerts the dispatcher of an emergency transmission. When the emergency button is activated, the transmitter operates in its highest priority mode, and the PTT switch can be used to key the transmitter in that mode. No receive audio shall be present unless the PTT switch is first activated.

Proposers shall describe in their proposal how they intend to comply with this emergency call requirement for hand-held radio sets.

Status Tones – The portable radios supplied shall provide audible indication of the following conditions:

1. System busy
2. Call back when channel available
3. Central controller failure operation
4. Time out timer activation
5. Access to system denied
6. Out of trunked radio system range
7. Master Network Controller failure
8. Other reduced capability indicator

Selector Switches - Rotary selectors and volume controls are strongly preferred instead of rocker buttons. Rotary selectors are required on Public Safety models.

Battery Chargers - Battery charging units operating from 110V AC, 60 Hz primary power shall be provided. Multi-unit chargers shall be capable of fully charging batteries in two (2) hours or less. All chargers shall automatically switch to trickle charge when the battery is 70% (or more) charged. Miniature meters (scale less) or lighted indicators shall be provided which will indicate when a battery is charging and also when it is fully charged.

Types of battery chargers to be provided:

1. Desktop charger capable of holding a single radio unit or battery (1 hour and 16 hours)
2. Multi-unit charger suitable for wall mounting or desktop placement.
3. Multi-unit battery charger/conditioner capable of diagnosing/restoring battery performance.
    a. Each charger provided shall be capable of recharging batteries with the Lithium Ion or nickel metal hydride battery either connected to, or removed from, the radio set.

City envisions that at least three tiers of portable radio products will be available for consideration. At a minimum, the particular Tier of radio should meet the following specifications

A High Tier Digital Portable:

1. Up to 200 modes/channels available
2. 2 lines 10 character back lighted alphanumeric LCD display
3. Full button keypad

4. Status icons
5. Adaptive power control
6. Emergency button
7. P25 Phase II TDMA
8. P25 Phase I FDMA
9. OTAP
10. OTAR
11. Radio Packet Data (required for OTAP)
12. Radio Authentication
13. Multi-Key AES/DES encryption
14. Project 25 (CAI) Common Air Interface
15. GPS enabled
16. Bluetooth enabled

B Mid-Tier Digital Portable:

1. Up to 150 modes/channels available
2. 2 lines 10 character backlit alphanumeric LCD display
3. Limited keypad
4. Status icon
5. Adaptive power control
6. Emergency button
7. P25 Phase II TDMA
8. P25 Phase I FDMA
9. OTAP
10. OTAR
11. Radio Packet Data (required for OTAP)
12. Radio Authentication
13. Multi-Key AES/DES encryption
14. Project 25 (CAI) Common Air Interface
15. GPS enabled
16. Bluetooth enabled

C Low Tier Digital Portable:

1. Up to 40 modes/channels available
2. No display
3. No keypad
4. Emergency button
5. P25 Phase II TDMA
6. P25 Phase I FDMA
7. OTAP
8. Radio Packet Data (required for OTAP)
9. Radio Authentication
10. Project 25 (CAI) Common Air Interface

Each Proposer shall provide information about the digital subscriber unit's analog capability.

Each Proposer shall provide information about the digital subscriber unit's multiband capability (VHF, UHF).

Additional Specifications are found in the following table for portable equipment.

SPECIFICATIONS	PORTABLE
Power Requirements	Lion preferred or Nickel-MH, (rechargeable)
Temperature	-30° to +60° C (Full Performance)
Humidity	95% @ 50° C
Duty Cycle	10% Tx 10% Rx 80% Standby (8 hour minimum battery life)
Shock & Vibration	MIL 810 C/D/E
Tx RF Output Power	3 watts
Tx Frequency Stability	±0.00015% -30°/+60° C
FCC Emission Designator	16F3
Tx Audio Response	+1, -3 dB, 6 dB pre-emphasis
Tx Audio Distortion	<5% @ 1 kHz
Tx Spurious & Harmonic	≥-75 dB
Tx FM Noise	≥-40 dB @ 3.3 kHz deviation & 1.0 kHz modulation
Rx Frequency Stability	±0.00015% -30°/+60° C
Rx Sensitivity (EIA SINAD)	0.35µV/12dB SINAD
Rx Selectivity (12.5kHz Channel)	≥-63 dB
Rx Intermod Rejection	≥-70 dB
Rx Spurious & Image Rejection	≥-75 dB
Rx Audio Output	0.5 watts, ≤5% distortion @ max. rated output

Kirk Jackson

From: EBELT GEORGE-CROS18 <George.Ebelt@motorolasolutions.com>
Sent: Wednesday, November 5, 2014 1:39 PM
To: Carol Buttler
Cc: Gerald Grimm; Kirk Jackson
Subject: RE: Radio Upgrade Project

Dear Ms. Buttler,

I have been reviewing the recent city agendas and noticed that there are only two meetings scheduled for the remainder of calendar year 2014 due to holiday conflicts. It isn't clear if these meetings will be moved or will be cancelled completely. As mentioned below, we have offered a very aggressive price structure for both Police and Fire and have added an interest free municipal lease component in order to further save the City on future fund appropriations.

While the unit pricing will continue to be valid for another 90 days, the interest free muni-lease component will be expiring at the end of the calendar year. As you can understand the ever changing economic climate does not allow us to keep lease rates valid for extended periods. It was our understanding the City's intent was to execute this agreement within the calendar year and I also understand why it was delayed due to the search for a new Police Chief.

Our intent is to supply the City of La Marque with the most advanced public safety products available while offering competitive pricing and tools such as the municipal lease which will allow the City to make the most of its investment. Please let me know the estimated timing if that is available and we will work with the City to ensure the rates are very competitive if the municipal lease is the avenue the City chooses.

Best regards,

George Ebelt

George M. Ebelt
Sr. Account Manager
Motorola Solutions, Inc.

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MOTOROLA SOLUTIONS

From: EBELT GEORGE-CROS18
Sent: Tuesday, October 21, 2014 10:55 AM
To: 'c.buttler@ci.la-marque.tx.us'
Cc: EBELT GEORGE-CROS18; Gerald Grimm; 'Kirk Jackson'
Subject: RE: Radio Upgrade Project

Dear Ms. Buttler,

Thank you for the opportunity of award for Motorola recently on the agenda at the City of La Marque. While the action item was tabled due to the search for a new Police Chief, the need for new radios and upgrades to the communications equipment still exists throughout the City. Since the Fire Department is not being impacted by the hiring of a new Police Chief, is there anything keeping the City from moving forward with the Fire Department's portion of the radio procurement?

The breakout of the two departments will allow for procurement and installation of the Fire Department to begin while the search, hiring, and evaluation from the new Police Chief of the radio options takes place. The units needed for Fire have been identified by Chief Grimm and with Council approval could be delivered in early or mid-November depending on the outcome of the Council.

Lastly, if the City of La Marque chooses the interest free muni-lease option, we can easily add on to the lease when the Police department moves forward with their portion at some point in the future. An extension to the Fire portion of the muni-lease could be performed at that time to incorporate both department purchases so that one payment will be made moving forward each year in arrears, saving the City money on administration of payments.

Please do not hesitate to call me and discuss if needed. Thanks for your consideration.

Regards,

George Ebelt

George M. Ebelt
Sr. Account Manager
Motorola Solutions, Inc.

motorolasolutions.com
M: 281.802.2643
E: george.ebelt@motorolasolutions.com

From: EBELT GEORGE-CROS18
Sent: Wednesday, June 25, 2014 10:50 AM
To: 'c.buttler@ci.la-marque.tx.us'
Subject: Radio Upgrade Project

Dear Ms. Buttler,

Thank you for the opportunity to speak at the Council workshop recently. Motorola appreciates the city of La Marque doing their due diligence in regards to all options for both Police and Fire. As mentioned, our state of the art APX radio platform will support all current digital P25 Phase I and Phase II technologies as well as the older legacy systems that many of the Galveston County agencies still utilize in the area. Knowing that these decisions will impact the City for the next ten years, we want to ensure the City and its leaders that Motorola will be there when needed with support as shown over the past 70 plus years in the Gulf region. Our teams are trained in responsiveness to hurricanes and other natural disasters and as exhibited over the last 26 years since I have been in the area, we have been there when the region needed us most.

Motorola is present in 99% of all public safety first responders in the region and will continue to work hard supporting our 45,000 plus user base in the immediate area with our three service facilities and team of nine local engineers in addition to our other thirty employees in the immediate area, several of which live in Galveston County. We have been the leader in communications for the past 85 years and will continue to invest heavily in R&D as we move forward.

Please do not hesitate to call me if you have any questions. I have attached a brochure for your viewing and look forward to seeing you on the 30th. Thanks again for the opportunity to provide mission critical communications tools to the first responders of the City La Marque.

Regards,

George M. Ebelt

George M. Ebelt
Sr. Account Manager
Motorola Solutions, Inc.

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MOTOROLA SOLUTIONS

CITY COUNCIL AGENDA FORM

Meeting Date: 12/15/14 — Agenda item: 8a
Prepared by: Suzy Kou — Reviewed by: Carol Buttler
Department: Finance

AGENDA ITEM DESCRIPTION: Discussion/possible action to approve a Post Issuance Compliance Policy and Procedure Manual on City of La Marque debts.

[X] Attachments for reference
1. Proposed Post Issuance Compliance Policy and Procedure Manual

Staff Briefing:

- The purpose for this policy is to guide the City in meeting requirements of the Internal Revenue Code of 1986, as amended, and Treasury Regulations (the "Tax Code") concerning tax-exempt and tax-advantaged debt ("debt issuances").
- Non-compliance with the Tax Code may result in fines and/or loss of the preferential status of the debt issuances.

History (if applicable):
- The City has never had a formal policy in place.

Target Implementation: **December 15, 2014**

Significant Action Dates: **December 15, 2014**

Action:

[ ] Ordinance
[ ] Resolution
[ ] Proclamation
[ ] Special Presentation
[ ] Finance Report
[ ] Public Hearing
[X] Other (be Specific)

[X] Check box if there is no conflict with City Charter, ordinances, resolutions, or policies.

