



Notice is hereby given of a Regular Meeting of the Nacogdoches City Council to be held **November 18, 2014, beginning at 5:30 p.m.** in the Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action.

PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)

1. Call to order.
2. Invocation.
3. **PRESENTATIONS AND RECOGNITIONS:**
4. Items to be removed from Consent Agenda.
5. **CONSENT AGENDA:** Items included under the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
 - A. Consider approval of minutes from regular session of November 4, 2014. (City Secretary)
 - B. Consider authorization for tax resale for property described as Lot 4, Block 3 of the Re-Subdivision of the John G. Orton First Addition, Nacogdoches County, Texas located on Orton Street. (City Secretary)
 - C. Consider granting final acceptance of the streets, water, sanitary sewer, and storm drainage facilities for Tower Village located near the intersection of Park Street and Tower Road. (City Engineer)
 - D. Consider approval of the Historic Restoration Grant budget for FY 2015. (Community Services Director)
 - E. Consider co-sponsorship of the Nine Flags Festival. (Main Street Manager)

REGULAR AGENDA:

6. **PUBLIC HEARING:** Consider the request for a specific use permit to construct an accessory apartment in an R-1, Single Family Residential zoning district, for Lot 4, Bostwick Lane Subdivision, City Block 67, located at 324 Burrows Street. This request has been submitted by David Vineyard. SUP2014-002. (City Planner)
7. Consider Chapter 380 Economic Development Program and Agreement (380 Agreement) between the City of Nacogdoches and HEB Grocery Company, LP (HEB). (City Manager)
8. Consider contract with GDVF for the transfer and recycling of mattresses received at the City landfill. (Public Works Manager)
9. Receive update on payday lending. (City Attorney)
10. Consider ratification of acceptance of Department of Homeland Security – Division of Emergency Management 2014 SHSP-LETPA Grant in the amount of \$169,970; and approve an Emergency Budget Amendment to incorporate funding into current budget. (Police Chief/Grant Coordinator)
11. Consider adoption of an ordinance regulating a no parking zone on Rusk Street from North Street to Pearl Street. (City Planner)

12. Consider adoption of an ordinance regulating a no parking zone near the intersection of Lady Jennifer and Post Oak Road. (City Planner)
13. Consider an ordinance updating the process for appointment of fire marshal. (Fire Chief)

For the convenience of the audience, the Council may conduct Executive Session deliberation in the first floor conference room, Room 112, of City Hall. Re-opening of the open session for action, if any, on Executive Session items will be in City Council Chambers. Regular Session agenda items appropriate for Executive Session consideration may be moved into Executive Session for deliberation, but not action, upon proper announcement at the meeting by the presiding officer.

14. **EXECUTIVE SESSION:**

A. Deliberation regarding Economic Development negotiations under Local Government Code Section 551.087 as follows:

1. Discuss or deliberate regarding commercial or financial information that the City has received from a business projects that the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and
2. Deliberate the offer of a financial or other incentive to business prospects described by Subdivision 1 above.

15. Open for action, if any, on Item 14-A-1.

16. Open for action, if any, on Item 14-A-2

17. Adjourn.


Lila Fuller, City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact the Attorney General of Texas at 1-800-252-8011; the City Secretary at 936/559-2504 or visit the City of Nacogdoches web site at www.ci.nacogdoches.tx.us.

The Nacogdoches City Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (936) 559-2504 or FAX (936) 559-2912 for further information.

CERTIFICATION

I certify that the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on Friday, November 14, 2014 at 5:00 p.m.

Lila Fuller, City Secretary

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the directory outside of City Hall on the ____ day of November 2014.

Name: _____ Title: _____

ITEM NO. 5-A

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: **CONSENT AGENDA:** Consider approval of minutes from regular meeting of November 4, 2014.

MEETING DATE: November 18, 2014

CITY CONTACT: Lila Fuller, City Secretary - 559-2504

ATTACHMENTS: Minutes

MINUTES
Regular Session
Nacogdoches City Council
October 21, 2014 – 5:30 p.m.
City Council Room – City Hall
202 E. Pilar Street

DRAFT

Regular Session:

Those Present:

Mayor Roger Van Horn; Council members Shelley Brophy, Roy Boldon, Michael Keller and David Norton; City Manager Jim Jeffers, City Attorney Rob Atherton and City Secretary Lila Fuller.

1. Call to Order.

Mayor Van Horn at 5:30 p.m. A quorum was established.

2. Invocation.

Mayor Van Horn gave the invocation.

3. PRESENTATIONS AND RECOGNITIONS:

Mayor Van Horn recognized Boy Scout Troop 161 from First United Methodist Church who led the Pledge of Allegiance.

4. Items to be removed from Consent Agenda.

None.

5. CONSENT AGENDA: Items included under the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.

A. Consider approval of minutes from the regular session of October 21, 2014.

Approved as presented.

B. Receive quarterly Investment Report for quarter ended September 30, 2014.

Approved as presented.

C. Consider Resolution calling for the Texas Department of Housing and Community Affairs to change the funding process for the HOME program.

(Resolution No. 1164-11-14)

Council member Norton moved to approve the consent agenda as presented. The motion was seconded by Council member Keller and unanimously passed.

REGULAR AGENDA:

6. Consider accepting land located at 400 N. Lanana Street from the Nacogdoches County Historical Foundation.

Jessica Sowell, assistant historic sites manager, stated the property was recently purchased by the NCHF and they wished to donate it to the City for future use as a parking lot for Zion Hill Baptist Church.

Minutes unofficial until approved by City Council

Council member Norton moved to accept the donation of property located at 400 N. Lanana Street from the Nacogdoches County Historical Foundation as presented for future use as a parking lot for Zion Hill Baptist Church. The motion was seconded by Council member Boldon and unanimously passed.

7. Consider approval for City staff to develop and negotiate an agreement with the Texas Department of Transportation to take over ownership and maintenance of Starr Avenue between North Street and University Drive.

Steve Bartlett, city engineer, explained that staff was requesting direction on whether to move forward on a study to determine potential cost savings through ownership and maintenance of Starr Avenue. He stated TxDOT was advancing plans to widen East Starr and the project would require the City to relocate all utilities within the section between North Street and Clark Boulevard at significant expense. Accepting the street after improvements are complete would allow the City to leave most of the existing utilities in their current location and would greatly reduce the pending near-term costs to the City. However, the savings of the near-term would be eclipsed significantly by street maintenance costs.

Bartlett stated if the Council wished to explore accepting maintenance, staff would research costs and details in greater depth and bring final recommendations back to the City Council for consideration within the next month.

It was the consent of the City Council that staff is authorized to research costs and details in greater depth and bring final recommendations back to the City Council for the acquisition and maintenance of Starr Avenue between North Street and University Drive.

8. Consider abandonment of a 15" sanitary sewer line under the northern portion of Lots 10 and 11, Block 1, John G. Orton Heirs Partition located on University Drive.

Rob Atherton, city attorney stated this unused and functionally abandoned portion of sewer line was under a portion of the property that would be developed into a future water park. He stated the request was to officially abandon in place the sewer line lying under these lots.

Council member Keller moved to approve the abandonment of a 15" sanitary sewer line under the northern portion of Lots 10 and 11, Block 1, John G. Orton Heirs Partition located on University Drive as presented. The motion was seconded by Council member Boldon and unanimously passed.

9. Consider ordinance awarding bid for purchase of property by Kingdom Perspectives-Nacogdoches, Ltd and authorize Mayor to proceed with Economic Development Agreement to close sale of property to be developed as a water park on University Drive.

Rob Atherton, city attorney explained the city council had selected the bid on September 2, 2014 and began the 90-day period for the bidder to inspect the property and provide due diligence. He stated the action needed was to award the bid to the only bidder, and authorize the Mayor to execute the economic development agreement to close the sale of property.

Council member Norton asked if there were endangered species on the property.

City Attorney Atherton stated he had not been made aware of any endangered species, but explained the property was being sold as is, and that issue would need to be addressed by the developer, and not the City.

LaDonna Simpson, 817 Swift Street, appeared and voiced her concern that the property did have an endangered woodpecker habitat, as well as other wildlife habitats. She referenced a City study done in 1997 stating this was a habitat for endangered species.

There being no further discussion, Council member Keller moved to adopt an ordinance awarding the bid for the purchase of property by Kingdom Perspectives-Nacogdoches, Ltd and authorizing Mayor Van Horn to proceed with an economic development agreement to close the sale of property to be developed as a water park on University

Drive. The motion was seconded by Council member Brophy and passed by the following vote:

AYES: Mayor Van Horn, Council members Brophy, Boldon and Keller
NOES: Council member Norton

(Ordinance No. 1684-11-14)

10. Consider approval for purchase of a Caterpillar Model 623K Scraper lease for the City Landfill.

Cary Walker, public works manager, appeared requesting approval to lease a Caterpillar Model 623K scraper for use at the City’s landfill. He stated the lease would include a 5-year, 10,000 hour power rain and hydraulics warranty and would be purchased through HoltCat and Texas Buy Board contract #424-13. He further stated the City would have the option to purchase the equipment at the end of the 5-year lease for \$200,000. He stated the lease contained a non-appropriations clause so the machine could be returned if not funded in future years. Walker further stated the approval should be subject to completion of the legal review.

Council member Brophy moved to approve the purchase of a Caterpillar Model 623K Scraper through 5-year lease with HoltCat in a lease amount of \$10,183.15 per month, subject to completion of legal review. The motion was seconded by Council member Boldon and unanimously passed.

11. Consider designation of a City representative to the Nacogdoches County Industrial Foundation.

Rob Atherton stated the city manager is the current representative of the Nacogdoches County Industrial Foundation, a non-profit corporation established in the 1950’s to promote commerce and industry in Nacogdoches. He further explained that in the city manager’s absence, he recently attended a meeting and at that meeting he was elected as a director of the Foundation. He stated it would be appropriate for the City Council to formally designate him as the City representative.

Mayor Van Horn moved to designate City Attorney Atherton as the City of Nacogdoches’ representative to the Nacogdoches County Industrial Foundation as presented. The motion was seconded by Council member Brophy and unanimously passed.

12. Consider approving 2015 Routine Airport Maintenance Program (RAMP) Grant project proposal. RAMP is a 50/50 match grant. Proposed projects for FY 2015 total \$70,500.

Mary Uresti, airport manager, appeared and reviewed the proposed projects as follows:

| | | | |
|---|--|--|-----------|
| 1 | Maintain Storm Water Pollution Prevention Plan (SWPPP) | (Mandatory) SWPPP maintenance. | \$ 6,500 |
| 2 | Herbicide/Pesticide | (Mandatory) Bi-yearly application to airport grounds, which includes fence line. | \$ 13,000 |
| 3 | Airport Light Repair and Maintenance | (Mandatory) Runway, taxiway and ramp lighting repair and maintenance. | \$ 7,000 |
| 4 | Camera Replacement | Update and replace outdated security camera system. | \$ 15,000 |
| 5 | Electricity to Barn | Install electricity with lighting to tractor barn. Necessary for lineman to perform mower maintenance. | \$ 3,000 |
| 6 | Carpet Replacement | Replace 10-year-old carpet, which is in poor condition, in Pilots Lounge. | \$ 4,000 |

| | | | |
|---|---------------------|---|-----------|
| 7 | Airport Signage | Repair existing signage. Add new signage at Hwy 7 W. The City has an opportunity to enter into an MOU with the ATO fraternity to put a sign on their property at Hwy 7 W. | \$ 20,000 |
| 8 | Light to Signage | Provide lights to new signage at Hwy 7 W. | \$ 2,000 |
| | | | |
| | Total Project Cost: | | \$ 70,500 |

Ms. Uresti stated the City's match would be \$35,250 and was in the current budget. She stated the projects would be completed by August 30, 2015.

Mayor Van Horn stated he would like to see the airport users be engaged in partnering with the City for airport projects in the future.