Cost Details:	
Budgeted	-0-
Actual Bid	
Estimated Expenditure	**-0-**
Acct. Name	
Line Items #	
Other Funding	

Staff's Recommendation: Motion to approve a Post Issuance Compliance Policy and Procedure Manual on City of La Marque debts.

Fiscal Impact: N/A

EFFECTIVE DATE: _________________

CITY OF LA MARQUE
POLICY AND PROCEDURE

POST ISSUANCE COMPLIANCE POLICY AND PROCEDURE MANUAL

COMPLIANCE OFFICER: Suzy Kou / Finance Director ___________________________________

Name/Title Signature Date

PURPOSE:

The purpose of this post-issuance compliance policy and procedure manual is to adopt policies and procedures to guide the City of La Marque in meeting the requirements of the Internal Revenue Code of 1986, as amended, and Treasury Regulations (the "Tax Code") concerning tax-exempt and tax-advantaged debt ("debt issuances"). Non-compliance with the Tax Code may result in fines and/or loss of the preferential status of the debt issuances.

COMPLIANCE OFFICER:

The Compliance Officer shall be the person primarily responsible for ensuring that the City of La Marque successfully carries out its post-issuance compliance requirements under applicable provisions of the Tax Code with regard to all debt issuances of the City. The Compliance Officer shall be assisted by other city staff and officials when appropriate. The Compliance Officer will also be assisted in carrying out post-issuance compliance requirements by contracted entities including Bond Counsel, Financial Advisor, Paying Agent, Trustee, Arbitrage Consultant, and/or other consultants deemed necessary.

The Compliance Officer shall be responsible for assigning post-issuance compliance responsibilities to other city staff, Bond Counsel, the Financial Advisor, the Paying Agent, the Trustee and the Arbitrage Consultant. The Compliance Officer shall utilize such other professional service organizations as are necessary to ensure compliance with the post-issuance compliance requirements of the City.

I. GENERAL OVERVIEW OF ARBITRAGE, YIELD RESTRICTION AND REBATE REQUIREMENTS

A. Overview

The purpose of this section is to introduce the concept of arbitrage and its requirements. There are exceptions to many of the arbitrage rules. Advice from the City's Arbitrage Consultant and/or Bond Counsel is strongly recommended before any action is taken.

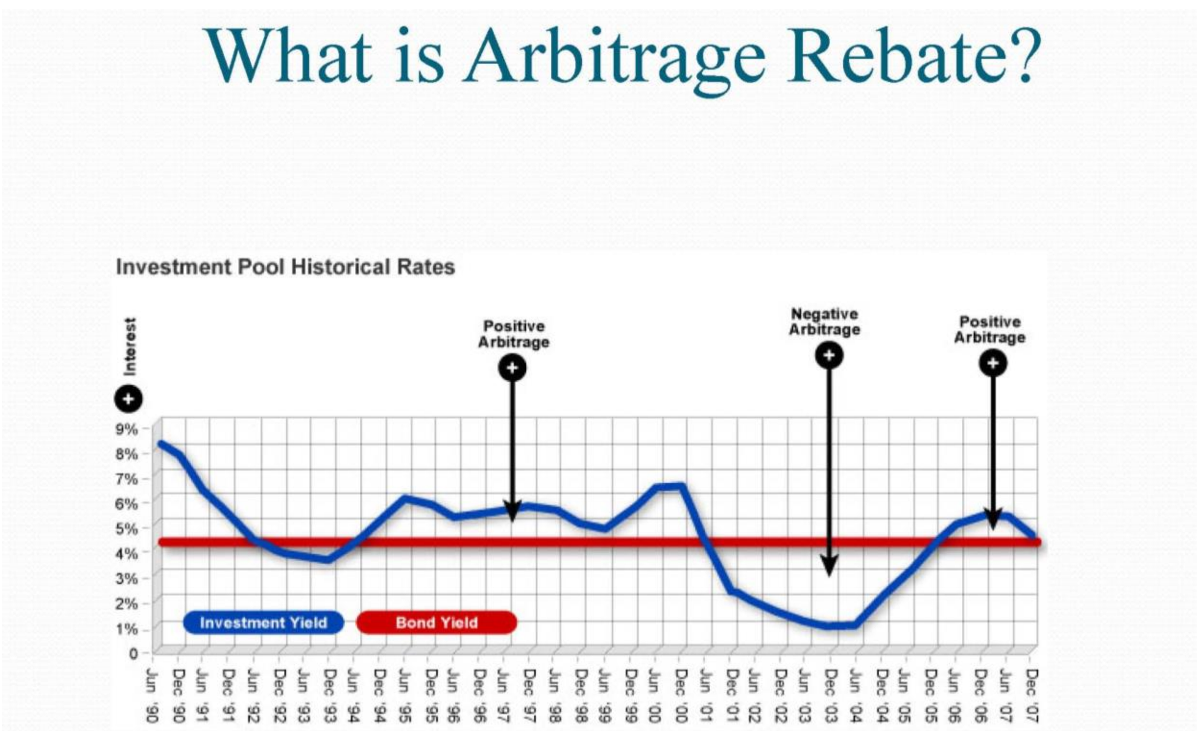
B. Definition

Arbitrage is the price differential, or profit made, from investing inherently lower yielding debt issuance proceeds in higher yielding taxable investments**.** In other words, arbitrage is the difference between the yield on an issuer's debt issuance and the investment income earned on the proceeds invested in taxable instruments. Arbitrage rebate refers to the positive or negative amount that must be paid (rebated) to the federal government.

Debt Yield	***Overall Investment Yield for Gross Proceeds***	***Result***
4.0%	5.0%	*Positive Arbitrage*
5.0%	5.0%	*No Arbitrage*
6.0%	5.0%	*Negative Arbitrage*

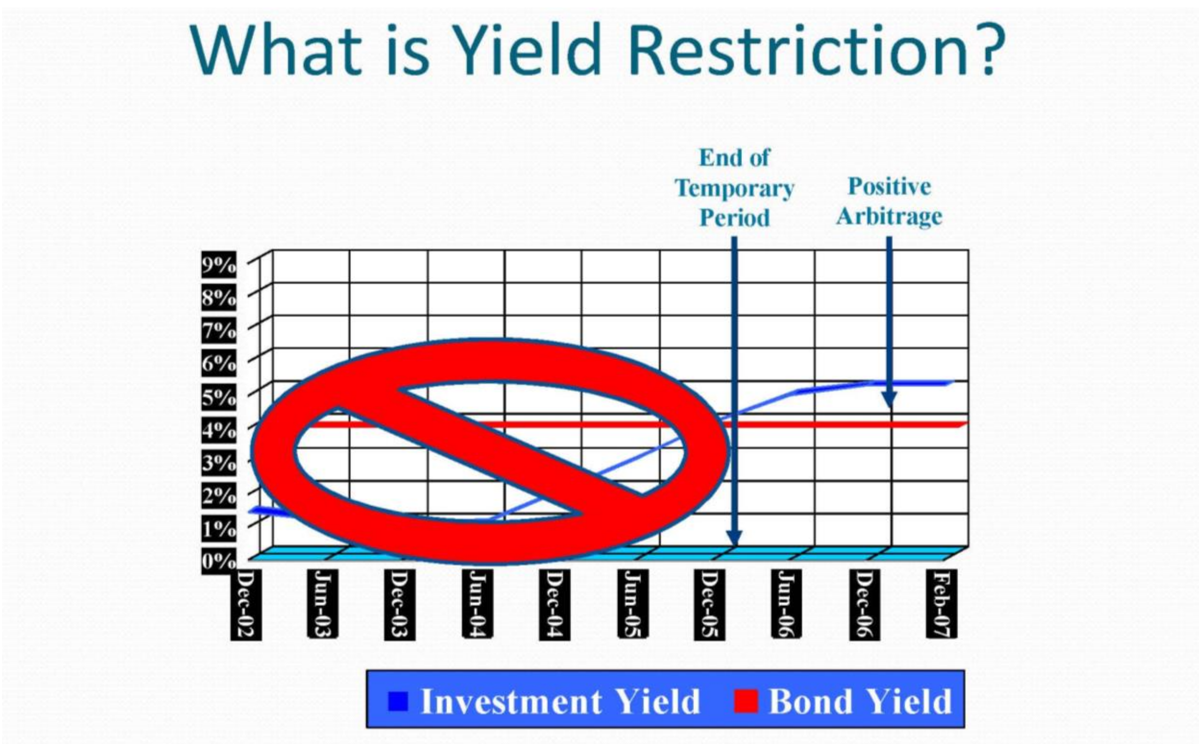
C. Areas of arbitrage compliance that must be addressed:

1. The arbitrage rebate requirements identify what must be done with any arbitrage (profits or earnings) above the debt issuance's yield earned on the investment of the gross proceeds of the debt issuance. Positive arbitrage on gross proceeds must be rebated to the federal government every five years after the date of issuance (or earlier if elected) through and including the final maturity ("filing date"). If no rebate is owed, the issuer need not make a rebate filing with the federal government. However the issuer should retain calculations and any other supporting documentation evidencing no rebate was owed.



2. The yield restriction requirements set forth various investment yield limitation conditions for different categories of the use of gross proceeds from a debt issuance (e.g. construction, refunding escrow, debt service, and reserve funds). The issuer should meet these various yield restriction conditions to avoid compromising the tax-exempt or tax-advantaged status of the debt issuance. Since the yield restriction requirements are specific to a debt issuance it is recommended that the City consult with the Arbitrage Consultant and/or Bond Counsel to determine the specific yield restriction requirements on a per debt issuance basis.

   Construction Fund Yield Restriction: The most common yield restriction constraint for an issuer is related to construction funds. Generally, if there are unexpended project/construction proceeds at the end of the initial 3-year temporary period in excess of the **minor portion** (the lesser of $100,000 or 5% of the sale proceeds of the debt issuance), an issuer may no longer invest the remaining proceeds above the **materially higher yield** (debt issuance yield + .125%) without taking corrective actions to remedy interest earnings above the materially higher yield. The issuer must yield restrict the proceeds below the materially higher yield, or a yield reduction payment report will be required. Any yield reduction payment under the yield restriction requirements must be paid per the same deadlines as the arbitrage rebate requirements: every five years after the date of issuance (or earlier if elected) through and including the final maturity.



D. Purpose of the Tax Code regarding arbitrage:

The Tax Code was put into place to minimize the benefits of investing tax-exempt or tax-advantaged debt proceeds, thus encouraging expenditures for the governmental purpose of the debt issuance and to remove the incentive to:

1. Issue debt earlier than needed,
2. Leave debt outstanding longer than necessary, and/or
3. Issue more debt than necessary for a governmental purpose.

E. Type of debt issuances and funds subject to arbitrage compliance:

1. The following types of debt issuances are subject to arbitrage compliance as of the following dates:

    a. Governmental Debt Issuances 08/31/86

2. The following proceeds of a debt issuance are defined as **Gross Proceeds** of a debt issuance:

    a. Sale proceeds
    b. Investment Proceeds
    c. Disposition proceeds
    d. Replacement proceeds (including debt service funds, reserve funds and other pledged amounts)
    e. Transferred proceeds (if an old debt issuance has been refunded by a new debt issuance and the old debt issuance has unspent funds, such funds may transfer to the new debt issuance)

    Note of Concern: An often misunderstood concept is that monies received upon closing of a debt issuance are the only monies subject to arbitrage rebate. One of the most common funds found to be subject to arbitrage rebate that is not funded from debt issuance proceeds is the debt service fund. The debt service fund receives a majority of its funding from tax or use revenues. The debt service fund is required to be included in the arbitrage rebate calculation unless the fund balance is depleted at least once each bond year, <u>except</u> for a reasonable carryover amount not to exceed the greater of:

    a. The earnings on the fund for the immediate preceding bond year; **or**
    b. One-twelfth of the principal and interest payments on the Debt Issuance or the immediately preceding bond year.

F. Exceptions to the rebate requirements:

The Tax Code sets forth general rebate requirements for debt issuances. The general rule is that any arbitrage earned must be determined and reported to the federal government every fifth anniversary date after the date of issuance of the debt issuance and on the final maturity, or as elected. Arbitrage rebate is essentially 100% of investment earnings in excess of the debt issuance's yield. There are several exceptions to the rebate requirements, and if any one of these exceptions are met, all or a portion of the debt issuance's proceeds are not subject to the rebate requirements. Consult with the City's Arbitrage Consultant and/or Bond Counsel to determine if the debt issuance is eligible for a particular exception, to establish the appropriate investment plan for the debt issuance proceeds, and to assess whether the exception requirements were met.

The purpose of this section is to introduce the concept of spending exceptions and their requirements. There may be special elections and circumstances for a debt issuance that can affect how the exceptions are tested. Advice from the City's Arbitrage Consultant and/or Bond Counsel is strongly recommended before any action is taken. Below are descriptions of the various exceptions:

1. **6-month spending exception:** If all gross proceeds (as defined in Section 1.148-7(c)(3) of the Regulations) are spent within 6-months after issuance, the interest earned during that period is not subject to the rebate requirements.

   If there are unspent proceeds remaining at the end of the 6-month period, an issuer may still qualify for the spending exception so long as the remaining amount is 5% or less and is spent within 6 months from the end of the 6-month spending date.

2. **18-month spending exception:** If a debt issuance *does not* qualify as a construction issuance (75% of the debt issuance actually spent on construction, excluding land) then the debt issuance is eligible for the 18-month spending exception, but *not* the 2-year spending exception. If all gross proceeds and expected interest earnings for the 6-month and 12-month period and actual interest for the 18-month period is spent within 18-months according to a strict timetable, the interest earned during that period is not subject to the rebate requirements. Intermediate expenditure requirements are necessary (15% by 6 months, 60% by 12 months, 100% by 18 months.

   If there are unspent proceeds remaining at the end of the 18-month period an issuer may still qualify for the spending exception under the following conditions:

   a. A reasonable retainage amount of 5% or less is allowed for business purposes and the retainage is spent within 12 months from the end of the 18-month spending date, **or**;

   b. If the remaining amount does not exceed the lessor of $250,000 or 3% of the issue price and due diligence is exercised to complete the project and spend the remaining project/construction proceeds.

3. **2-year spending exception:** If a debt issuance qualifies as a construction issuance (75% of the debt issuance is actually spent on construction excluding land) and all "available construction proceeds" (as defined in Section 148(f)(4) of the Coder) are spent within 2 years according to a strict timetable, then interest earned during that period is not subject to the rebate requirements. Intermediate expenditure requirements are necessary (10% by 6 months, 45% by 12 months, 75% by 18 months and 100% by 2-years).

   If there are un-spent "available construction proceeds" remaining at the end of the 2-year period, an issuer may still qualify for the spending exception under the following conditions:

   a. A reasonable retainage amount of 5% or less is allowed for business purposes and the retainage is spent within 12 months from the end of the 2-year spending date, **or**;

   b. If the remaining amount does not exceed the lessor of $250,000 or 3% of the issue price and due diligence is exercised to complete the project and spend the remaining project/construction proceeds.

4. **Small issuer exception:** General taxing authorities reasonably expecting to issue $5M or less in tax-exempt or tax-advantaged debt during each calendar year (cumulative for all debt issuances) may qualify for the small issuer exception to the rebate requirements, *but must still satisfy the yield restriction requirements*. The small issuer exception does not apply to private activity, 501(c)(3) or student loan debt.

   a. General requirements:

      i. The issuer must have general taxing powers.
      ii. The debt issuances must be governmental debt issuances.
      iii. At least 95% of the proceeds must be used for local governmental activities of the issuer or by governmental units located within the issuer's boundaries.
      iv. All tax-exempt or tax-advantaged debt issued in a calendar year cannot exceed $5,000,000.

   b. Additional requirements for refunding debt issuances:

      i. The debt being refunded (old debt issuance) must have qualified for the small issuer exception.
      ii. The weighted average maturity of the refunding debt issuance (new debt issuance) must not exceed the weighted average maturity of the refunded debt (old debt issuance). Current refunding debt issuances that have a three year or less weighted average maturity are exempt from the weighted average maturity test.
      iii. The refunding debt (new debt issuance) must not mature more than thirty years after the issuance of the original refunded debt (old debt issuance).

      Note – Historically 1/3 of refunding debt issuances (new debt issuances) will fail one of the three rules listed above and become subject to the rebate requirements.

II. DUE DILIGENCE REVIEW AT REGULAR INTERVALS

This policy and its related procedures start with a review of the due diligence measures that will take place at regular intervals, as well as each filing date to ensure that each debt issuance is compliant with the requirements of the Tax Code. The City will complete the annual due diligence review every six months on all debt issuances.

III. IDENTIFYING THE COMPLIANCE OFFICER RESPONSIBLE FOR REVIEW

The Finance Department is primarily responsible for the administration of this policy. Within the Finance Department the Compliance Officer will be responsible for the due diligence review. The due diligence review will apply to all debt issuances.

IV. TRAINING OF COMPLIANCE OFFICER

The Compliance Officer has and will continue to take all necessary steps to maintain an adequate understanding of post-issuance compliance requirements relating to the debt issuances for which he/she will review. These steps include, but are not limited to:

Any treasury management trainings provided by professional associations related to finance, treasury, debt management including all legal requirements to ensure compliance in the financial area.

V. RETENTION OF ADEQUATE RECORDS TO SUBSTANTIATE COMPLIANCE

A. General overview

1. **Debt not refunded:** Currently the IRS record retention requirements are to keep all records, data and documents associated with non-refunded debt issuances for three years past the final maturity date for the debt issuance (or longer if required by local or state law.)

2. **Refunded debt:** Since the refunding debt issuance (new debt issuance) is dependent on the tax-exempt or tax-advantaged status of the refunded debt issuance (old debt issuance), all records pertaining to both the new debt issuance and the old debt issuance are required to be maintained for three years past the final maturity of both debt issuances (or longer if required by local or state law).

3. **Electronic data storage requirements:** Electronic records may be stored in an electronic format in lieu of hard copies if certain requirements are satisfied, for example:

   a. The system must ensure an accurate and complete transfer of the hard copy books and records to the electronic storage system and contain a retrieval system that indexes, stores, preserves, retrieves and reproduces all transferred information.
   b. The system must include reasonable controls and quality assurance programs.
   c. The information maintained in the system must be cross-referenced with the books and records in a manner that provides an audit trail to the source documents.
   d. Upon request by the IRS, a complete description of the electronic storage system, including all procedures relating to its use and the indexing system must be provided.
   e. Upon request by the IRS, the issuer must retrieve and reproduce hard copies of all electronically stored records.
   f. The system must not be subject to any agreement that would limit the IRS' access to the use of the system.

B. Electronic file storage and backup: Financial/accounting transactions will be retained in a designated computer file folder and will be backed up by IT periodically. Access to this folder will be restricted as authorized by the Compliance Officer.

C. Storage of hard copies: A folder jacket, box or other media storage container displaying the debt issuance description will be set up for each debt issuance. The storage container will contain the documents mentioned in Section E on the next page. Access will be restricted to persons authorized by the Compliance Officer.

D. Destruction of records: A log will be kept of all debt issuances whose records are destroyed after the IRS mandated retention period detailing the debt issuance description, allowable destruction date, date records were destroyed, the Compliance Officer's signature authorizing the record destruction, and witness signature. Access to this information will be restricted as authorized by the Compliance Officer and City Manager.

E. Required information to be stored for each debt issuance

1. **Documents:** Bond Counsel shall send a Transcript for the debt issuance to the Compliance Officer. If a Transcript was not compiled, then copies of the following documents will be forwarded or made available to the Compliance Officer's office:

    a. Bond Counsel Opinion
    b. Final Official Statement or Private Placement Memorandum
    c. Insurance Documents
    d. Council Certificate for Ordinance
    e. Copy of Ordinance Authorizing Debt Issuance
    f. IRS Form 8038-G, Form 8038-GC, Form 8038, Form 8308-TC or Form 8038-B
    g. CPA Verification Report (generally for advance refunding debt issuances only)
    h. Federal Tax Certificate or similar document
    i. All Debt Service Schedules not included in the Official Statement
    j. Letter of Credit Agreement (generally for variable rate debt issuances only)
    k. Swap Agreement (generally for variable rate debt issuances only)
    l. Winning Bid Forms
    m. Investment Banker's Closing Memorandum
    n. Investment Banker's Notice of Delivery Memorandum
    o. Investment Banker's Sources and Uses of Funds Memorandum

2. **Reports completed after issuance**

    a. Rebate calculation reports
    b. Yield restriction reports
    c. Spending exception reports
    d. Penalty in lieu of rebate reports
    e. CPA verification report for restructuring of escrow
    f. Payment documentation to include:
        i. Form 8038-T
        ii. Cancelled check
        iii. Proof of mailing
    g. Refund claims
    h. Other reports related to the Debt Issuance

3. Material **Correspondence**

    a. Bond Counsel
    b. Board Meetings
    c. Financial Advisor
    d. Arbitrage Consultant
    e. Underwriter
    f. Investment Firms
    g. Other correspondence concerning any other aspect of the debt issuance to include but not limited to expenditures, investments, allowable projects, etc.