Council member Norton moved to approve the RAMP Grant project proposal for FY 2015 as presented. The motion was seconded by Council member Keller and unanimously passed.

The City Council went into Executive Session at 6:11 p.m.

13. EXECUTIVE SESSION:

- A. Personnel – Consider City Attorney Annual Evaluation and Contract Extension as per G.C. Sec. 551.074.**
- B. Deliberation regarding Economic Development negotiations under Local Government Code Section 551.087 as follows:**
 - 1. Discuss or deliberate regarding commercial or financial information that the City has received from a business projects that the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and**
 - 2. Deliberate the offer of a financial or other incentive to business prospects described by Subdivision 1 above.**

The City Council reconvened in open session at 6:35 p.m.

14. Open for action, if any, on Item 13-A.

Council member Brophy moved to extend the employment contract with City Attorney Rob Atherton for one additional year. The motion was seconded by Council member Boldon and unanimously passed.

15. Open for action, if any, on Item 13-B-1.

No action was taken in open session.

16. Open for action, if any, on Item 13-B-2.

No action was taken in open session.

17. Adjourn.

Mayor Van Horn adjourned meeting at 6:35 p.m.

ATTEST:

Mayor Roger Van Horn
City Council
City of Nacogdoches

Lila Fuller, City Secretary

ITEM NO. 5-B

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: **CONSENT AGENDA:** Consider authorization for tax resale for property described as Lot 4, Block 3 of the Re-Subdivision of the John G. Orton First Addition, Nacogdoches County, Texas located on Orton Street.

MEETING DATE: November 18, 2014

DESCRIPTION: The City of Nacogdoches, as a taxing entity, has been requested on behalf of Nacogdoches ISD to approve the sale of property described above.

COST: None

SCHEDULE: Upon approval, a Tax Resale Deed will be executed by all taxing entities.

RECOMMENDED ACTION: Approve sale of property as presented.

CITY CONTACT: Jim Jeffers, City Manager - 559-2501

ATTACHMENTS: Description of Property
Tax Resale Deed is available from the City Secretary



1 inch = 200 feet

ITEM NO. 5-C

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: CONSENT AGENDA: Consider granting final acceptance of the streets, water, sanitary sewer, and storm drainage facilities for Tower Village.

MEETING DATE: November 18, 2014

DESCRIPTION: This project included the addition of a new public street with water lines, and storm drainage facilities in the Tower Village Subdivision located near the intersection of Park Street and Tower Road. All work has been completed by the developer to the satisfaction of their consulting engineer and City staff.

Formal acceptance by City Council will begin a 12 month warranty period for all improvements by the developer.

COST: \$0

BUDGET AMENDMENT REQUIRED?: No

RECOMMENDED

ACTION: Staff recommends acceptance of project.

CITY CONTACT: Steve Bartlett, P.E., City Engineer

ITEM NO. 5-D

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: CONSENT AGENDA: Consider approval of the Historic Restoration Grant budget for FY 2015

MEETING DATE: November 18, 2014

DESCRIPTION: The Historic Restoration Grant fund is used to aid in the preservation of historic structures located within the Historic Overlay. Since the program began in 1989 the city has awarded approximately \$750,000 in grant funds used to complete approximately \$3,200,000 worth of exterior restoration projects. For this grant cycle \$43,556.00 in grants funds will help complete approximately \$87,000 in exterior renovations. The Historic Landmark Preservation Committee met on November 3, 2014 and recommended a budget that will match 50% of each project. Each application was scored based on criteria such as National Historic Register Status, the structure's availability to the public, the age of the structure, and the current condition of the structure.

COST: \$43,556.00

BUDGET AMENDMENT REQUIRED?: No

BUDGET AMENDMENT

| | | |
|-----------------|-----------------------------|------------------|
| FUNDING: | Acct. Name & No. | Requested |
| | N/A | |

FUNDING FROM CURRENT BUDGET

| | | | |
|-----------------|-----------------------------|--------------------|--------------------|
| FUNDING: | Acct. Name & No. | Balance | Requested |
| | <u>Hotel Motel Tax</u> | <u>\$51,681.90</u> | <u>\$43,556.00</u> |

SCHEDULE: The grant funds will be disbursed upon completion of each project. Each of the approved applicants will have one year to complete their project.

RECOMMENDED

ACTION: The Historic Landmark Preservation Committee recommends approval of the attached budget for the FY 2015 Historic Restoration Grant funding.

CITY CONTACT: Brian W. Bray, Director of Community Services, 936-559-2935, brayb@ci.nacogdoches.tx.us

ATTACHMENTS: Historic Restoration Grants FY 2015 project list and budget.

2015 HRG Proposed Budget

| Case | Use | Project Address | Applicant | Project Estimate | % Awarded | Amount Granted | % of Total Funds | Project Description |
|----------|------|--------------------|-------------------------|------------------|-----------|----------------|------------------|--|
| 2015-001 | | Pulled Application | | | | | | |
| 2015-002 | Res | 222 N. Mound | Milton Pitts | \$25,000.00 | 50.00% | \$ 12,500.00 | 28.70% | Reroof, Porch Handrails |
| 2015-003 | Comm | 203 E. Main | Bo Miller | \$24,312.00 | 50.00% | \$ 12,156.00 | 27.91% | Paint windows, replace canopy, repoint brick, replace light fixtures |
| 2015-004 | | Pulled Application | | | | | | |
| 2015-005 | Res | 512 N. Lanana | Clarence McMichael, Sr | \$15,500.00 | 50.00% | \$ 7,750.00 | 17.79% | Replace rotten wood and paint house |
| 2015-006 | Res | 519 E. Hospital | John & Andrea Frederick | \$19,150.00 | 50.00% | \$ 9,575.00 | 21.98% | Painting, rebuild and replace all screens, repair and replace porch deck |
| 2015-007 | Comm | 316 N. Church | Michael Dean | \$3,150.00 | 50.00% | \$ 1,575.00 | 3.62% | Repair porch, repair back deck and paint |

| | | | |
|----------|----|-----------|------|
| \$87,112 | \$ | 43,556.00 | 100% |
|----------|----|-----------|------|

\$ 8,711.20

Total available funds \$ 51,681.90

| | | |
|-------------------------|----|----------|
| Total unallocated funds | \$ | 8,125.90 |
|-------------------------|----|----------|

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: **CONSENT AGENDA:** Consider co-sponsorship of the Nine Flags Festival

MEETING DATE: **November 18th, 2014**

DESCRIPTION: The Nine Flags Festival in Nacogdoches is a celebration of Texas history and culture. Known as the birthplace of Texas history, Nacogdoches comes alive during the holidays with five weekends of activities to put everyone in the Christmas spirit. The Nine Flags Festival is requesting that the City continue to co-sponsor this festival. Through co-sponsorship the City agrees to the following: (1) Permission to attach the lighted garland decorations to the antique lamp posts in the downtown district. (2) On-site support from City Electricians (3) authorization for an outdoor fireworks display in the city limits in accordance with City policy. 4) Assistance from NPD and NFD with crowd control and traffic during the lighted Christmas Parade.

COST: N/A

BUDGET AMENDMENT REQUIRED?: No

| FUNDING: | Acct. Name & No. | Original Budget | Requested |
|-----------------|-----------------------------|------------------------|------------------|
|-----------------|-----------------------------|------------------------|------------------|

| | | | |
|------------------|---------------------------------|--|--|
| SCHEDULE: | November 15 - December 13, 2014 | | |
|------------------|---------------------------------|--|--|

RECOMMENDED ACTION: Approve Co-sponsorship of the Nine Flags Festival

CITY CONTACT: Sarah O'Brien, Main Street Manager, 559-2573
Melissa Sanford (CVB), 564-7351

ATTACHMENTS: None.

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: Public Hearing: Consider the request for specific use permit to construct an accessory apartment in an R-1, Single Family Residential zoning district, for Lot 4, Bostwick Lane Subdivision, City Block 67, located at 324 Burrows Street. This request has been submitted by David Vineyard. SUP2014-002.

MEETING DATE: November 10, 2014

DESCRIPTION: The applicant has requested a specific use permit to construct an accessory apartment to the rear of 324 Burrows Street. The zoning ordinance defines as accessory apartment as an "accessory dwelling for the use and occupancy by any person employed on the premises on a full-time basis for domestic or medical help or family members to the second degree of consanguinity and affinity. Such dwelling shall not have separate utility services or meters." The property owners plan to utilize the structure as a pool house and a guest house for family members. A specific use permit is required in this circumstance, because the property owners wish to include a kitchen in the accessory structure. The zoning ordinance uses the inclusion of a kitchen in a structure to differentiate between a structure's status as a dwelling unit (an accessory apartment is a type of dwelling unit) or a pool house or simple storage building. The rationale behind this is that having a kitchen defines a separate living space. If no kitchen were included in the structure, it would be considered a simple pool house. The specific use permit process allows this structure to be constructed as a secondary dwelling unit (accessory apartment) on the lot, and family members to reside in the structure. Without the specific use permit process, only one single family home may exist on the property.

COST: N/A

BUDGET AMENDMENT REQUIRED?: No

FUNDING FROM CURRENT BUDGET

| FUNDING: | Acct. Name & No. | Adopted Budget | Balance | Requested |
|----------|------------------|----------------|---------|-----------|
| | N/A | | | |

SCHEDULE: This request is tentatively scheduled for the November 18th City Council agenda. If the request is approved by the City Council, the applicant may immediately apply for building permits.

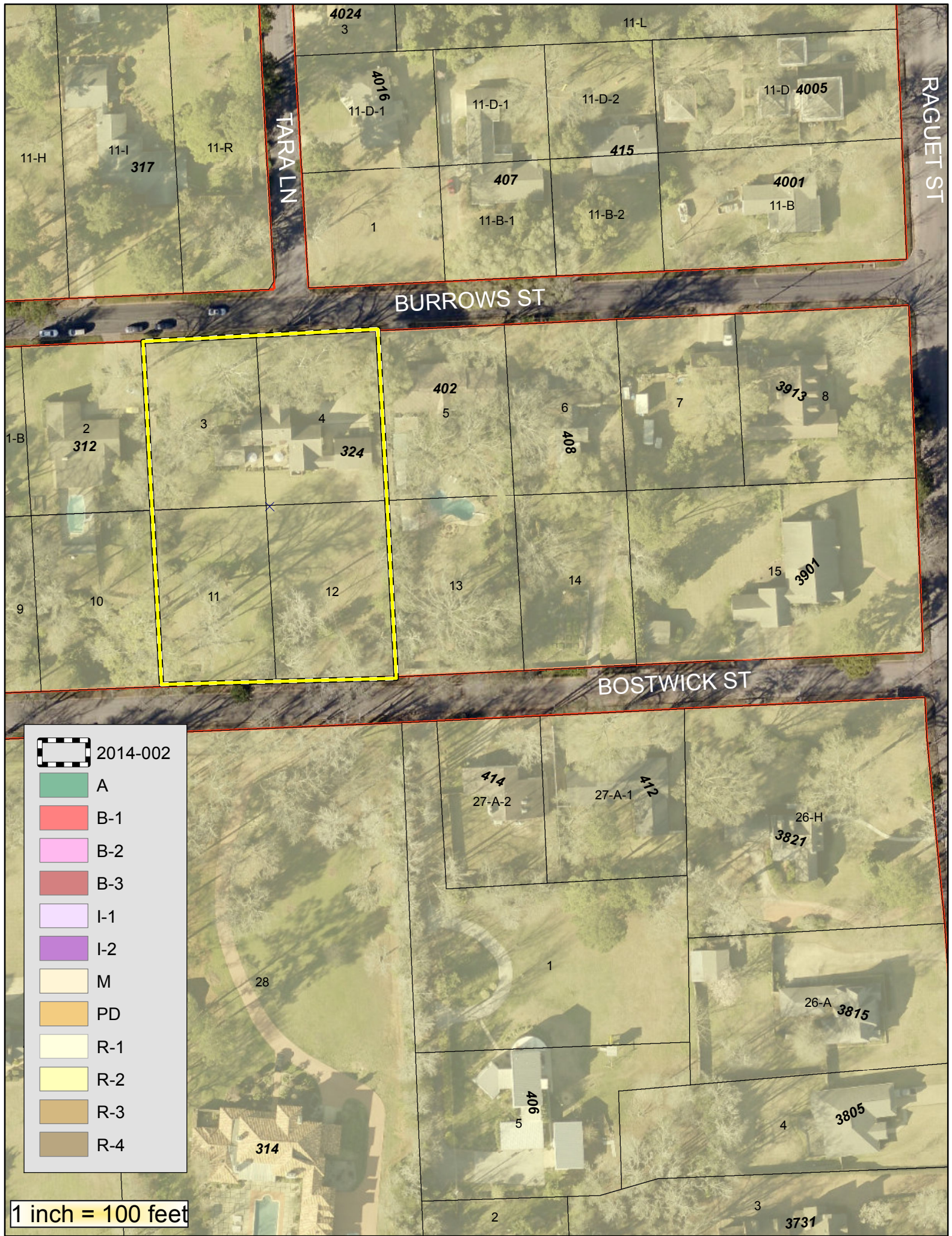
**RECOMMENDED
ACTION:**

Conditions for approval to be considered (staff comments are underlined):

- (1) The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;
The proposed accessory apartment is to be located on a 1.4 acre lot. The zoning ordinance requires at least 0.19 acres for each dwelling unit in this zoning district. The addition of a secondary accessory apartment to this large property will not significantly affect the density of the neighborhood, and thus is compatible with the surrounding properties.
- (2) The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property.
There is no surrounding vacant property.
- (3) Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;
Utilities and roads already exist. Adequate drainage is addressed by the City's drainage standards.
- (4) The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;
Any new driveways and parking spaces will have to meet the requirements of the zoning ordinance and driveway guidelines. No new parking or driveways are expected.
- (5) Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;
Outdoor lighting must meet the City's lighting ordinance restrictions, i.e. only downlighting, no spillover lighting onto neighboring properties.
- (6) Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided; and
The property is currently landscaped. Properties in residential zoning districts are not required to provide any landscaping improvements.
- (7) The proposed use is in accordance with the comprehensive plan.
The comprehensive plan recommends single family use for this property.

CITY CONTACT: Larissa Philpot, City Planner; 559-2572, philpotl@ci.nacogdoches.tx.us

ATTACHMENTS: Zoning map
Aerial photo



11-H
11-I
317
11-R

4024
3
11-L
11-D-1
11-D-2
11-D
4005
415
407
1
11-B-1
11-B-2
4001
11-B

RAGUET ST

BURROWS ST

1-B
2
312
3
4
324
402
5
6
408
7
3913
8
9
10
11
12
13
14
15
3901

BOSTWICK ST

27-A-2
414
27-A-1
412
26-H
3821
26-A
3815
406
5
3805
4
3731
2
3

314

28



TARALYN

BURROWS ST

BOSTWICK ST



2014-002

1 inch = 50 feet

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: Consider Chapter 380 Economic Development Program and Agreement (380 Agreement) between the City of Nacogdoches and HEB Grocery Company, LP (HEB).

MEETING DATE: November 18, 2014

DESCRIPTION: HEB requested a Chapter 380 Economic Development Program and Agreement with the City of Nacogdoches for construction of a grocery store at University Drive and Loop 224 anticipated to open in 2018. In order for HEB to receive an investment from the City of Nacogdoches the following must be satisfied:

- HEB will invest no less than \$15,000,000
- HEB will employ and maintain a minimum of 75 full time positions on or before December 31, 2018

Refund of property tax payments are as follows:

| Tax Year | Program Grant Payment |
|----------|------------------------------|
| 1 | 100% of Increased Taxes Paid |
| 2 | 100% of Increased Taxes Paid |
| 3 | 100% of Increased Taxes Paid |
| 4 | 95% of Increased Taxes Paid |
| 5 | 85% of Increased Taxes Paid |

The proposed construction site has extraordinary development costs due to the presence of wetlands. The 380 Agreement calls for an additional City investment of \$222,745. The mitigation pipeline total anticipated cost \$360,975.

RECOMMENDED

ACTION: Approve Chapter 380 Economic Development Program and Agreement with HEB Grocery Company, LP for construction of grocery store.

CONTACT: Jim Jeffers, City Manager
936-559-2501
jeffers@ci.nacogdoches.tx.us

ATTACHMENTS: Chapter 380 Development Program and Agreement
Economic Impact Analysis

**CITY OF NACOGDOCHES, TEXAS
AND
HEB GROCERY COMPANY, LP**

**CHAPTER 380 ECONOMIC DEVELOPMENT
PROGRAM AND AGREEMENT**

This **CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND AGREEMENT** (hereinafter referred to as the “Agreement”) is made and entered into by and between the **CITY OF NACOGDOCHES, TEXAS**, a Texas home-rule municipality (the “City”), and **HEB GROCERY COMPANY, LP**, a Texas limited partnership, its successors and assigns (“Developer”).

RECITALS:

WHEREAS, Developer is contemplating development of the “Project,” as more particularly described in *Exhibit “A,”* attached hereto and incorporated herein.

WHEREAS, the City is authorized by Chapter 380 of the Texas Local Government Code to make loans and grants of public funds for the purposes of promoting local economic development and stimulating and enhancing business and commercial activity within the City.

WHEREAS, the City has established an economic development program which authorizes the City to make such economic development loans and grants.

WHEREAS, the City has determined that a grant of funds to Developer for the Project will serve the public purposes of promoting local economic development, helping eliminate unemployment and underemployment in the City, and stimulating and enhancing business and commercial activity within the City.

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City, and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code, and further, is in the best interests of the City and Developer.

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution, by assisting in the development and diversification of the economy of the State, by helping to eliminate unemployment or underemployment in the State, and by the development or expansion of commerce within the State.

WHEREAS, the City desires and agrees to enter into this Agreement with Developer in order to implement the economic development program described herein and shall follow all applicable rules and procedures prescribed by the City’s Charter and the laws of the State in providing Developer the economic development incentives described herein.

WHEREAS, development of the Property will require the Developer to incur extraordinary site development expenses that must be offset to allow development of the Project ; and

WHEREAS, the Developer desires and agrees to enter into this Agreement with City in order to construct and operate the Project described herein, and to create and retain jobs.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer agree as follows:

SECTION 1. RECITALS INCORPORATED.

The foregoing Recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants and consideration that bind the parties.

SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date, and shall continue until the earlier of: (a) sixth anniversary of the January 1st that follows the issuance of a Certificate of Occupancy for the Project, (b) the date upon which any Program Grant Payments due to Developer have been paid in full; or (c) the date terminated sooner under the provisions hereof. The “Effective Date” shall be the date that both parties have executed the Agreement.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

(a) **Certificate of Occupancy.** The words “Certificate of Occupancy” mean the certificate of occupancy issued by the City for the Project, which certificate the City shall not unreasonably withhold, condition or delay.

(b) **Full-Time Equivalent Employment Positions.** The words “Full-Time Equivalent Employment Position” or “Full-Time Equivalent Employment Positions” mean the number of employment positions that is obtained by dividing (i) the total number of paid hours of work (both full-time and part-time) at the Project (including hours paid to employees for vacation, sick leave, holidays, or other paid non-work days) by (ii) Two Thousand Eighty (2,080) hours.

(c) **Personalty.** The word “Personalty” means the taxable tangible personal property, including inventory and supplies other than tangible personal property that was appraised on the property tax rolls of the Nacogdoches County Appraisal District prior to the period covered by this Agreement.

(d) **Program Grant or Program Grant Payment.** The words “Program Grant” or “Program Grant Payment” mean the economic development grants paid by the City to Developer in accordance with this Agreement, including: (a) the Site Development Grant pursuant to Section 5(c) of this Agreement; and (b) annual payments computed with reference to ad valorem taxes generated by the Retail Development Sites, improvements thereto and Personalty, unless modified pursuant to Section 5(b) of this Agreement. The Program Grant Payment shall be based upon property taxes paid on the Retail Development Sites by Developer and/or third parties.

(e) **Property.** The word “Property” means the approximately 11.7648 acres of land situated at the southeast corner of the intersection of University Drive (F.M. 1275) and Stallings Drive (State Highway Loop 224) in the City of Nacogdoches, Nacogdoches County, and as more particularly described and/or depicted in *Exhibit B* of this Agreement, which exhibit is attached hereto and incorporated herein for all purposes.

(f) **Qualified Expenditures.** The words “Qualified Expenditures” mean all hard and soft costs associated with the development and construction of the infrastructure and improvements for the Project, as such expenditures are described in *Exhibit C* of this Agreement, which is attached hereto and incorporated herein for all purposes.

(g) **Related Documents.** The words “Related Documents” mean and include without limitation any and all promissory notes, loan agreements, grant agreements, performance agreements, tax abatement agreements, and/or developer participation agreement, whether now or hereafter existing, entered by and between the City and Developer in connection with this Agreement.

(h) **Retail Development Sites.** The phrase “Retail Development Sites” shall mean, collectively, the Property and the West Retail Site.

(i) **Sales and Use Tax.** The words “Sales and Use Tax” or “Sales and Use Taxes” mean the City’s municipal sales and use tax, pursuant to section 321.103(a) of the Texas Tax Code, as amended. The current Sales and Use Tax rate is one percent (1%).

(j) **State.** The word “State” means the State of Texas.

(k) **State Comptroller.** The words “State Comptroller” mean the Office of the Texas Comptroller of Public Accounts, or any successor agency.

(l) **Term.** The word “Term” means the duration of this Agreement as specified in Section 2 of this Agreement.

(m) **West Retail Site.** The phrase “West Retail Site” shall mean the approximately 8.3109-acre parcel situated at the southwest corner of the intersection of University Drive (F.M. 1275) and Stallings Drive (State Highway Loop 224) in the City of

Nacogdoches, Nacogdoches County, as more particularly described and/or depicted in *Exhibit B-1* of this Agreement, which exhibit is attached hereto and incorporated herein for all purposes.

SECTION 4. INCENTIVE CONDITIONS OF DEVELOPER.

Developer has no obligation to construct the Project or develop the West Retail Site. However, in order for Developer to receive the Program Grant payments, pursuant to Section 5 of this Agreement, the following are conditions that must be satisfied by Developer:

(a) **Construction of Qualified Expenditures.** Developer shall have developed or caused to be developed the Project for an amount no less than **Fifteen Million Dollars (\$15,000,000)** and shall submit to the City invoices, receipts, or other similar documentation for the Qualified Expenditures in an amount of no less than **Fifteen Million Dollars (\$15,000,000)**, and in a form reasonably acceptable to the City by December 31, 2018.

(b) **Certificate of Occupancy.** Developer shall have obtained or caused to be obtained from the City a Certificate of Occupancy for the Project by October 31, 2018, subject to Force Majeure.

(c) **Job Creation and Retention.** On or before December 31, 2018, and thereafter during the Term of this Agreement, Developer shall employ and maintain a minimum of seventy-five (75) Full-Time Equivalent Employment Positions working at the Project (the “Employment Commitment”). It is understood and agreed that Developer may satisfy the Employment Commitment by an aggregation of all hours worked at all employment positions at the Project, both full time and part time, over the subject twelve month period. The Employment Commitment shall be maintained thereafter during the Term of this Agreement, subject to Force Majeure.