4. **Investment activity:** Trust statements (or equivalent) with detailed investment activity for the entire computation period for each fund/account in which gross proceeds of the debt

issuance were held. Investment information must be recorded on a daily transactional level. This information is required to compute the yield on the investments and to comply with archive requirements. Investment activity details should include such items as:

a. General ledgers
b. Subsidiary ledgers
c. Investment statements (state pools, bank statements, etc.)
d. Type of investment
e. Date of purchase and purchase price
f. Interest rate
g. Interest payment amounts
h. Maturity date
i. Interest payment dates
j. Interest calculation methodology
k. Date of sale and sales price
l. Investment contract information to include:
    i. Evidence of the purchase price paid for investment contract
    ii. Detailed documentation of the investment contract bid process
    iii. Certification by the investment contract provider of fees paid for contract
    iv. All bid solicitation forms (3 bid minimum)
    v. Administrative costs

5. **Expenditure information:** The Finance Department will capture expenditure information. The following expenditure information must be captured and stored in accordance with the above mentioned record retention requirements to include:

    a. Description of expenditure
    b. Date of expenditure
    c. Amount of expenditure
    d. Invoices
    e. Proof of payment (canceled check, wire information, etc.)

6. **Initial letter of credit information to include:**

    a. Payment amounts
    b. Date of payment
    c. Terms

7. **Actual letter of credit information to include:**

    a. Actual amount paid
    b. Actual date payment is made
    c. Invoices
    d. Statements

8. **Initial swap/hedge agreement information to include:**

    a. Payment amounts
    b. Date of payment
    c. Terms

9. **<u>Final</u> swap/hedge agreement information to include:**

    a. Actual date payment is made
    b. Actual amount paid
    c. Invoices
    d. Statements

10. **Allocation of gross proceeds to expenditures:** Any allocation of gross proceeds to expenditures must involve a current outlay of cash for the governmental purpose of the debt issuance. A current outlay of cash is an outlay reasonably expected to occur within five banking days after the date of an allocation. If expenditure is paid by check, the outlay is the date the check is mailed, provided that it is expected to be cashed in five days.

    a. **Allocation:** Reasonable allocation methods for allocating funds from different sources to expenditures for the **same** governmental purpose include any of the following methods if consistently applied:

        i. The first in, first out/FIFO method permits the City to put the proceeds of more than one debt issuance into a single account (commingle) and treat all expenditures as coming from proceeds of the first debt issuance until they are fully spent.
        ii. The gross proceeds spent first method is used where available funds include tax revenues, private contributions, etc., in addition to debt issuance proceeds. The debt issuance proceeds are treated as spent first.
        iii. The specific tracing method permits the City to keep proceeds from different debt issuances in separate accounts. Costs may be charged to any debt issuance/checking account at the City's discretion.
        iv. The ratable allocation method permits the City to place proceeds of more than one debt issuance into a single account (commingle) and treat expenditures as coming from proceeds of each debt issuance that contributed proceeds to that account. The expenditures are allocated to each debt issuance ratably based on each debt issuance's proportion of ownership of the account.

    b. **Timing:** An issuer must account for the allocation of proceeds to expenditures not more than 18 months after the later of: the date the expenditure is paid or the date the project, if any, that is financed by the debt issuance is placed in service. This allocation must be made in any event by the date 60 days after the fifth anniversary of the issuance date or the date 60 days after the retirement of the debt issuance, if earlier. This paragraph applies to debt issuances issued on or after May 16, 1997.

11. **Allocation of investments in a commingled fund:** The Tax Code requires that all payments and receipts on investments held in a commingled fund must be allocated to the different sources/investments in the fund not less frequently than the close of a consistently used fiscal period (not in excess of three months); this allocation must be based on a consistently applied, reasonable ratable allocation. Treasury Reg. Section 1.148-6(e). Currently, the City allocates all payments and receipts monthly.

12. **Qualified use of proceeds, financed property, private business use:** The qualified use of proceeds, property financed, and private business use limitations by the debt issuance should be identified and continually monitored to ensure compliance with the limitations

as defined in the debt issuance documents or if more restrictive, state law or the Tax Code's limitations. Supporting documentation is required to support qualified use of proceeds, property financed, and private business use. The Compliance Officer will ensure such limitations are in compliance with debt issuance documents or if more restrictive, state law or the Tax Code's limitations. See section VI below.

13. **Issuance price and volume cap allocation:** The issuance price and volume cap allocation activity limitations should be identified and monitored to ensure compliance with the limitations as defined in the debt issuance documents or if more restrictive, state law or the Tax Code's limitations. Supporting documentation is required for issuance price determination and volume cap allocation limitations of the debt issuance. The Compliance Officer will ensure such limitations are in compliance with the debt issuance documents or if more restrictive, state law or the Tax Code's limitations.

14. **Fair market value of investments:** The City is to provide information to support that the investments were purchased or sold at a fair value. The City may not purchase an investment at a price in excess of fair market value with gross proceeds of the debt issuance. Nor may the City sell an investment purchased with gross proceeds at a price lower than fair market value. Treasury Regulations Section 1.148-6(c). In dealing with fair market value requirements, the Tax Code specifically provides three safe harbor categories of investments:

    a. Securities traded on an established market from a willing seller in a bona fide arm's-length transaction.
    b. Certificates of deposit purchased using a safe harbor under the applicable Tax Code. The safe harbor is available only for certificates that have a fixed interest rate, a fixed payment schedule and a substantial penalty for early withdrawal.
    c. Guaranteed investment contracts purchased using a three-bid safe harbor under the Tax Code.

15. **Continuing disclosure:** The City is to provide continuing disclosure, such as annual financial information and material event notices in accordance with SEC rule 15c2-12. The Compliance Officer is primarily responsible for undertaking such continuing disclosure obligations and to monitor compliance with such obligations.

VI. PRIVATE BUSINESS USE

To confirm that the Bonds serve "purely" governmental purposes for the general public, it must be determined whether the issuer expects that there will be any private business use of the proceeds of the bonds. Private business use exists if more than five percent (and, in certain circumstances, ten percent) of the proceeds of the issue or the property to be financed by the bond proceeds are used directly or indirectly by any nongovernmental person in that person's trade or business. In addition, no more than five percent (and, in certain circumstances, ten percent) of the proceeds of an issue may be secured directly or indirectly by property or payments derived from private business use under the "private security or payment test." Private business use may occur due to trade or business use by unrelated third parties, the existence of special legal entitlements with respect to the bond-financed property or sale or other transfer of bond-financed property. Finally, no more than five percent of the proceeds of an issue of bonds may be used to make loans or arrangements that allow a nongovernmental person to defer payments that it is obligated to make with respect to the financed property or the bonds.

The City's finance team will coordinate with the parties responsible for the operation of a bond-financed facility by communicating the private business use restrictions to such parties and requiring that all activity that may give rise to such use by communicated to the Finance Director.

The City will maintain records of all trade or business activities by third parties allocable to its bond-financed facilities. Recognizing that trade or business activity by third parties may give rise to private business use, the City will maintain records of all unrelated trade or business activities allocable to its bond-financed facilities. The Finance Director is responsible for tracking trade or business activity by third parties as it relates to bond-financed facilities and will monitor such activity no less frequently than yearly and, in any event, upon being notified of any new activity that will give rise to a significant amount of trade or business activity by a third party.
A special legal entitlement is an arrangement that conveys rights similar to ownership, a lease or a management contract (e.g., priority right to use the facility). Recognizing that a special legal entitlement may give rise to private business use, each time the City intends to enter into one of the following arrangements, the City will determine if such agreement relates to any bondfinanced facility:

- Management and other service contracts
- Research agreements
- Naming rights contracts
- Ownership
- Leases
- Subleases
- Leasehold improvement contracts
- Joint venture arrangements
- Limited liability corporation arrangements
- Partnership agreements
- Non-contractual use of bond-financed office space and/or parking facilities by any nongovernmental person
- Any other contract conferring a special legal entitlement or special economic benefit that are comparable to ownership

If such an agreement will be with respect to a bond-financed facility, the City will take measures so that such agreement does not create impermissible private business use with respect to any issue of bonds used to finance such facility. Such measures may include ensuring that such agreement falls into an applicable safe harbor, making a determination that private use will not exceed the applicable limit or such other action as may be recommended by bond counsel.

VII. REISSUANCE

Prior to making any changes to the terms of an obligation, including its underlying security, the City will consult with bond counsel to determine whether such change will result in the reissuance of such obligation for federal tax law purposes. If it is determined that a change will result in a reissuance, the City will take such action, including the recalculation of yield, the filing of a new Form 8038-G and the payment of rebate obligations, as is necessary to maintain the tax status of the bonds.

VIII. PROCEDURES TO IDENTIFY NON-COMPLIANCE

This policy and its related procedures begin with a review of the due diligence measures that will take place at regular intervals to ensure that each debt issuance is compliant with the Tax Code.

Date due diligence review completed: ______________________________

Person(s)/Contractor(s) completing review:

Compliance Officer:	Name/Title	Signature/Date	Sections Completed
Bond Counsel:	Name/Title	Signature/Date	Sections Completed
Arbitrage Consultant:	Name/Title	Signature/Date	Sections Completed
Financial Advisor:	Name/Title	Signature/Date	Sections Completed
Trustee:	Name/Title	Signature/Date	Sections Completed
Other: ____________	Name/Title	Signature/Date	Sections Completed
Other: ____________	Name/Title	Signature/Date	Sections Completed
Other: ____________	Name/Title	Signature/Date	Sections Completed
Results accepted by:	Name/Title	Signature	Date

Date of next due diligence review: ________________________________

The following pages contain items that are required to be verified for compliance. For all "no" responses, provide an explanation in Schedule A.