(d) **City Sales Tax Matters.** As a portion of the consideration for this Agreement, and to the maximum extent permitted under applicable law, Developer covenants and agrees to structure all contracts relating to the construction of the improvements and facilities on the Property to which Developer (or a related entity) is a party, in a manner that requires City sales and use taxes to be collected and remitted with respect to the purchase of all construction materials and other taxable items for such improvements and facilities, other than those purchased for resale. Without limiting the generality of the immediately preceding sentence, Developer shall cause each contract with a contractor to:

- (i.) be structured as a “separated contract” as such term is defined in 34 Texas Administrative Code 3.291(a)(13) with the result that:
 - a. the agreed contract price under the contract is divided into (A) a separately stated agreed contract price for incorporated materials, and (B) a separately stated amount for all skill and labor that includes fabrication, installation, and other labor that is performed by the contractor; and

- b. the contractor is required under 34 Texas Administrative Code 3.291(a)(13) to collect City sales and use taxes on the charge to Developer for construction materials and other taxable items based on the location of the improvements and facilities to be constructed in the City; and
- (ii.) contain provisions requiring such contractor to issue, and to cause each subcontractor and each sub-subcontractor to issue, properly completed Texas Sales and Use Tax Resale Certificates and/or other certifications or documentation, as appropriate, to all subcontractors and sub-subcontractors, and to take such other actions as are necessary or advisable, in order to claim, obtain and/or evidence that the materials and other taxable items for the improvements and facilities to be constructed in the City pursuant hereto are subject to City sales taxes based on the location of the improvements and facilities to be constructed on the Property.

Notwithstanding any other provision hereof, the sole remedy of the City with regard to any failure of the Developer to comply with this Section 4(d) shall be to require the Developer to pay to the City the sales and use tax revenue lost by the City as a result of the Developer's failure to comply with this Section. Developer shall not be liable for sales and use tax revenue lost by any taxing authority other than the City for failure to comply with this Section 4(d).

- (e) **Annual Compliance Verification.** Beginning on the January 1 that follows the issuance of the Certificate of Occupancy, and annually thereafter during the Term of this Agreement, Developer shall deliver to City an Annual Compliance Verification signed by a duly authorized representative of Developer that shall certify the following:
 - (i.) the taxable appraised value of the Property and Personalty located on the Property for the applicable prior tax year (as determined by the Nacogdoches County Appraisal District;
 - (ii.) the ad valorem taxes paid to the City for the Property and Personalty located on the Property for the applicable prior tax year; and
 - (iii.) the number of Full-Time Equivalent Employment Positions, and the average wage paid by Developer for Full-Time Equivalent Employment Positions employed at the Property, as required by this Agreement, as of the reporting date.

- (f) **Payment of Ad Valorem Taxes.** Developer covenants and agrees to pay by January 31st of each year all of the real and business personal ad valorem taxes due for the previous tax year on the Property, unless Developer is protesting said taxes in accordance with applicable law.
- (g) **Performance.** Developer agrees to perform and comply with all applicable terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between Developer and the City.

SECTION 5. PERFORMANCE REQUIREMENTS OF CITY.

City covenants that while this Agreement is in effect, City shall comply with the following terms and conditions:

(a) Rebate of Increased Property Taxes.

The City shall annually make a Program Grant Payment to Developer from the increased ad valorem taxes (both real property and Personalty) due from the Retail Development Sites and paid to the City by the Developer or third parties, to the extent that such taxes exceed the amount of City's ad valorem taxes (both real property and Personalty) collected from the Retail Development Sites for tax year 2017 (the "Increased Taxes Paid"). Program Grant Payments will occur for five (5) tax years. The first year of the Program Grant Payment pursuant to this Section 5 of this Agreement shall be the first tax year that begins after the City issues a Certificate of Occupancy for the Project and the Project is fully assessed by the taxing authorities. The respective Program Grant Payments shall be based upon the following percentages:

| Tax Year | Program Grant Payment |
|-----------------|-------------------------------------|
| 1 | 100% of Increased Taxes Paid |
| 2 | 100% of Increased Taxes Paid |
| 3 | 100% of Increased Taxes Paid |
| 4 | 95% of Increased Taxes Paid |
| 5 | 85% of Increased Taxes Paid |

The City covenants and agrees to pay the Program Grant Payment to Developer within thirty (30) days following receipt of the latter of: (1) a tax certificate verifying ad valorem taxes (both real property and Personalty) paid to the City for the Retail Development Sites; and (2) the Annual Compliance Verification.

(b) Reduction in Program Grant Payments.

Should Developer elect, in its sole discretion, to not acquire the West Retail Site prior to the issuance of the Certificate of Occupancy for the Project, then the West Retail Site shall not be included in the calculation of Program Grant Payments due to Developer under this Agreement.

(c) Site Development Grant

Within thirty (30) days following the issuance of the Certificate of Occupancy for the Project and in addition to other payments made under this Agreement, the City shall pay Developer a one-time Program Grant of Two Hundred Twenty-Two Thousand Seven Hundred Forty-Five Dollars and no cents (\$222,745.00) (the “Site Development Grant”) to off-set extraordinary site development costs incurred by HEB for the Project.

SECTION 6. CESSATION OF DISBURSEMENTS AND SITE DEVELOPMENT GRANT RECAPTURE.

6.1 The City shall have no obligation to advance or disburse funds hereunder if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default by Developer occurs and remains uncured beyond all applicable grace and/or notice and cure periods.

6.2 The Developer shall be obligated to reimburse the City for all or a portion of the Site Development Grant pursuant to the table set forth below if either of the following occurs after the payment of the Site Development Grant to Developer (any such event, a “Recapture Event”): (i) the Developer fails to open a grocery store at the Project within 120 days following receipt of the Site Development Grant (subject to cure periods and Force Majeure), or (ii) after opening the grocery store, the Developer ceases to operate said grocery store for more than 30 days during the remainder of the Term of this Agreement for any reason other than a casualty. In the event of a Recapture Event, the Developer shall reimburse the City as follows with respect to the Site Development Grant within thirty (30) days following receipt of written demand from the City:

| Timing of Recapture Event Following Certificate of Occupancy of Grocery Store | Percent of Site Development Grant Subject to Reimbursement to City |
|--|---|
| Zero – up to 12 months | 100% Reimbursement |
| 12 months up to 24 months | 80% Reimbursement |
| 24 months up to 36 months | 60% Reimbursement |
| 36 months up to 48 months | 40% Reimbursement |
| 48 months up to 60 months | 20% Reimbursement |
| After 60 months | No Reimbursement |

SECTION 7. EVENTS OF DEFAULT. An Event of Default shall exist under this Agreement because of the Failure by either party hereto to comply with or to perform any term, obligation, covenant or condition contained in this Agreement.

SECTION 8. EFFECT OF AN EVENT OF DEFAULT.

If an Event of Default occurs, the non-defaulting party shall give written notice to the other party of the specific Event of Default, and the defaulting party shall have thirty (30) days to cure said default (as to defaults reasonably curable within such period) or commences to cure alleged default within said thirty (30) days and diligently pursues the cure to its conclusion (as to defaults not reasonably curable within thirty (30) days). Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement. In the event Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the sole remedy of the City shall be to terminate the Agreement and cease making payments to Developer described in Section 5 of this Agreement. Developer specifically agrees that City shall only be liable to Developer for the Program Grant Payments (and other amounts provided herein) and shall not be liable for any alleged consequential damages. The City acknowledges that Developer is acting in reliance upon the City's performance of their respective obligations under this Agreement in making its decision to commit substantial resources and money to develop the Project. Notwithstanding anything to the contrary herein, the City and Developer hereby acknowledge and agree that this Agreement is subject to the provisions of Subchapter I of Chapter 271, Texas Local Government Code, as amended. The City agrees that its immunity from suit is waived for the purpose of adjudicating a claim for breach of this Agreement, which is subject to the terms and conditions of Subchapter I of Chapter 271, Texas Local Government Code, as amended.

SECTION 9. CHANGES IN LAWS.

If any state or federal statute, regulation, or other law hereafter enacted renders this Agreement void or illegal, including case law established after the date hereof holding that a Chapter 380 Economic Development Agreement rebating ad valorem taxes such as this Agreement is an unconstitutional debt; or the federal government implements the Streamlined Sales and Use Tax or similar legislation in such a manner as to change the consummation of a sales and use tax event to a tax situs outside of the City, thereby eliminating the City's rights in the sales tax proceeds paid by Developer for taxable sales located on the Property, the City may elect to provide to Developer such other economic incentives, payments, fee waivers, and/or other valuable consideration so as to preserve as nearly as possible the intent of the parties and in any event to preserve to Developer all of the economic benefits which would have otherwise accrued to and been afforded Developer under this Agreement. Such other consideration may include, without limitation, the creation of an interest and sinking fund for Developer's benefit. The documentation of this other consideration shall be subject to Developers review and approval, such approval not to be unreasonably withheld.

SECTION 10. INDEMNIFICATION.

Developer shall indemnify, save, and hold harmless the City, its council members, officers, agents, and employees (collectively, the "Indemnitees") from and against: (i) any and all claims, demands, actions or causes of action that are asserted against any Indemnitee if the claim, demand, action or cause of action is a result of Developer's tortious interference with contract or business interference, or Developer's wrongful or negligent

use of the City's financial assistance by Developer or its agents and employees; (ii) any claim, demand, action or cause of action which contests or challenges the legal authority of Developer to enter into this Agreement; and (iii) any and all liabilities, losses, costs, or expenses (including reasonable attorneys' fees and disbursements) that any Indemnatee suffers or incurs as a result of any of the foregoing; provided, however, that Developer shall have no obligation under this Section to the City with respect to any of the foregoing arising out of the gross negligence or willful misconduct of any Indemnatee or the breach by the City of this Agreement. If any claim, demand, action or cause of action is asserted against any Indemnatee, such Indemnatee shall promptly notify Developer, and failure to so promptly notify Developer shall release Developer's obligations under this Section if such failure prejudices Developer's right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. If requested by Developer in writing, as so long as no Default or Event of Default shall have occurred and be continuing, such Indemnatee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit Developer to participate in such contest. Any Indemnatee that proposes to settle or compromise any claim, demand, action, cause of action or proceeding for which Developer may be liable for payment of indemnity hereunder shall give Developer written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain Developer's concurrence thereto.

SECTION 11. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

(a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

(b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Nacogdoches County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Nacogdoches County, Texas.

(c) **Assignment.** Without prior notice or consent of City, Developer may assign this Agreement to any limited partnership, limited liability company, or corporation owned or controlled by Developer, or under common ownership or control with Developer (an "*Affiliate*"). With the consent of City, Developer may assign this agreement, as collateral, to any lender advancing funds for the construction of the Project (or any refinance thereof), and assign this Agreement in whole or in part (as applicable) to any person or entity purchasing all or part of the Project and/or the Property who has financial strength and experience in the successful operation of business substantially similar to the Project, with such consent not to be unreasonably withheld or delayed.

(d) **Binding Obligation.** This Agreement shall become a binding obligation on the parties hereto upon execution by all signatories hereto. The City warrants and represents as follows: that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same; and the Agreement is authorized by State law, including but not limited to, Chapter 380 of the Texas Local Governmental Code, is within the authority of the City, and constitutes a legal and binding obligation of the City. Developer warrants and represents that the individual executing this Agreement on Developer's behalf has full authority to execute this Agreement and bind Developer to the same.

(e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.

(f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

(g) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, court injunction or other cause outside the control of the party who is to perform ("Force Majeure"), the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

(h) **Notice.** Any notice or other communication ("Notice") given under this Agreement must be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the Party, or an agent of the Party; or (iii) by confirmed facsimile, provided that a copy of the Notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the manner specified will be effective two (2) business days after deposit. Notice given in any other manner will be effective only if and when received by the Party to be notified. For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows::

if to Developer: HEB Grocery Company, LP
646 South Main Avenue
San Antonio, Texas 78204
Attn: Executive Vice President
Telephone: (210) 938-8207

with a copy to: Golden Steves Cohen & Gordon, LLP
300 Convent Street, Suite 2600
San Antonio, Texas 78205
Attn: Stephen L. Golden
Telephone: (210) 745-3700

if to the City: City of Nacogdoches
Attn.: James P. Jeffers, City Manager
202 E. Pilar
Nacogdoches, Texas 75961

with a copy to: Robert Atherton
City Attorney
202 E. Pilar
Nacogdoches, Texas 75961
Telephone: (936) 559-2503

(i) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

(j) **Undocumented Workers.** Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement plus interest, at the rate of two and one-half percent (2.5%), not later than the 120th day after the date the City notifies Developer of the violation.

(k) **Mutual Assistance.** The parties shall do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions, including, but not limited to, executing and delivering any additional documents and agreements reasonably necessary to implement this Agreement.

(l) **Attorneys Fees.** In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

CITY:

CITY OF NACOGDOCHES, TEXAS,
a Texas home-rule municipality

By: _____,
_____, Mayor

Date: _____, 2014

ATTEST:

_____, City Secretary

APPROVED AS TO FORM:

_____, City Attorney

DEVELOPER:

HEB GROCERY COMPANY, LP,
a Texas Limited Partnership

By: _____
Todd A. Piland, Executive Vice President

Date: _____, 2014

Exhibit A

Project Description

For purposes of this Agreement, the “Project” means development of a mixed-use commercial center located on the Property that shall include the development of the following: (a) a grocery store of no less than 60,000 gross square-feet; and (b) at least 10,000 gross square feet of additional commercial space suitable for retail purposes.

The Project may also include, at Developer’s sole discretion, a retail gas and/or car wash facility on the Property.

Exhibit B
Property Description

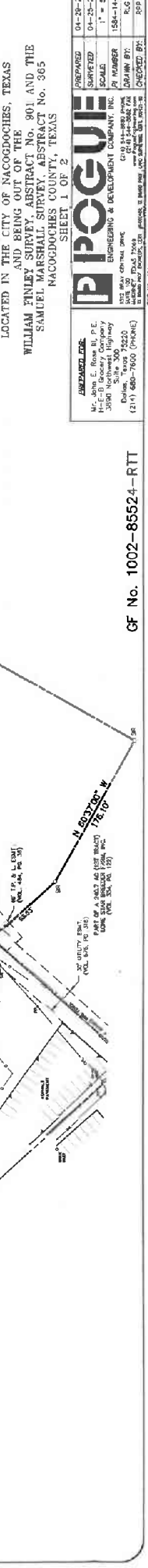
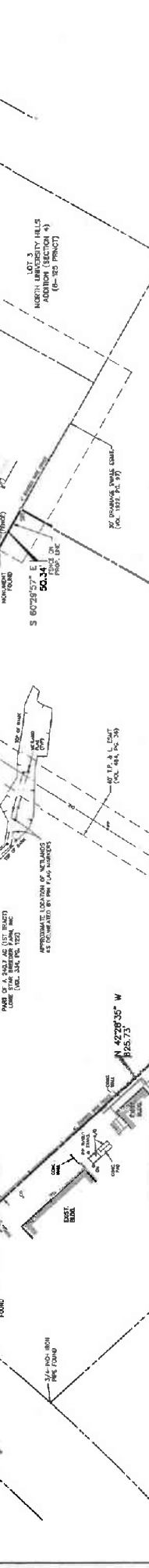
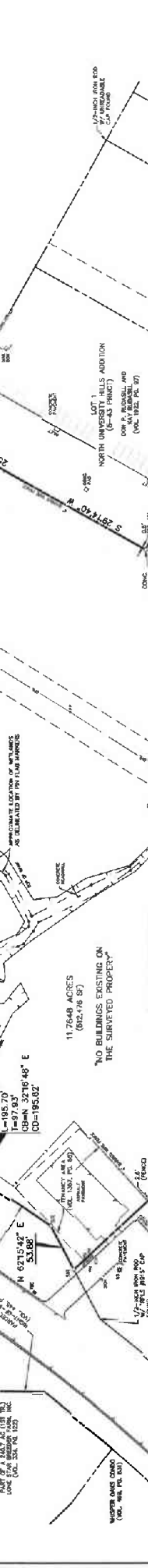
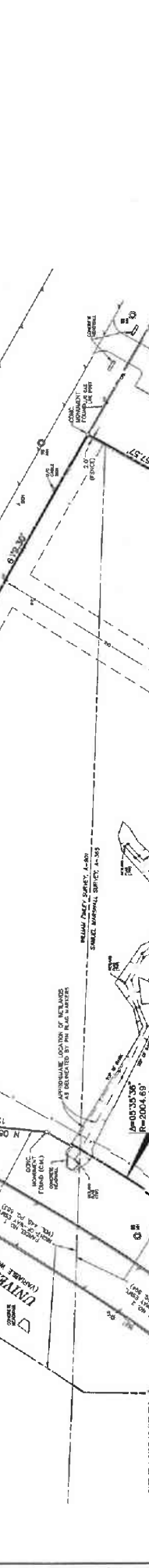
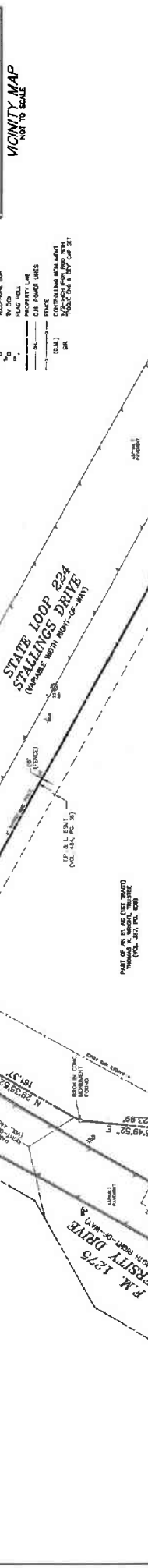
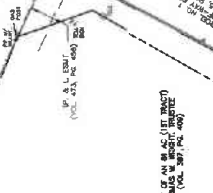
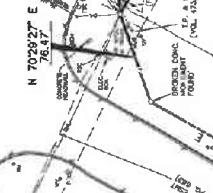
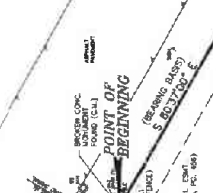
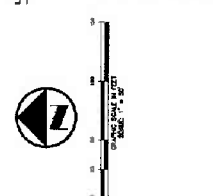


Exhibit B-1
West Retail Site

COMP NO: 1594-18-019 ALTA WEST LING

Exhibit C
Qualified Expenditures of Project

For purposes of this Agreement, “Qualified Expenditures” shall mean all costs incurred by Developer to develop the Property and the Project (excluding the acquisition of property), including but not limited to the following:

“Soft Costs”

1. Engineering expenses
2. Surveying expenses
3. Architectural expenses
4. Environmental assessments (including wildlife or wetlands assessments)
5. Legal expenses
6. Application Fees for local, state or federal permits
7. Testing fees related to the Project or infrastructure constructed in connection with Project
8. Expenses incurred for wetlands mitigation
9. Professional consultant studies conducted in connection with the Project, such as traffic impact analysis and reports delineating wetlands areas.

“Hard Cost”

1. Grading and other site work, including reclamation, soil retention systems (including retaining walls), Storm Water Pollution Prevention Plan improvements, and/or wetlands mitigation and protection.
2. Relocation and/or installation of water, wastewater, storm water, electrical, gas, telecommunication, fiber optic and/or cable television utilities facilities and lines
3. Construction of, or improvements to, public infrastructure installed in connection with the Project, including traffic control devices; public streets, alleys and sidewalk; driveways, acceleration/deceleration lanes, and all lighting, signage and landscaping installed within public rights of way.
4. Construction or installation of other site work, including: foundations, driveways, acceleration/deceleration lanes, parking facilities and related lighting
5. Construction of structures, including grocery store, commercial buildings, retail gas distribution facilities and car wash buildings
6. Landscaping of the Property, including any irrigation systems and hardscape
7. Signage and other equipment installed on the Property related to a grocery store operation, including cart return systems

Personalty

1. All fixtures, furniture, shelving, equipment and business personal property installed within structures used by the Developer.

A Report of the Economic Impact of HEB in Nacogdoches, Texas

November 12, 2014

Prepared for:

Nacogdoches Economic Development Corporation
412 North Street, Suite E
Nacogdoches, Texas 75961

Prepared by:

Impact DataSource
4709 Cap Rock Drive
Austin, Texas 78735
(512) 892-0205
Fax (512) 892-2569
www.impactdatasource.com

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A Report of the Projected Economic Impact from HEB

Introduction

This report presents the results of an economic impact analysis performed by Impact DataSource, Austin, Texas. The analysis was to determine the impact that HEB will have on the economy of the Nacogdoches area and the costs and benefits for local taxing districts over the first years.

Description of the Facility

HEB plans at 60,000 square foot grocery store in Nacogdoches.

An estimated \$15 million will be invested in the facility.

In addition, the facility expects to have annual taxable sales of \$8,750,000 in taxable sales.

The facility expects to create 110 jobs with an annual payroll of \$3 million.

How the facility will impact the economy of the area is discussed next.

The Estimated Economic Impact of the Facility over the First Ten Years

The facility will have the following economic impact on the Nacogdoches area over the first ten years:

| Economic Impact over the First Ten Years | |
|---|---------------|
| Total number of permanent direct and indirect jobs to be created | 152 |
| Number of direct and indirect workers who will move to the City | 6 |
| Number of new residents in the City | 9 |
| Number of new residential properties to be built in the City | 0 |
| Number of new students expected in Nacogdoches ISD | 1 |
| Salaries to be paid to direct and indirect workers | \$50,540,408 |
| Taxable sales and purchases expected in the City | \$119,834,915 |
| The value of new residential property to be built for direct and indirect workers who move to the City by Year 10 | \$0 |
| The facility's assets added to local tax rolls | \$15,025,000 |

How this economic activity translates into additional costs and benefits for local taxing districts is discussed next.

Costs and Benefits for Local Taxing Districts over the First Ten Years

Local taxing districts can expect costs and benefits over the first ten years from the facility, as scheduled below, beginning with the additional revenues to be received.

Additional Revenues for Local Taxing Districts

Local taxing districts can expect to receive the following revenues over the first 10 years from the facility, its employees and workers in indirect jobs created in the community.

| Additional Revenues For Local Taxing Districts Over the First Ten Years of the Facility's Operation | | | | | |
|---|--------------------|--------------------|------------------|------------------------|---------------------------|
| | Sales Taxes | Property Taxes | Utilities | Utility Franchise Fees | Building Permits and Fees |
| City of Nacogdoches* | \$1,198,349 | \$385,941 | \$412,585 | \$92,044 | \$84,000 |
| Nacogdoches County* | \$0 | \$362,055 | | | |
| Nacogdoches ISD | | \$1,834,032 | | | |
| Nacogdoches County Hospital District | \$1,198,349 | \$0 | | | |
| Total | \$2,396,698 | \$2,582,027 | \$412,585 | \$92,044 | \$84,000 |

| | Hotel Occupancy Taxes | Other Taxes and User Fees | Additional State and Federal School Funding | Total Additional Revenue |
|--------------------------------------|-----------------------|---------------------------|---|--------------------------|
| City of Nacogdoches | \$0 | \$3,942 | | \$2,176,862 |
| Nacogdoches County | | \$3,285 | | \$365,339 |
| Nacogdoches ISD | | | \$63,350 | \$1,897,382 |
| Nacogdoches County Hospital District | | | | \$1,198,349 |
| Total | \$0 | \$7,227 | \$63,350 | \$5,637,932 |

*City and county property tax collections after some taxes may be abated for the facility

Additional Costs for Local Taxing Districts

Local taxing districts will incur the following costs over the first 10 years, as a result of the facility and direct and indirect employees.

| Costs for Local Taxing Districts Over the First 10 Years of the Facility's Operation | | | | | |
|---|---|---|--|--|-------------|
| | Costs of Services to New Residents | Costs of Providing Monthly Utility Services | Costs of Educating New Students | Reduction in State School Funding as a Result of Property being Added to Local Tax Rolls | Total |
| City of Nacogdoches | \$19,709 | \$400,208 | | | \$419,917 |
| Nacogdoches County | \$6,570 | | | | \$6,570 |
| Nacogdoches ISD | | | \$56,311 | \$1,580,713 | \$1,637,024 |
| Nacogdoches County Hospital District | | | | | \$0 |
| Total | \$26,279 | \$400,208 | \$56,311 | \$1,580,713 | \$2,063,511 |

Additional Net Benefits

The additional public benefits less additional public costs will result in the following net benefits for the City, County and other local taxing districts over the first ten years of the facility's operation:

| Net Benefits for Local Taxing Districts Over the First 10 Years of the Facility's Operation | | | |
|--|-------------|-------------|--------------|
| | Benefits | Costs | Net Benefits |
| City of Nacogdoches | \$2,176,862 | \$419,917 | \$1,756,944 |
| Nacogdoches County | \$365,339 | \$6,570 | \$358,770 |
| Nacogdoches ISD | \$1,897,382 | \$1,637,024 | \$260,358 |
| Nacogdoches County Hospital District | \$1,198,349 | \$0 | \$1,198,349 |
| Total | \$5,637,932 | \$2,063,511 | \$3,574,421 |

Discounted Cash Flow for Local Taxing Districts

The discounted cash flow over the first ten years for each local taxing district from the new facility is as follows:

| Discounted Cash Flow Over the First Ten Years | |
|--|-------------|
| City of Nacogdoches | \$1,295,500 |
| Nacogdoches County | \$235,816 |
| Nacogdoches ISD | \$197,057 |
| Nacogdoches County Hospital District | \$895,683 |
| Total | \$2,624,056 |

The above discounted cash flow or present value of net benefits is a way of expressing in today's dollars, dollars to be paid or received in the future. Today's dollar and a dollar to be received or paid at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 6% to make the dollars comparable -- by expressing them in today's dollars or in present value.