A. GENERAL OVERVIEW OF ARBITRAGE, YIELD RESTRICTION AND REBATE REQUIREMENTS	Yes/No	Responsibility
1. Debt Facts		
a. Has a debt listing been prepared identifying all debt issuances issued on and after August 31, 1986? Include the following facts: i. Debt issuance description ii. Date of issuance iii. Maturity date iv. Subjectivity to arbitrage rebate v. Subjectivity to project fund yield restriction		
2. Debt Issuances that are Subject to Arbitrage Rebate		
a. Have arbitrage reports been completed for each filing date?		
3. Debt Issuances Subject to Project Fund Yield Restriction		
a. Have project proceeds been spent before the end of the temporary period for each debt issuance? If no, proceed with question 3.b. below.		
b. Have yield restriction calculations been completed for all filing dates until the project monies were spent below the minor portion? If no, provide the following information on Schedule A: i. End date of temporary period ii. Balance remaining on temporary period end date iii. Balance remaining as date of the review (if known) iv. Explanation of compliance measures taken		

B. TRAINING OF COMPLIANCE OFFICER AND OTHER RESPONSIBLE PARTIES Provide the following information for training sessions attended since the last due diligence review.	
Name(s) of Attendees:	____________ ____________ ____________ ____________ ____________ ____________
Name of Program:	
Program Provider's Organization:	
Date of Training:	
Hours of Training:	

C. RETENTION OF ADEQUATE RECORDS	Yes/No	Responsibility
1. Retention of Adequate Records in Adherence to Policy Manual Guidelines		
a. Electronic data storage requirements met?		
b. Electronic file storage and backup requirements met?		
c. Storage of hard copy requirements met?		
d. Destruction of records requirements met?		
e. Document data storage requirements met?		
f. Report storage requirements met?		
g. Correspondence storage requirements met?		
2. Recording of Financial Transactions in Adherence to Policy Manual Guidelines		
a. Investment activity recording requirements met?		
b. Expenditure activity recording requirements met?		
c. Allocation of gross proceeds to expenditure requirements met?		
d. Allocation of investments in commingled fund requirements met?		
3. Qualified Use of Proceeds, Financed Property, Private Business Use		
a. Have proceeds been properly spent on allowable uses?		
b. Has the financed property been used in accordance with the allowable uses including Private Business Use limitations?		
4. Issuance Price, Volume Cap Allocation and Private Activity		
a. Has the issuance price been identified appropriately according to the requirements of the Tax Code and guidelines stated within the debt issuance documents?		
b. Have the volume cap allocation requirements been satisfied for applicable debt issuances as identified in the Tax Code and guidelines stated within the debt issuance documents?		
c. Have all qualified private activity debt issuances been identified appropriately according to the requirements of the Tax Code and guidelines stated within the debt issuance documents?		
5. Fair Market Value of Investments		
a. Have all investments purchased since the last due diligence review qualified under the safe harbor rules for purchasing investments at fair market value?		
6. Continuing Disclosure		
a. Have continuing disclosure requirements been met for each debt issuance?		

Schedule A (Exceptions and Explanations)

IX. PROCEDURES TO CORRECT NON-COMPLIANCE

If it is determined that the requirements of the policies and procedures set forth herein have not been met or if it is determined that the requirements under the Tax Code related to any debt issuance have not been met, the City will take the appropriate action described under the applicable Tax Code to remediate such non-compliance.

Such action may include, but is not limited to the following steps:

A. Notify Compliance Officer.

B. Notify Bond Counsel, Arbitrage Consultant, and/or Financial Advisors.

C. Resolve non-compliance in a timely manner in order to reduce penalties and late interest. A 60-day resolution period is recommended.

D. Take the appropriate remedial action as advised by Bond Counsel. Remedies may include, but are not limited to:

   1. Remedial Action pursuant to Section 1.141-12 of the Regulations.

   2. Enter the Voluntary Closing Agreement Program (VCAP).

   3. Pay all past due arbitrage rebate or yield restriction liabilities to the IRS to include a letter of explanation for late payment, late interest and/or penalties.

   4. Correct non-compliance matter to ensure future compliance.

CITY COUNCIL AGENDA FORM

Meeting Date: 12/15/14
Prepared by: Suzy Kou
Department: Finance

Agenda item: 8b
Reviewed by: Carol Buttler

AGENDA ITEM DESCRIPTION: Discussion/possible action to approve a set of Disclosure Procedures to ensure compliance with Federal and State securities laws.

[X] Attachments for reference
1. Proposed Disclosure Procedures

Staff Briefing:

- Per United States Securities and Exchange Commission (the "SEC") laws, the City is required to follow a set of procedures to disclose certain financial information, as well as certain major events that have occurred, to the appropriate agency.
- Failure to comply may result in fines and/or loss of the preferential status of the debt issuances.

History (if applicable):

- The City has never had any formal procedures in place.

Target Implementation: December 15, 2014

Significant Action Dates: December 15, 2014

Action:

[ ] Ordinance
[ ] Resolution
[ ] Proclamation
[ ] Special Presentation
[ ] Finance Report
[ ] Public Hearing
[X] Other- Procedures

[X] Check box if there is no conflict with City Charter, ordinances, resolutions, or policies.

Cost Details:	
Budgeted	-0-
Actual Bid	
Estimated Expenditure	**-0-**
Acct. Name	
Line Items #	
Other Funding	

Staff's Recommendation: Motion to approve a set of Disclosure Procedures to ensure compliance with Federal and State securities laws.

Fiscal Impact: N/A

CITY OF LA MARQUE, TEXAS

DISCLOSURE PROCEDURES

Implemented as of this ________ day of ____________, 2014.

GENERAL

These Disclosure Procedures (the "Procedures") are for the purpose of maintaining and evidencing the City's internal procedures for ensuring compliance with federal and state securities laws, preparing and reviewing its disclosures in connection with the issuance of debt obligations, and complying with its continuing disclosure obligations, if any, entered into in connection with the issuance of such debt obligations. In furtherance of such purposes the City has adopted these Procedures with respect to the following:

- Identifying who is responsible for certain actions in connection with the City's disclosure obligations;
- Providing the process by which disclosures by the City are drafted and reviewed; and
- Providing a process for helping to ensure compliance with filings required in connection with the City's continuing disclosure undertakings.

It is the intention of the City to modify or amend these Procedures in the future in order to comply with any legal or regulatory requirements to the extent they may apply to the City and its obligations. The Finance Director, in consultation with Bond Counsel, will update these Procedures, including Exhibit A and Exhibit B attached hereto, in connection with each financing.

GENERAL OVERSIGHT

The City acknowledges that as the issuer of municipal debt obligations, it is responsible for compliance with federal and state securities laws applicable to such obligations as well as its continuing disclosure undertakings entered into in connection therewith. The City Manager and her designee, the Director of Finance (the "Director of Finance"), have general oversight responsibilities for compliance with these Procedures.

These Procedures will be used in connection with the reviewing the form and content of the City's disclosure materials prepared, issued or distributed in connection with the City's disclosure obligations relating to its debt obligations, including, private placement memoranda, preliminary and final official statements and any supplements thereto, audited financial statements or Comprehensive Annual Financial Reports (each referred to herein as the "Audited Financial Statements") and other filings made with the Municipal Securities Rulemaking Board (the "MSRB") or ratings agencies as well as financial information or operating data posted on the City's website.

PREPARATION OF OFFERING DOCUMENTS AND RATINGS AGENCY PRESENTATIONS

The following process will be used in connection with the reviewing the form and content of the City's offering documents, including, private placement memoranda and preliminary and final official statements and any supplements thereto and ratings agency presentations.

- Unless the City has contracted with another party to provide such services, the City's Financial Advisor, with the assistance of City staff, will prepare the offering document and appendices thereto or ratings agency presentations for review by the City and working group for the proposed financing.

- The Director of Finance will assign portions of the offering documents, including appendices, or ratings agency presentations to the members of City staff with responsibility for the City financial information or operating data described therein for review and comment prior to the dissemination of such materials.

- The City Attorney will consult with City staff and any other consultants regarding disclosures contained in the offering documents or ratings agency presentations related to litigation, ongoing investigations and other general legal matters addressed in the course of his or her representation prior to the dissemination of such materials.

- The Director of Finance and members of City staff with responsibility for the City financial information or operating data described in such documents will be available to respond to diligence questions prior to the dissemination of such materials.

- The City's Bond Counsel will review and comment on disclosures related to the ordinance authorizing the debt obligations, the description of the continuing disclosure undertaking, and federal income tax considerations prior to the dissemination of such materials.

- With respect to the offering documents, City Council will either approve a substantially final form of offering document and/or delegate the approval of the offering document to the City Manager or Director of Finance or another City officer or employee delegated such authority by official action of the City Council prior to the dissemination of such materials.

COMPLIANCE WITH CONTINUING DISCLOSURE UNDERTAKINGS

In the connection with the issuance of debt obligations, the City has entered into (and in the future may enter into) certain continuing disclosure undertakings for the benefit of the holders and beneficial owners of the such debt obligations in accordance with Rule 15c2-12 (the "Rule") of the United States Securities and Exchange Commission (the "SEC"). The City is required to observe these agreements for so long as it remains obligated to advance funds to pay the debt obligations, subject to amendment to or repeal of such undertakings. Under such undertakings, the City is obligated to provide certain financial information and operating data annually, and timely notice of specified material events, to the MSRB via the Electronic Municipal Market Access ("EMMA") System.

- **Updating its Continuing Disclosure Undertakings**

  - The City will review its outstanding continuing disclosure undertakings in connection with each financing and identify any failures to comply with such undertakings. Any material failures to comply with such undertakings in the five years preceding the financing must be described in the final official statement. The City will review its disclosure regarding any such failures with Bond Counsel.

- **Annual Filing Requirements**

  - The City's annual filing requirements in connection with its current continuing disclosure undertakings are outlined in Exhibit A.

  - **Audited Financial Statements or Comprehensive Annual Financial Statements**

    - The Director of Finance will make arrangements with the City's outside auditors to schedule the preparation and presentation to the City of the City's annual Audited Financial Statements in time to allow the City to meet its continuing disclosure obligations described in Exhibit A.

    - If the City's annual Audited Financial Statements are not available in sufficient time to meet its obligations described in Exhibit A, the Director of Finance, or her designee, will arrange for the filing of unaudited financial statements by the time period specified in Exhibit A, if such filing is required, and will file an event notice stating that the audited financial statements are not yet available and will not be filed by the deadline. The event notice should indicate the approximate timeframe for when the audited financial statements will be provided.

    - If the City does not file audited or unaudited financial statements by the time period specified in Exhibit A, the Director of Finance will file a notice of failure to provide required annual financial information.

- The Director of Finance will assign portions of the City's annual Audited Financial Statements to the members of City staff with responsibility for the City financial information or operating data described therein for review and comment prior to the dissemination of such materials.

➢ **Annual Reports of Required Financial Information and Operating Data**

- For so long as the City is required to annually file schedules containing agreed upon financial information and operating data in connection with its continuing disclosure undertakings, the Director of Finance will arrange for the schedules to be prepared on an annual basis in time to allow the City to meet its obligations as described in Exhibit A. The schedules currently required to be filed as part of the City's annual reports are described in Exhibit A. The schedules containing the required financial information and operating data may be incorporated into the City's Audited Financial Statements.

- The Director of Finance will assign portions of the City's schedules containing the required financial information and operating data to the members of City staff with responsibility for the City financial information or operating data described therein for review and comment prior to the dissemination of such materials.

➢ **Responsible Party**

- The Director of Finance is responsible for posting the annual filings to EMMA by March 31 of each year (subject to any change in the City's fiscal year), unless a longer period is allowed under the each of the City's outstanding undertakings described in Exhibit A. The City must comply with each undertaking; later undertakings do not supersede older undertakings unless the older undertakings are formally amended.

- Information on setting up email reminders for filings is available on the MSRB website at http://www.msrb.org/msrb1/pdfs/Financial-Disclosure-Email-Reminders-Instructions.pdf.

- Additional information on filing notices through the EMMA system is available on the MSRB website as part at http://www.msrb.org/MSRB-For/Issuers/Issuer-Toolkit.aspx.

- **<u>Event Notices</u>**

  - The City is also obligated to provide, in a timely manner not in excess of ten business days after the occurrence of the event, notices of certain events to the MSRB through EMMA. The events giving rise to such notices are described in Exhibit B.

    - City staff responsible for reviewing the portions of the City's offering documents related to their areas of responsibility will have access to this policy by which they are instructed to notify the Director of Finance if they become aware of an event requiring the filing of notice.

    - The Director of Finance will seek the review by members of City staff with responsibility for the City financial information or operating data described in any such notices prior to the dissemination of such notices.

    - The Director of Finance will work with the City's Financial Advisor to identify resources available to assist the City in identifying those events requiring notice filings.

  - **Responsible Party**

    - The Director of Finance is responsible posting the event filings to EMMA within a timely manner, not to exceed ten business days after the occurrence of the event.

FINANCIAL AND OPERATING INFORMATION LISTED ON THE CITY'S WEBSITE

If the City is posting financial and operating information to the City's website, the Director of Finance will assign portions of such information to the members of City staff or consultants with responsibility for the City financial information or operating data described therein for review and comment prior to posting such materials unless such materials have previously been reviewed in accordance with these Procedures. Posting such information to the City's website only is not sufficient to comply with the City's undertakings described in Exhibit A; such information must also be posted to EMMA in accordance with the procedures above.

EXHIBIT A

ANNUAL FILING REQUIREMENTS UNDER CONTINUING DISCLOSURE UNDERTAKINGS[1]

I. **Tax and Revenue Certificates of Obligation, Series 2005 (the "Series 2005 Certificates")**: The final maturity date of the Series 2005 Certificates is September 1, 2029. Other than any event filings that may be required while the Series 2005 Certificates are outstanding, if the Series 2005 Certificates remain outstanding, the last filing required under the undertaking related to the Series 2005 Certificates is the audited financial statements and the annual report consisting of operating and financial information related to the fiscal year ending September 30, 2028, which will be due to the MSRB through the EMMA system not later than on March 31, 2039. **The Series 2005 Certificates are scheduled to be refunded by the Series 2014 Bonds (as defined herein) on December 30, 2014. The undertaking related to the Series 2005 Bonds will expire upon the closing of the Series 2014 Bonds.**

A. Audited Financial Statements:

1. The City agreed to provide audited financial statements, if the City commissions an audit and the audit is completed by the required time, within six months of the end of the fiscal year (currently by March 31 of each year) through the EMMA system.

2. If the audit is not complete within such time period, the City must provide the unaudited financial statements through the EMMA system. When audited financial statements become available, the City must provide the audited financial statements through the EMMA system.

3. If the City changes its fiscal year, it must post notice through the EMMA system of the change and of the date of the new fiscal year end prior to the date the City otherwise would be required to provide financial information and operating data to the MSRB.

B. Annual Reports:

In addition to the audited financial statements, the City is obligated to annually update financial information and operating data of the City of the general type included in the Official Statement for the Series 2005 Certificates under the following sections and subsections of the Official Statement (excerpts from the Official Statement for the Series 2005 Certificates showing the listed schedules are attached hereto):

---

[1] The information in this Exhibit A is a summary of the City's continuing disclosure undertakings. Reference is made to the ordinances authorizing the issuance of the City's debt obligations and the offering documents for such obligations for complete information on the applicable requirements.

OFFICIAL STATEMENT SUMMARY
CITY TAX DEBT (except for “Estimated Overlapping Debt”)
TAX DATA
SELECTED FINANCIAL DATA
INVESTMENT AUTHORITY AND INVESTMENT OBJECTIVES OF THE CITY – Current Investments

II. **<u>Tax and Revenue Certificates of Obligation, Series 2007 (the “Series 2007 Certificates”)</u>**: The final maturity date of the Series 2007 Certificates is September 1, 2029. Other than any event filings that may be required while the Series 2007 Certificates are outstanding, if the Series 2007 Certificates remain outstanding, the last filing required under the undertaking related to the Series 2007 Certificates is the audited financial statements and the annual report consisting of operating and financial information related to the fiscal year ending September 30, 2028, which will be due to the MSRB through the EMMA system not later than on March 31, 2029.

A. <u>Audited Financial Statements</u>:

1. The City agreed to provide audited financial statements, if the City commissions an audit and the audit is completed by the required time, within six months of the end of the fiscal year (currently by March 31 of each year) through the EMMA system.

2. If the audit is not complete within such time period, the City must provide the unaudited financial statements through the EMMA system. When audited financial statements become available, the City must provide the audited financial statements through the EMMA system.

3. If the City changes its fiscal year, it must post notice through the EMMA system of the change and of the date of the new fiscal year end prior to the date the City otherwise would be required to provide financial information and operating data to the MSRB.

B. <u>Annual Reports</u>:

In addition to the audited financial statements, the City is obligated to annually update financial information and operating data of the City of the general type included in the Official Statement for the Series 2007 Certificates under the following sections and subsections of the Official Statement (excerpts from the Official Statement for the Series 2007 Certificates showing the listed schedules are attached hereto):

OFFICIAL STATEMENT SUMMARY
CITY TAX DEBT (except for “Estimated Overlapping Debt”)
TAX DATA
SELECTED FINANCIAL DATA
INVESTMENT AUTHORITY AND INVESTMENT OBJECTIVES OF THE CITY – Current Investments

III. **General Obligation Refunding Bond, Series 2011 (the "Series 2011 Bonds"):**

The Series 2011 Bonds were a direct purchase and did not have a continuing disclosure undertaking associated with them. Please refer to the Ordinance and Purchase Letter for information regarding documents that must be provided to the Purchaser (Compass bank) on an annual basis.

IV. **General Obligation Refunding Bonds, Series 2014 (the "Series 2014 Bonds")**:

The Series 2012 Bonds qualified for the SEC Rule 15c2-12(d)(2) exemption from SEC Rule 15c2-12(b)(5). The final maturity date of the Series 2014 Bonds is September 1, 2029. Other than any event filings that may be required while the Series 2014 Bonds are outstanding, if the Series 2014 Bonds remain outstanding, the last filing required under the undertaking related to the Series 2014 Bonds is the audited financial statements related to the fiscal year ending September 30, 2028, which will be due to the MSRB through the EMMA system not later than on March 31, 2029.

A. Audited Financial Statements: The City agreed to provide the financial information and operating data with respect to the City of the general type included in the City's audited financial statements to the MSRB annually in an electronic format as prescribed by the MSRB. Such information will be provided when the audited financial statements become available.

EXHIBIT B

EVENT NOTICES[2]

I. Certificates of Obligation, Series 2005 (the "Series 2005 Certificates") and Certificates of Obligation, Series 2007 (the Series 2007 Certificates")

The City will provide notice of any of the following events with respect to the Series 2005 Certificates and the Series 2007 Certificates, if such event is material to a decision to purchase or sell the Series 2005 Certificates and the Series 2007 Certificates:

(1) principal and interest payment delinquencies;

(2) non-payment related defaults;

(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 or events affecting the tax-exempt status of the Certificates;

(7) modifications to rights of holders of the Bonds;

(8) bond calls;

(9) defeasances;

(10) release, substitution, or sale of property securing repayment of the Bonds; and

(11) rating changes. [3]

In addition, the City shall provide to the MSRB in a timely manner, notice of a failure by the City to provide required annual financial information in accordance with its undertaking.

---

[2] The information in this Exhibit B is a summary of the portion of the City's continuing disclosure undertakings addressing event filings. Reference is made to the ordinances authorizing the issuance of the City's debt obligations and the offering documents for such obligations for complete information on the applicable requirements.