Net Benefits to be Received by the City from (1) the Facility and (2) New Workers

The City of Nacogdoches will receive benefits from spending and investments by the facility and from spending by new workers. These benefits, over the first ten years, are shown below for these two categories.

| Schedule of Benefits for the City from the Facility and From New Workers | | | |
|---|----------------|----------------|-------------------|
| | Benefits from: | | Total Benefits |
| | The Facility | New Workers | |
| Additional revenues: | | | |
| Sales taxes | \$1,122,539 | \$75,811 | \$1,198,349 |
| Property taxes* | \$385,941 | \$0 | \$385,941 |
| Utility revenues | \$341,631 | \$70,954 | \$412,585 |
| Utility franchise fees | \$87,897 | \$4,147 | \$92,044 |
| Hotel occupancy taxes | \$0 | | \$0 |
| Other taxes and user fees | | \$3,942 | \$3,942 |
| Building permits and fees | \$84,000 | | \$84,000 |
| Total additional revenues | \$2,022,008 | \$154,854 | \$2,176,862 |
| Additional costs: | | | |
| Costs of providing utilities | \$331,382 | \$68,826 | \$400,208 |
| Costs of providing municipal services for new residents | | \$19,709 | \$19,709 |
| Total additional costs | \$331,382 | \$88,535 | \$419,917 |
| Net benefits | \$1,690,625 | \$66,319 | \$1,756,944 |
| Percent of total net benefits for the City | 96% | 4% | |

*Property tax collections after some taxes are rebated to the facility.

Property Taxes to be Rebated

The City of Nacogdoches and Nacogdoches County are considering rebating property taxes that the firm may pay at the following percentages:

| Percentage of Property Taxes to be Rebated | |
|--|------|
| Year 1 | 100% |
| Year 2 | 100% |
| Year 3 | 100% |
| Year 4 | 95% |
| Year 5 | 85% |
| Year 6 | 0% |
| Year 7 | 0% |
| Year 8 | 0% |
| Year 9 | 0% |
| Year 10 | 0% |

If taxes are rebated as proposed, the following property taxes will be rebated for the facility:

| Property Taxes to be Rebated for the Facility | | | |
|---|-----------|-----------|-----------|
| | City | County | Total |
| Year 1 | \$82,188 | \$77,102 | \$159,290 |
| Year 2 | \$78,809 | \$73,932 | \$152,741 |
| Year 3 | \$77,738 | \$72,926 | \$150,664 |
| Year 4 | \$72,856 | \$68,347 | \$141,203 |
| Year 5 | \$64,318 | \$60,337 | \$124,655 |
| Year 6 | \$0 | \$0 | \$0 |
| Year 7 | \$0 | \$0 | \$0 |
| Year 8 | \$0 | \$0 | \$0 |
| Year 9 | \$0 | \$0 | \$0 |
| Year 10 | \$0 | \$0 | \$0 |
| Total | \$375,909 | \$352,644 | \$728,553 |

An analysis of other incentives that the City may consider for the facility is next.

Analysis of Possible Incentives for the Facility

The city is considering the following city incentives for the project:

| Possible City Incentives for the Facility | |
|---|-----------|
| Reimbursement of development cost | \$223,000 |
| Total | \$223,000 |

Financial incentives that may be offered the facility may be considered as investments that the City is making in the facility.

Four calculations analyzing possible investments were made -- net benefits, discounted cash flow, rate of return on investment and payback period. Net benefits and discounted cash flow for the City are scheduled above. Rate of return on investment and payback period are discussed and scheduled below.

Rate of return on investment is the City's average annual rate of return from additional revenues that the City will receive on the investment of incentives that the City may make in the facility. Payback period is the number of years that it will take the City to recover the costs of incentives from the additional revenues that it will receive from the facility.

Average annual rates of return on investment each year over the first ten years and payback periods for the possible levels of other incentives are shown below.

| Rates of Return and Payback Periods Possible Other City Incentives | | |
|---|-----------------------------|---------------------------------|
| Incentives | Annual Rate of Return | Payback Period (In years) |
| \$223,000 | 78.8% | 1.0 |

Discussion of State Aid for the School District

This analysis seeks to calculate the impact on the school district's finances from the facility by generally, and at a summary level, mimicking the district's school funding formula.

According to the Texas Education Agency, any property added to local tax rolls and local taxes that this generates reduces state funding equivalent to local taxes collected for maintenance and operations.

The school district retains local taxes received for debt services and corresponding state funding is not reduced.

However, according to the Texas Education Agency, the school district will receive state aid for each new child that moves to the District. The additional revenues for the school district are calculated in this analysis.

Conduct of the Analysis

This analysis was conducted by Impact DataSource using data, rates and information supplied by the firm and the City of Nacogdoches. In addition, Impact DataSource used certain estimates and assumptions.

Using this data, the economic impact from the facility and the costs and benefits for the City of Nacogdoches, Nacogdoches County, Nacogdoches ISD, and Nacogdoches County Hospital District were calculated for a ten year period.

In addition to the direct economic impact of the facility and its employees, spin-off or indirect and induced benefits were also calculated. Indirect jobs and salaries are created in new or existing area firms, such as maintenance companies and service firms, that may supply goods and services to the facility. In addition, induced jobs and salaries are created in new or existing local businesses, such as retail stores, gas stations, banks, restaurants, and service companies that may supply goods and services to new workers and their families.

To estimate the indirect and induced economic impact of the facility and its employees on the Nacogdoches area, regional economic multipliers were used. Regional economic multipliers for Texas and areas of the state are included in the US Department of Commerce's Regional Input-Output Modeling System (RIMS II).

Two types of regional economic multipliers were used in this analysis: an employment multiplier and an earnings multiplier.

An employment multiplier was used to estimate the number of indirect and induced jobs created and supported in the Nacogdoches area. An earnings multiplier was used to estimate the amount of salaries to be paid to workers in these new indirect and induced jobs. The multipliers show the estimated number of indirect and induced jobs created for every one direct job at the facility and the amount of salaries paid to these workers for every dollar paid to a direct worker at the facility. The multipliers used in this analysis are below:

| | |
|-----------------------|--------|
| Employment multiplier | 0.3778 |
| Earnings multiplier | 0.5386 |

About Impact DataSource

Impact DataSource is a twenty-year-old Austin economic consulting, research and analysis firm. The firm has conducted economic impact analyses of numerous projects in Texas and 35 other states. In addition, the firm has developed economic impact analysis computer programs for several clients, including the New Mexico Economic Development Department.

The firm's principal, Jerry Walker, performed this economic impact analysis. He is an economist and has Bachelor of Science and Master of Business Administration degrees in accounting and economics from Nicholls State University, Thibodaux, Louisiana.

Data used in the analysis, along with schedules of the results of calculations, are on the following pages.

Data and Rates Used in this Analysis

Local Tax Rates:

Sales tax rates:

| | |
|--------------------------------------|------|
| City of Nacogdoches | 1.0% |
| Nacogdoches County | 0.0% |
| Nacogdoches County Hospital District | 1.0% |

| | |
|--|----|
| City of Nacogdoches hotel occupancy tax rate | 7% |
|--|----|

Property tax rates, per \$100 of valuation:

| | |
|---------------------|----------|
| City of Nacogdoches | \$0.5639 |
| Nacogdoches County | \$0.5290 |
| Nacogdoches ISD: | |
| M&O | \$1.1700 |
| I&S | \$0.1875 |
| Total ISD | \$1.3575 |

Some City Rates:

| | |
|--|-------|
| Annual marginal cost of providing municipal services, excluding utilities, to each new household | \$300 |
|--|-------|

| | |
|---|------|
| Estimated annual other taxes and user fees to be collected by the city from each new household -- those revenues that are in addition to sales and property taxes, utilities and utility franchise fees | \$60 |
|---|------|

| | |
|--|----|
| Annual increase expected in the city's other revenues and marginal costs | 2% |
|--|----|

| | |
|---|---------|
| The city's estimated annual water, wastewater and garbage collection billings per household | \$1,080 |
|---|---------|

| Utility Service | Estimated Monthly Billing | Estimated Annual Billing (Monthly billing x 12) |
|-----------------|---------------------------|--|
| Water | \$35 | \$420 |
| Wastewater | \$30 | \$360 |
| Solid waste | \$25 | \$300 |

| | |
|---|-----|
| The city's cost of providing water, wastewater and solid waste services, as a percent of utility billings | 97% |
|---|-----|

| | |
|---|----|
| Annual increase expected in city-owned utility billings | 2% |
|---|----|

The city's utility franchise fee percentages:

| | |
|--|--------|
| Electricity, as a percent of electric bill | 3% |
| Natural gas | 2% |
| Cable | 3% |
| Telephone monthly line access charge: | |
| Residential | \$0.81 |
| Non-residential | \$1.77 |

Annual utility franchise fees collected from utility providers for each household in the city as detailed below \$58.92

| Utility Service | Estimated Monthly Billing | Utility Franchise Fee Percentage | Monthly Utility Franchise Fee Collections | Estimated Annual Utility Franchise Fee Collections (Monthly collections x 12) |
|-----------------|---------------------------|----------------------------------|---|--|
| Electricity | \$70 | 3% | \$2.10 | \$25.20 |
| Natural gas | \$40 | 2% | \$0.80 | \$9.60 |
| Cable | \$40 | 3% | \$1.20 | \$14.40 |
| Telephone | 1 line | \$0.81 | \$0.81 | \$9.72 |

Some County Rates:

| | |
|---|-------|
| Annual marginal cost of providing county services to each new household | \$100 |
| Annual miscellaneous taxes and user fees to be collected from each new household, those county revenues other than property and sales taxes | \$50 |
| Annual increase expected in other county revenues and marginal costs | 2% |

Some School District Rates:

| | |
|--|---------|
| Estimated annual state, federal and other funding received by the district for each child enrolled | \$4,500 |
| Average annual cost of providing services to each child in the district | \$8,000 |
| Average annual cost for each new child, as a percent of average annual cost | 50% |
| Annual marginal cost of providing services to each new child | \$4,000 |

Other Community Rates:

| | |
|---|-----------|
| Expected inflation rate over the first ten years | 3.5% |
| Discount rate used in analysis to compute discounted cash flows | 6% |
| Percent of a typical worker's salary that will be spent on taxable goods and services | 30% |
| Average taxable value of a new single family residence in the community built for some individuals | \$130,000 |
| Percent annual increase in the taxable value of residential property and commercial real property on local tax rolls over the first ten years | 2% |

Depreciation rates:

To estimate the annual taxable or depreciable value of furniture, fixtures and equipment at the facility being analyzed in this analysis, this analysis uses straight line depreciation, a ten year life and a 20% residual value. Therefore, property taxes on the facility's furniture, fixtures and equipment are calculated on the following percentages of the costs of such equipment purchased each year:

| | |
|---------|-----|
| Year 1 | 90% |
| Year 2 | 80% |
| Year 3 | 70% |
| Year 4 | 60% |
| Year 5 | 50% |
| Year 6 | 40% |
| Year 7 | 30% |
| Year 8 | 20% |
| Year 9 | 20% |
| Year 10 | 20% |

The Facility's Investments, Assets and Construction:

The estimated investments at the facility each year:

| | Land | Buildings and Other Real Property Other Real Improve- Ments | Furniture, Fixtures, and Equipment | Total |
|---------|------|--|---|--------------|
| Year 1 | \$0 | \$10,500,000 | \$4,500,000 | \$15,000,000 |
| Year 2 | \$0 | \$0 | \$0 | \$0 |
| Year 3 | \$0 | \$0 | \$0 | \$0 |
| Year 4 | \$0 | \$0 | \$0 | \$0 |
| Year 5 | \$0 | \$0 | \$0 | \$0 |
| Year 6 | \$0 | \$0 | \$0 | \$0 |
| Year 7 | \$0 | \$0 | \$0 | \$0 |
| Year 8 | \$0 | \$0 | \$0 | \$0 |
| Year 9 | \$0 | \$0 | \$0 | \$0 |
| Year 10 | \$0 | \$0 | \$0 | \$0 |
| Total | \$0 | \$10,500,000 | \$4,500,000 | \$15,000,000 |

The facility's taxable inventories:

| | |
|---------|----------|
| Year 1 | \$25,000 |
| Year 2 | \$25,750 |
| Year 3 | \$26,523 |
| Year 4 | \$27,318 |
| Year 5 | \$28,138 |
| Year 6 | \$28,982 |
| Year 7 | \$29,851 |
| Year 8 | \$30,747 |
| Year 9 | \$31,669 |
| Year 10 | \$32,619 |

Estimated annual increase in the volume and value of inventories

3%

Spending During Construction:

Estimated spending for construction:

| | |
|---------|--------------|
| Year 1 | \$10,500,000 |
| Year 2 | \$0 |
| Year 3 | \$0 |
| Year 4 | \$0 |
| Year 5 | \$0 |
| Year 6 | \$0 |
| Year 7 | \$0 |
| Year 8 | \$0 |
| Year 9 | \$0 |
| Year 10 | \$0 |

Percent of construction costs for:

| | |
|-----------|-----|
| Materials | 60% |
| Labor | 40% |

| | |
|--|-----|
| Estimated percent of construction materials that will be purchased in the city and be subject to sales tax | 20% |
|--|-----|

| | |
|--|-----|
| Percent of taxable spending by construction workers that will be in the city | 20% |
|--|-----|

| | |
|---|-----|
| Estimated percent of furniture, fixtures and equipment that will be purchased in the city and be subject to sales tax | 25% |
|---|-----|

Estimated building permits and tap fees to be paid to the city:

| | |
|---------|----------|
| Year 1 | \$84,000 |
| Year 2 | \$0 |
| Year 3 | \$0 |
| Year 4 | \$0 |
| Year 5 | \$0 |
| Year 6 | \$0 |
| Year 7 | \$0 |
| Year 8 | \$0 |
| Year 9 | \$0 |
| Year 10 | \$0 |

Activities During the Facility's Operations:

The facility's taxable sales subject to sales tax in the city:

| | |
|---------|--------------|
| Year 1 | \$8,750,000 |
| Year 2 | \$9,056,250 |
| Year 3 | \$9,373,219 |
| Year 4 | \$9,701,281 |
| Year 5 | \$10,040,826 |
| Year 6 | \$10,392,255 |
| Year 7 | \$10,755,984 |
| Year 8 | \$11,132,444 |
| Year 9 | \$11,522,079 |
| Year 10 | \$11,925,352 |

Expected annual increase in taxable sales after the first year 4%

Estimated annual utilities at the facility:

| | Water | Wastewater | Solid Waste | Electricity | Natural Gas | Cable | Telephone |
|--------------------|----------|------------|----------------|-------------|----------------|---------|-----------|
| Year 1 | \$9,600 | \$9,600 | \$12,000 | \$240,000 | \$18,000 | \$4,200 | \$60,000 |
| Year 2 | \$9,792 | \$9,792 | \$12,240 | \$244,800 | \$18,360 | \$4,284 | \$61,200 |
| Year 3 | \$9,988 | \$9,988 | \$12,485 | \$249,696 | \$18,727 | \$4,370 | \$62,424 |
| Year 4 | \$10,188 | \$10,188 | \$12,734 | \$254,690 | \$19,102 | \$4,457 | \$63,672 |
| Year 5 | \$10,391 | \$10,391 | \$12,989 | \$259,784 | \$19,484 | \$4,546 | \$64,946 |
| Year 6 | \$10,599 | \$10,599 | \$13,249 | \$264,979 | \$19,873 | \$4,637 | \$66,245 |
| Year 7 | \$10,811 | \$10,811 | \$13,514 | \$270,279 | \$20,271 | \$4,730 | \$67,570 |
| Year 8 | \$11,027 | \$11,027 | \$13,784 | \$275,685 | \$20,676 | \$4,824 | \$68,921 |
| Year 9 | \$11,248 | \$11,248 | \$14,060 | \$281,198 | \$21,090 | \$4,921 | \$70,300 |
| Year 10 | \$11,473 | \$11,473 | \$14,341 | \$286,822 | \$21,512 | \$5,019 | \$71,706 |
| Annual increase | 2% | 2% | 2% | 2% | 2% | 2% | 2% |

Estimated number of telephone lines at the facility 15

The facility's estimated local taxable purchases of materials, supplies and services for its operations:

| | |
|---------|-----------|
| Year 1 | \$300,000 |
| Year 2 | \$309,000 |
| Year 3 | \$318,270 |
| Year 4 | \$327,818 |
| Year 5 | \$337,653 |
| Year 6 | \$347,782 |
| Year 7 | \$358,216 |
| Year 8 | \$368,962 |
| Year 9 | \$380,031 |
| Year 10 | \$391,432 |

Expected annual increase in taxable purchases after the first year 3%

The facility's total taxable purchases and taxable utilities:

| | Taxable Purchases of Supplies, Materials and Services | Utilities Subject to Sales Tax | | | |
|---------|---|--------------------------------------|--------------------|----------------------|-----------|
| | | Utilities Subject to Sales Tax | Percent Taxable | Taxable Utilities | Total |
| Year 1 | \$300,000 | \$322,200 | 100% | \$322,200 | \$622,200 |
| Year 2 | \$309,000 | \$328,644 | 100% | \$328,644 | \$637,644 |
| Year 3 | \$318,270 | \$335,217 | 100% | \$335,217 | \$653,487 |
| Year 4 | \$327,818 | \$341,921 | 100% | \$341,921 | \$669,739 |
| Year 5 | \$337,653 | \$348,760 | 100% | \$348,760 | \$686,412 |
| Year 6 | \$347,782 | \$355,735 | 100% | \$355,735 | \$703,517 |
| Year 7 | \$358,216 | \$362,850 | 100% | \$362,850 | \$721,065 |
| Year 8 | \$368,962 | \$370,107 | 100% | \$370,107 | \$739,069 |
| Year 9 | \$380,031 | \$377,509 | 100% | \$377,509 | \$757,540 |
| Year 10 | \$391,432 | \$385,059 | 100% | \$385,059 | \$776,491 |

Number of new workers hired at the facility each year:

| | |
|---------|-----|
| Year 1 | 110 |
| Year 2 | 0 |
| Year 3 | 0 |
| Year 4 | 0 |
| Year 5 | 0 |
| Year 6 | 0 |
| Year 7 | 0 |
| Year 8 | 0 |
| Year 9 | 0 |
| Year 10 | 0 |
| Total | 110 |

Number of new workers who will move to the city to take job at the facility:

| | |
|---------|---|
| Year 1 | 6 |
| Year 2 | 0 |
| Year 3 | 0 |
| Year 4 | 0 |
| Year 5 | 0 |
| Year 6 | 0 |
| Year 7 | 0 |
| Year 8 | 0 |
| Year 9 | 0 |
| Year 10 | 0 |
| Total | 6 |

Expected annual payroll \$3,000,000

Percent of expected increase in employee salaries after year 1 2.0%

Multipliers for calculating the number of indirect and induced jobs and earnings in the area:

| | |
|------------|--------|
| Earnings | 0.5386 |
| Employment | 0.3778 |

This cost-benefit analysis uses the above multipliers to project the indirect and induced benefits in the community as a result of the direct economic activity. The employment multiplier shows the number of spin-off jobs what will be created from each direct job. Similarly, the earnings multiplier estimates the salaries and wages to be paid to workers in these spin-off jobs for each \$1 paid to direct workers.

Percent employees to be hired in spin-off jobs created at the facility who will move to the city to take a job 0%

Percent of workers who move to the community that will buy a new home or require that new residential property be built for them 0%

The number of people in a typical worker's household 1.5

The number of school children in a typical worker's household 0.2

Percent of retail shopping by a typical worker in other parts of the city 50%

Schedules Showing the Results of Economic Impact Calculations

Number of local jobs added each year and worker salaries to be paid:

| Year | Direct Jobs | Indirect Jobs | Total Jobs | Direct Salaries | Indirect Salaries | Total Salaries |
|-------|----------------|------------------|---------------|--------------------|----------------------|-------------------|
| 1 | 110 | 42 | 152 | \$3,000,000 | \$1,615,680 | \$4,615,680 |
| 2 | 0 | 0 | 0 | \$3,060,000 | \$1,647,994 | \$4,707,994 |
| 3 | 0 | 0 | 0 | \$3,121,200 | \$1,680,953 | \$4,802,153 |
| 4 | 0 | 0 | 0 | \$3,183,624 | \$1,714,573 | \$4,898,197 |
| 5 | 0 | 0 | 0 | \$3,247,296 | \$1,748,864 | \$4,996,160 |
| 6 | 0 | 0 | 0 | \$3,312,242 | \$1,783,841 | \$5,096,084 |
| 7 | 0 | 0 | 0 | \$3,378,487 | \$1,819,518 | \$5,198,005 |
| 8 | 0 | 0 | 0 | \$3,446,057 | \$1,855,908 | \$5,301,965 |
| 9 | 0 | 0 | 0 | \$3,514,978 | \$1,893,027 | \$5,408,005 |
| 10 | 0 | 0 | 0 | \$3,585,278 | \$1,930,887 | \$5,516,165 |
| Total | 110 | 42 | 152 | \$32,849,163 | \$17,691,245 | \$50,540,408 |

Number of direct and indirect workers and their families who will move to the area and their children who will attend local public schools:

| Year | New Workers Moving to the Area | Total New Residents | Total New Students |
|-------|--------------------------------------|---------------------------|--------------------------|
| 1 | 6 | 9 | 1 |
| 2 | 0 | 0 | 0 |
| 3 | 0 | 0 | 0 |
| 4 | 0 | 0 | 0 |
| 5 | 0 | 0 | 0 |
| 6 | 0 | 0 | 0 |
| 7 | 0 | 0 | 0 |
| 8 | 0 | 0 | 0 |
| 9 | 0 | 0 | 0 |
| 10 | 0 | 0 | 0 |
| Total | 6 | 9 | 1 |