[3] Ratings changes may include changes in the ratings of any bond insurers

II. General Obligation Refunding Bonds, Series 2014 (the "Series 2014 Bonds")

The City is required to provide to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten (10) business days after the occurrence of the event, notice of any of the following events with respect to the City's Series 2014 Bonds:

(1) Principal and interest payment delinquencies;

(2) Non-payment related defaults, if material;

(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 Bonds, or other material events affecting the tax status of the Bonds;

(7) Modifications to rights of the holders of the Bonds, if material;

(8) Bond calls, if material, and tender offers;

(9) Defeasances;

(10) Release, substitution, or sale of property securing repayment of the Bonds, if material;

(11) Rating changes[4];

(12) Bankruptcy, insolvency, receivership or similar event of the City;

Note to paragraph 12: For the purposes of the event identified in paragraph 12 of this section, the event 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 U.S. 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 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.

[4] Ratings changes may include changes in the ratings of any bond insurers

(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; and

(14) Appointment of successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material.

In addition, the City shall provide to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, notice of a failure by the City to provide required annual financial information and notices of material events in accordance with its undertakings.

CITY COUNCIL AGENDA FORM

Meeting Date: December 15, 2014
Prepared by: Cyndi Efird
Department: Public Works

Agenda item: 8c
Reviewed by: Carol Buttler

AGENDA ITEM DESCRIPTION: Discussion/possible action regarding authorizing City Manager to enter into an agreement with Cobb Fendley to proceed with the bidding/construction process for the 2014-2015 Streets Project

☑ Attachments for reference
1. CobbFendley Exhibit A- Scope of Services & Compensation, including proposed subcontractor

Staff Briefing: N/A

History:

- August 26, 2014 – City Council gave favorable approval to Streets Program; awaiting final approval 2014-2015 City budget.
- September 15, 2014 – submitted an alternative street for consideration
- September 22, 2014 – Council adopted budget for 2014-2015 which included the Street Program
- October 27, 2014 – Met with Cobb Fendley representatives to initiate the bid process

Target Implementation: March 2015

Significant Action Dates:
August 26, 2014 – City Council gave favorable approval to Street Program

Action:

- [ ] Ordinance
- [ ] Resolution
- [ ] Proclamation
- [ ] Special Presentation
- [ ] Finance Report
- [ ] Public Hearing
- [X] Other - Agreement

[X] Check box if there is no conflict with City Charter, ordinances, resolutions, or policies.

Cost Details:	
Budgeted	407,062.00
Actual Bid	
Estimated Expenditure	**52,900.00**
Acct. Name	2005 Bonds
Line Items #	
Other Funding	

CITY COUNCIL AGENDA FORM

Staff's Recommendation: Motion to authorize City Manager to enter into an agreement with Cobb Fendley to proceed with the bidding/construction process for the 2014-2015 Streets Project

Fiscal Impact:
Construction Cost (Estimate)- $419,563.21
Engineering Cost- $52,900.00

EXHIBIT A
SCOPE OF SERVICES & COMPENSATION

Cobb, Fendley & Associates, Inc.
Proposal for Professional Engineering Services
City of La Marque - Street Rehabilitation Project

Project/Limits

The project includes the mill and asphalt overlay rehabilitation and base repairs as identified during construction for the following streets:

- North Campus Heights – T-shaped street (Approx. 1,110-ft)
- Volney Street – From North of Kirby Drive to south of Prairie Street (Approx. 1,800-ft)
- Dalian Street – From Bayou Road to Howell Avenue (Approx. 1,870-ft)
- Maxwell Street – From Bayou Road to unpaved portion (Approx. 2,100-ft)
- Martin Luther King Jr Boulevard – From Ross Street to south of Shady Lane and from Banana Street to Oak Street (Approx. 3,650 ft)
- Partridge Street – From Garrett Street to Fleming Street and Fleming Street to Dead End (Approx. 1,800 ft)

Attachments

1. Maps of Project Limits
2. Itemized Opinion of Probable Construction Cost

SCOPE OF SERVICES

General

Design, Bid, and Construction Phase engineering services necessary to rehabilitate the streets listed above.

Sub Consultants

CobbFendley shall subcontract the construction materials testing to perform the tasks described in the scope of services. Below is a list of the consultants that we will be using for this project:

- Construction Materials Testing – Terracon Consultants

Construction Estimate

The preliminary opinion of probable construction costs for this project is $419,563. An itemized estimate is attached.

Schedule of Services

CobbFendley will begin work on this project once the contract has been signed and a notice to proceed (NTP) letter is provided by the City. CobbFendley will provide construction documents for bidding purposes within 3 months of the date on the NTP letter.

BASIC SERVICES

Cobb, Fendley & Associates, Inc. (CobbFendley) will provide the following engineering services as part of its basic service. The specific items of service include:

Design Phase

CobbFendley will:

1. Coordinate with other governmental entities which are impacted by the project and obtain necessary approvals, signatures or letters of no objection.
2. Coordinate with City Staff regarding design criteria and pertinent information regarding the project.
3. Provide construction plan drawings, along with any needed cross sections and details, of the proposed project for construction. Plan set will include, at a minimum, the following:
    - Cover Sheet
    - Construction Notes
    - SWPPP Layout(s)
    - Detail Sheet(s)
    - Typical Cross Sections
    - Plan Sheets
    - Traffic Control/Detour Plan(s)
4. Prepare construction phase Traffic Control Plan (TCP) and Detour Plan that will accommodate the traffic through the project(s) during the construction phases.
5. Prepare contract bidding documents consisting of technical specifications (City of La Marque specifications) and contract documents outlining the construction contract requirements.
6. Prepare a 50% submittal and a 95% submittal of the construction documents for the City to review and provide comments. Once all comments are received by all entities involved, CobbFendley will finalize the construction documents for bidding.
7. Provide construction cost estimates at the following stages of design: preliminary, 50% submittal, 95% submittal and prior to bid (final).

Bid Phase

CobbFendley will:

1. Assist the City in obtaining bids for the project.
2. Address questions from potential bidders concerning the Project's construction documents and prepare addendums as necessary.
3. Attend and conduct a pre-bid meeting for potential bidders.
4. Evaluate the bids and qualifications of the apparent low bidder and provide a recommendation of award letter to City Staff.
5. Distribute digital plans and specifications for contractors on CivCast, an internet base bidding system.
6. Provide the City with hard copy set of plans and specifications as requested.

Construction Phase

CobbFendley will:

1. Attend and conduct a pre-construction conference for the project.
2. Review and respond to all submittals and request for information (RFI's) regarding the project improvements as required by the contract.
3. Review and process monthly pay applications and prepare change orders as necessary.
4. Make periodic site visits to observe the progress and quality of work are in accordance with the Contract Documents.
5. Conduct a final inspection of the project and prepare a punch list for the Contractor.

ADDITIONAL SERVICES

Construction Materials Testing

Construction materials testing will be performed by Terracon in accordance with the attached proposal.

Exclusions from the Scope Services:

The services described above are the identified **BASIC AND ADDITIONAL SERVICES** for this assignment. Other items that may arise during the course of the project that the CITY may wish to add to the scope of services shall be deemed as SUPPLEMENTAL SERVICES. CobbFendley shall undertake such additional services as assigned by the CITY upon written direction from the CITY. Examples of such items are as follows:

- Performing utility record research on existing underground utilities, overhead utilities and pipeline crossings within project limits.
- Providing full time or part time on-site field representative (inspector) for the construction phase.
- Bidding project more than one time
- Any other services not specifically included within the description of the Basic Services or Additional Services as described above.

If supplemental services are requested by the City, CobbFendley will provide the City with a separate proposal for the supplemental work.

BASIS OF COMPENSATION

BASIC SERVICES
The Compensation to be paid to CobbFendley for providing the BASIC SERVICES rendered under this agreement shall be based on Lump sum fees for overall phases of the work as shown below. Reimbursable items and subconsultants will be subject to a 10% administration charge.

1. DESIGN PHASE *(Lump Sum)* $33,515
2. BID PHASE SERVICES *(Lump Sum)* $3,000
3. CONSTRUCTION PHASE – CONSTR. ADMIN *(Lump Sum)* $5,490

Subtotal *(Not to Exceed)*.. $42,000

Reimbursable Expenses

1. Reproduction, mileage, delivery charges, etc. **$1,000**

ADDITIONAL SERVICES

1. Materials Testing by Terracon (incl 10% markup) $9,900

Subtotal, Additional Services $9,900

TOTAL, Basic & Additional Srvcs Including Reimbursables $52,900

The Compensation for any other Additional Services which the City desires to be added to the work scope of the project shall be negotiated. Reimbursable items are included. Subconsultant invoices will be subject to a 10% administration charge. Services will be charged according to those personnel directly involved in providing the service, and will be rounded to the nearest half hour.

CITY OF LA MARQUE
STANDARD AMENDMENT TO
CONSULTANT SERVICES AGREEMENT

AMENDMENT NO. 4

This Amendment (hereinafter "Amendment") is made between the City of La Marque, Texas (hereinafter "City"), and Cobb, Fendley & Associates, Inc. (hereinafter "Consultant") to amend that consultant services (the "Contract") between the City and Consultant for services associated with the City Engineer Contract.

1. Amended Terms. The City and Consultant hereby agree that the Contract is amended as follows:

A. Add new task order for the **La Marque Street Rehabilitation Project** in the amount of **$52,900.00**

B. See Attached Exhibit A for Scope of Services and Compensation for this project.

2. Contract to Remain in Force. Other than the provisions of the Contract expressly amended herein, the Contract shall remain in full force, and its enforceability shall be unaffected by this Amendment.

EXECUTED and EFFECTIVE as of the ____ day of ________________, 20__.

CITY OF LA MARQUE

Signature: ________________________

Name/Title: Carol Buttler / City Manager

CONSULTANT

Signature: B Matlk

Name/Title: Brad Matlock, PE / Principal

Terracon

November 4, 2014

Cobb, Fendley & Associates, Inc.
1506 E. Broadway, Suite 201
Pearland, TX 77581

Attn: Ms. Andrea Broughton, PE
E: abroughton@cobbfendley.com

Subject: **Cost Estimate for Materials Services**
City of La Marque Street Rehabilitation
La Marque Texas
Terracon Proposal Number P91140278

Dear Ms. Broughton:

Terracon Consultants, Inc. **(Terracon)** is pleased to provide this Cost Estimate for providing our services. We understands that we have been selected based on our qualifications to provide materials services for the referenced Project. In this letter we have presented our understanding of the scope of the project, the proposed services, and the applicable unit rates.

A. PROJECT INFORMATION

Our knowledge of the Project is limited to the understanding that the City of La Marque is planning approximately 16,000 linear feet of asphalt street rehabilitation. The streets are North Campus Heights, Volney, Dalian, Maxwell, Martin Luther King Blvd., and Partridge.

B. SCOPE OF SERVICES

Terracon proposes to provide the following scope of services, when scheduled by the contractor or your representative.

1.0 Base Repair & Asphalt Pavement Observations and Testing:

- Sample the materials proposed to be used as base, prepare and test the samples for moisture density relationship.
- Perform density tests, using a nuclear gauge, on the base repair areas.
- Sample asphalt materials during placement, prepare, and test the samples for lab series which include: asphalt content, gradation, bulk specific gravity of lab molded specimens, theoretical maximum specific gravity, and Hveem stability and density. One sample will be obtained for every 400 tons of asphalt placed each day.
- Perform in-situ nuclear density tests to assist in determining an asphalt rolling pattern, when requested by the contractor.
- Perform in-situ nuclear density tests to determine the relative percent compaction of the asphalt at the frequency specified.
- Obtain cores from the pavements and perform thickness measurements and bulk density. Cores will be obtained at a frequency of 1 core/500 LF, alternating lanes.

2.0 Terracon Project Manager will provide the following services:

- Attend construction meetings, if requested
- Review asphalt mixes submitted to Terracon, if requested
- Coordinate field and laboratory testing,
- Communicate with Terracon field technicians, Contractor, and Owner's site representative,
- Review laboratory and field test reports,
- Control our budget and invoice.

Additional Services:

If work beyond the scope listed above is requested by the Client, Terracon will issue a short Supplement to the Agreement form, or Supplement Cost estimate, that outlines the additional work to be performed and the associated fees. To authorize us to begin this additional work, you simply return a signed copy of the Supplement.

Project Schedule:

Field testing services will be provided on a "call-out" basis when scheduled by your representative. **A minimum of 24-hours notice is required to schedule our services (48 hours for coring services)**, although we will attempt to meet requests in a shorter time frame. Terracon will only provide testing when called by your onsite representative. The extent of our observations and documentation will be limited to the items observed during the site visits.

C. COMPENSATION

Fees for services provided will be based on the unit rates shown in the attached table with a budget not to exceed $9,000. Overtime is defined as all hours in excess of eight per day, Monday through Saturday, and all hours worked on holidays. Overtime rates will be 1.5 times the hourly rate quoted. A 4-hour minimum charge will be applied to site visits other than sample pickups. You will be invoiced on a monthly basis for services actually performed.

AUTHORIZATION

Per Agreement between Cobb Fendley & Associates, Inc. and Terracon.

We appreciate your continued trust in our work. Please call us at 281-557-2900 if you have any questions or comments regarding this cost estimate.

Sincerely,
Terracon Consultants, Inc.

Noosha P. Smith, P.E.
Sr. Principal

Terracon
Consulting Engineers & Scientists

Budget Estimate
City of La Marque Street Repairs

Service	Unit	Unit Rate
1.0 Field & Laboratory Testing		
Engineering Technician	hour	$ 47.00
Engineering Technician, OT	hour	$ 70.50
Nuclear Gauge	day	$ 50.00
Vehicle Charge	day	$ 50.00
Stabilization Recommendation	each	$ 300.00
Proctors (Base, Subgrade)	each	$ 160.00
Asphalt Lab Series (1/400 tons)	sample	$ 500.00
Coring	event	$ 400.00
Cores for thickness and % air voids	core	$ 75.00
2.0 Project Management		
Project Management & Administration	hour	$ 110.00

Client: City of La Marque

Project Name: Street Rehabilitation Project - Phase 1

Project Site: North Campus Heights, Volney, Dalian, Maxwell, MLK, Partridge

Opinion of Probable Construction Cost[1]

Item No.	Paving and Drainage Improvements	Unit	Quantity	Unit Price	Extended Price
BASE ITEMS					
SECTION 1 - GENERAL					
1	Mobilization (No Greater Than 5% of Total Bid)	LS	1	$ 25,000.00	$ 25,000.00
			SUBTOTAL SECTION 1		**$ 25,000.00**
SECTION 2 - PAVING					
1	Remove 2" existing Asphalt , complete	SY	28,525	$ 4.00	$ 114,100.00
2	1 1/2" Hot Mixed Asphalt Concrete Overlay, complete	TON	1,531	$ 82.00	$ 125,543.54
3	2" Hot Mixed Asphalt Concrete Overlay, complete	TON	1,229	$ 95.00	$ 116,777.56
			SUBTOTAL SECTION 2		**$ 356,421.10**
	TOTAL SECTIONS 1-2				**$ 381,421.10**
	10% CONTINGENCY				**$ 38,142.11**
	TOTAL PRICE				**$ 419,563.21**

NOTES:

(1) The Estimate does not include items for base repair based on scope provided. Base repair may be identifed during construction which will include additional costs for the additional work. This estimate is to provide a paved surface only.

CITY COUNCIL AGENDA FORM

Meeting Date:	December 15, 2014	Agenda item:	8d
Prepared by:	City Clerk	Reviewed by:	Carol Buttler
Department:	Mayor		

AGENDA ITEM DESCRIPTION: Discussion/possible action regarding reappointment of Don Johnson to the Harris-Galveston Subsidence District for a two-year term.

[x] Attachments for reference
1. Letter of Experience

Staff Briefing:

- The Subsidence District notified the City of La Marque that appointments and reappointments be made and turned into them no later than Friday, January 23, 2015.

History:

- The Harris-Galveston Subsidence District is a special purpose district created by Texas Legislature in 1975. The District was created to provide for the regulation of groundwater withdrawal throughout Harris and Galveston counties for the purpose of preventing land subsidence, which leads to increased flooding.
- The District's enabling legislation is found in Chapter 8801 of the Special Districts Code

Target Implementation:
January 23, 2015 – Deadline to submit reappointments to Subsidence District

Significant Action Dates:
January 31, 2015 - current term expires

Action:

[ ] Ordinance
[ ] Resolution
[ ] Proclamation
[ ] Special Presentation
[ ] Finance Report
[ ] Public Hearing
[x] Other -Appointment

[x] Check box if there is no conflict with City Charter, ordinances, resolutions, or policies.

Cost Details:	
Budgeted	NA
Actual Bid	NA
Estimated Expenditure	NA
Acct. Name	NA
Line Items #	NA
Other Funding	NA

CITY COUNCIL AGENDA FORM

<u>Staff's Recommendation</u>: Motion to reappoint Don Johnson to the Harris-Galveston Subsidence District for a two-year term.

<u>Fiscal Impact</u>: NA

From: **Don Johnson** don_johnson7@hotmail.com
Subject: Follow-Up on Request for Appointment
Date: December 7, 2014 at 10:34 AM
To: Bobby Hocking b.hocking@cityoflamarque.org, Bobby Hocking bobbyhocking@gmail.com

On November 16th I submitted a request for consideration as the City's representative on the Harris Galveston Subsidence District with the term beginning February 1, 2015, and continuing through January 31, 2017. Appointment to this position is made by the Mayors of the cities of Galveston County.

Please let me know if additional information is needed for consideration of my appointment.

Best wishes for a joyous Christmas and Happy New Year.

Don L. Johnson

281-851-9887

From: don_johnson7@hotmail.com
To: b.hocking@ci.la-marque.tx.us; bobbyhocking@gmail.com
Subject: Appointment to the Harris Galveston Subsidence District
Date: Sun, 16 Nov 2014 11:49:11 -0600

Dear Mayor Bobby Hocking;

Soon the cities of Galveston County will have an opportunity to appoint a representative to the board of the Harris Galveston Subsidence District (HGSD). I am asking for your support to fill this position as I believe the cities of Galveston County deserve two dedicated representatives, willing and able to attend all meetings and be sensitive to local issues in our communities.

Over the past four years I have been honored to serve on the board as a representative for Galveston County. I was originally asked to serve due to my experience as a Director at the Clear Lake City Water Authority (CLCWA) and my decade long effort on the US Army Corps of Engineers Citizens Advisory Committee for the Clear Creek Study Project. My understanding of the operational requirements and daily business practices conducted by the CLCWA enabled me to understand many of the issues and concerns water well operators confront when required to balance the pumping of ground water with mandated reliance on surface water sources (e.g. water from the Houston Southeast plant). This, combined with the knowledge gained through partnering sessions with US Army Corps of Engineer flood control engineers, helped me understand both the issues of water utility providers and possible consequences of flooding caused by subsidence or deficient drainage, conveyance and detention facilities.

Over the last four years, I have come to appreciate the challenges cities in Galveston County face in providing reliable and cost effective water utilities as well as the concerns for flooding that is exacerbated by subsidence. There are 19 members on the board and, as you can imagine, it is a challenge to achieve consensus on policy issues with this number of directors. During my terms on the board, and with the support of other dedicated conservative members, it has been possible to develop policies that benefit our cities, MUDs and individual well owners. For example, the board recently adopted a policy to allow the General Manager to waive penalties assessed on well-owners unaware of permit application regulations and requirements of metering of water pumped. Of course, this is contingent on their agreement to adhere in the future to all HGSD regulations. It has taken several years to affirm that the primary goal of the district is compliance with regulations to assure subsidence is eliminated – not to severely penalize uninformed citizens.

During the recent budget cycle, the General Manager forecast deficit spending for the next five years and requested, and obtained, escalation of emergency permit fees from $200 to $500. I, along with others on the board, believe a balanced budget can be achieved and the need to increase additional fees eliminated. Additionally, the GM recently received approval to redirect a significant amount of ongoing funding from disincentive fees and compromise settlements to an expense account for unspecified science and research projects. Although technology is necessary to monitor ground water levels and subsidence, strong oversight will be necessary to insure the costs do not cause the district to raise fees on cities, MUDs and individual well owners to finance research projects that may be outside the scope of HGSD's legislated regulatory authority.

With your support, I will represent the best interest of the cities of Galveston County on the HGSD Board. I will continue my efforts to deliver accountable, efficient and cost effective services and keep the District focused on its primary responsibilities.

Please call me if you have questions or would like to discuss this request further. I appreciate your support.

Sincerely, Don Johnson
Friendswood, Texas
(281) 851-9887