Number of new residential properties that may be built in the city for direct and indirect workers who will move to the community:

| Year | New Residential Properties |
|-------|----------------------------|
| 1 | 0 |
| 2 | 0 |
| 3 | 0 |
| 4 | 0 |
| 5 | 0 |
| 6 | 0 |
| 7 | 0 |
| 8 | 0 |
| 9 | 0 |
| 10 | 0 |
| Total | 0 |

Local taxable spending on which sales taxes will be collected:

| Year | Local Construction Workers' Spending and Furniture, Fixtures and Equipment | Direct and Indirect Workers' Spending | Visitors' Spending | Taxable Sales at the Facility | The Facility's Local Purchases and Taxable Utilities | Total |
|-------|--|---------------------------------------|--------------------|-------------------------------|--|---------------|
| 1 | \$2,637,000 | \$692,352 | \$0 | \$8,750,000 | \$622,200 | \$12,701,552 |
| 2 | \$0 | \$706,199 | \$0 | \$9,056,250 | \$637,644 | \$10,400,093 |
| 3 | \$0 | \$720,323 | \$0 | \$9,373,219 | \$653,487 | \$10,747,029 |
| 4 | \$0 | \$734,729 | \$0 | \$9,701,281 | \$669,739 | \$11,105,750 |
| 5 | \$0 | \$749,424 | \$0 | \$10,040,826 | \$686,412 | \$11,476,663 |
| 6 | \$0 | \$764,413 | \$0 | \$10,392,255 | \$703,517 | \$11,860,185 |
| 7 | \$0 | \$779,701 | \$0 | \$10,755,984 | \$721,065 | \$12,256,750 |
| 8 | \$0 | \$795,295 | \$0 | \$11,132,444 | \$739,069 | \$12,666,807 |
| 9 | \$0 | \$811,201 | \$0 | \$11,522,079 | \$757,540 | \$13,090,819 |
| 10 | \$0 | \$827,425 | \$0 | \$11,925,352 | \$776,491 | \$13,529,267 |
| Total | \$2,637,000 | \$7,581,061 | \$0 | \$102,649,690 | \$6,967,164 | \$119,834,915 |

Local spending by visitors on lodging by out-of-town visitors and out-of-town truckers:

| Year | Spending on Lodging |
|-------|------------------------|
| 1 | \$0 |
| 2 | \$0 |
| 3 | \$0 |
| 4 | \$0 |
| 5 | \$0 |
| 6 | \$0 |
| 7 | \$0 |
| 8 | \$0 |
| 9 | \$0 |
| 10 | \$0 |
| Total | \$0 |

Taxable value of new residential property built for direct and indirect workers who move to the community and the value of the facility's property on local tax rolls:

| Year | New Residential Property | Value of Property at the Facility on Local Tax Rolls | Total Taxable Property |
|------|--------------------------------|--|------------------------------|
| 1 | \$0 | \$14,575,000 | \$14,575,000 |
| 2 | \$0 | \$13,975,750 | \$13,975,750 |
| 3 | \$0 | \$13,785,723 | \$13,785,723 |
| 4 | \$0 | \$13,600,002 | \$13,600,002 |
| 5 | \$0 | \$13,418,675 | \$13,418,675 |
| 6 | \$0 | \$13,241,830 | \$13,241,830 |
| 7 | \$0 | \$13,069,557 | \$13,069,557 |
| 8 | \$0 | \$12,901,946 | \$12,901,946 |
| 9 | \$0 | \$13,144,093 | \$13,144,093 |
| 10 | \$0 | \$13,391,091 | \$13,391,091 |

Schedules Showing the Results of Costs and Benefits Calculations

Costs and Benefits for the City of Nacogdoches:

Benefits:**Sales tax collections on the facility's taxable sales:**

| Year | Taxable Sales at the Facility | Sales Taxes to be Rebated to the Facility | Sales Taxes to be Retained by the City After Rebates |
|-------|-------------------------------------|---|--|
| 1 | \$87,500 | \$0 | \$87,500 |
| 2 | \$90,563 | \$0 | \$90,563 |
| 3 | \$93,732 | \$0 | \$93,732 |
| 4 | \$97,013 | \$0 | \$97,013 |
| 5 | \$100,408 | \$0 | \$100,408 |
| 6 | \$103,923 | \$0 | \$103,923 |
| 7 | \$107,560 | \$0 | \$107,560 |
| 8 | \$111,324 | \$0 | \$111,324 |
| 9 | \$115,221 | \$0 | \$115,221 |
| 10 | \$119,254 | \$0 | \$119,254 |
| Total | \$1,026,497 | \$0 | \$1,026,497 |

Other sales tax collections:

| Year | During Construction and Purchases of Furniture, Fixtures and Equipment | On Direct and Indirect Workers' Spending | On Visitors' Spending | The Facility's Local Purchases and Taxable Utilities | Total Other Sales Tax Collections |
|-------|--|--|-----------------------------|--|---|
| 1 | \$26,370 | \$6,924 | \$0 | \$6,222 | \$39,516 |
| 2 | \$0 | \$7,062 | \$0 | \$6,376 | \$13,438 |
| 3 | \$0 | \$7,203 | \$0 | \$6,535 | \$13,738 |
| 4 | \$0 | \$7,347 | \$0 | \$6,697 | \$14,045 |
| 5 | \$0 | \$7,494 | \$0 | \$6,864 | \$14,358 |
| 6 | \$0 | \$7,644 | \$0 | \$7,035 | \$14,679 |
| 7 | \$0 | \$7,797 | \$0 | \$7,211 | \$15,008 |
| 8 | \$0 | \$7,953 | \$0 | \$7,391 | \$15,344 |
| 9 | \$0 | \$8,112 | \$0 | \$7,575 | \$15,687 |
| 10 | \$0 | \$8,274 | \$0 | \$7,765 | \$16,039 |
| Total | \$26,370 | \$75,811 | \$0 | \$69,672 | \$171,852 |

Costs and benefits for the City of Nacogdoches - Continued

Property tax collections on:

| Year | New Residential Property | Property at the Facility | | Total Taxes After Abatement | Total |
|-------|--------------------------------|--------------------------|-----------------|-----------------------------------|-----------|
| | | Taxes Collected | Taxes Abated | | |
| 1 | \$0 | \$82,188 | \$82,188 | \$0 | \$0 |
| 2 | \$0 | \$78,809 | \$78,809 | \$0 | \$0 |
| 3 | \$0 | \$77,738 | \$77,738 | \$0 | \$0 |
| 4 | \$0 | \$76,690 | \$72,856 | \$3,835 | \$3,835 |
| 5 | \$0 | \$75,668 | \$64,318 | \$11,350 | \$11,350 |
| 6 | \$0 | \$74,671 | \$0 | \$74,671 | \$74,671 |
| 7 | \$0 | \$73,699 | \$0 | \$73,699 | \$73,699 |
| 8 | \$0 | \$72,754 | \$0 | \$72,754 | \$72,754 |
| 9 | \$0 | \$74,120 | \$0 | \$74,120 | \$74,120 |
| 10 | \$0 | \$75,512 | \$0 | \$75,512 | \$75,512 |
| Total | \$0 | \$761,850 | \$375,909 | \$385,941 | \$385,941 |

Utilities and utility franchise fees collected by the city from new residents and from the facility:

| Year | Utilities | Utility Franchise Fees | Total |
|-------|-----------|------------------------------|-----------|
| | | | |
| 1 | \$37,680 | \$8,358 | \$46,038 |
| 2 | \$38,434 | \$8,535 | \$46,969 |
| 3 | \$39,202 | \$8,717 | \$47,919 |
| 4 | \$39,986 | \$8,902 | \$48,888 |
| 5 | \$40,786 | \$9,091 | \$49,877 |
| 6 | \$41,602 | \$9,284 | \$50,886 |
| 7 | \$42,434 | \$9,482 | \$51,916 |
| 8 | \$43,282 | \$9,684 | \$52,966 |
| 9 | \$44,148 | \$9,890 | \$54,039 |
| 10 | \$45,031 | \$10,102 | \$55,133 |
| Total | \$412,585 | \$92,044 | \$504,630 |

Costs and benefits for the City of Nacogdoches - Continued

Other city revenues, including hotel occupancy taxes, other taxes and user fees collected from new residents and building permits on construction at the facility:

| Year | Hotel Occupancy Taxes | Other Taxes and User Fees | Building Permits and Fees | Total Other Revenues |
|-------|-----------------------------|---------------------------------|---------------------------------|-------------------------|
| 1 | \$0 | \$360 | \$84,000 | \$84,360 |
| 2 | \$0 | \$367 | \$0 | \$367 |
| 3 | \$0 | \$375 | \$0 | \$375 |
| 4 | \$0 | \$382 | \$0 | \$382 |
| 5 | \$0 | \$390 | \$0 | \$390 |
| 6 | \$0 | \$397 | \$0 | \$397 |
| 7 | \$0 | \$405 | \$0 | \$405 |
| 8 | \$0 | \$414 | \$0 | \$414 |
| 9 | \$0 | \$422 | \$0 | \$422 |
| 10 | \$0 | \$430 | \$0 | \$430 |
| Total | \$0 | \$3,942 | \$84,000 | \$87,942 |

Costs and benefits for the City of Nacogdoches - Continued

Costs:

The costs of providing municipal services and utility services to new residents:

| Year | Cost of Services to New Residents | Costs of Utilities | Total Costs |
|-------|--|-----------------------|-------------|
| 1 | \$1,800 | \$36,550 | \$38,350 |
| 2 | \$1,836 | \$37,281 | \$39,117 |
| 3 | \$1,873 | \$38,026 | \$39,899 |
| 4 | \$1,910 | \$38,787 | \$40,697 |
| 5 | \$1,948 | \$39,562 | \$41,511 |
| 6 | \$1,987 | \$40,354 | \$42,341 |
| 7 | \$2,027 | \$41,161 | \$43,188 |
| 8 | \$2,068 | \$41,984 | \$44,052 |
| 9 | \$2,109 | \$42,824 | \$44,933 |
| 10 | \$2,151 | \$43,680 | \$45,831 |
| Total | \$19,709 | \$400,208 | \$419,917 |

Net Benefits for the City of Nacogdoches:

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|-------|-------------|-----------|-----------------|----------------------------|
| 1 | \$257,414 | \$38,350 | \$219,064 | \$219,064 |
| 2 | \$151,337 | \$39,117 | \$112,221 | \$331,285 |
| 3 | \$155,764 | \$39,899 | \$115,865 | \$447,149 |
| 4 | \$164,162 | \$40,697 | \$123,465 | \$570,614 |
| 5 | \$176,383 | \$41,511 | \$134,873 | \$705,487 |
| 6 | \$244,556 | \$42,341 | \$202,215 | \$907,702 |
| 7 | \$248,588 | \$43,188 | \$205,400 | \$1,113,102 |
| 8 | \$252,802 | \$44,052 | \$208,750 | \$1,321,852 |
| 9 | \$259,488 | \$44,933 | \$214,555 | \$1,536,408 |
| 10 | \$266,368 | \$45,831 | \$220,537 | \$1,756,944 |
| Total | \$2,176,862 | \$419,917 | \$1,756,944 | |

Benefits for Nacogdoches County:

Miscellaneous taxes and user fees to be collected from new residents:

| Year | Misc. Taxes and User Fees |
|-------|---------------------------------|
| 1 | \$300 |
| 2 | \$306 |
| 3 | \$312 |
| 4 | \$318 |
| 5 | \$325 |
| 6 | \$331 |
| 7 | \$338 |
| 8 | \$345 |
| 9 | \$351 |
| 10 | \$359 |
| Total | \$3,285 |

Property tax collections on:

| Year | New Residential Property | Property at the Facility | | | Total |
|-------|--------------------------------|--------------------------|-----------------|-----------------------------------|-----------|
| | | Taxes Collected | Taxes Abated | Total Taxes After Abatement | |
| 1 | \$0 | \$77,102 | \$77,102 | \$0 | \$0 |
| 2 | \$0 | \$73,932 | \$73,932 | \$0 | \$0 |
| 3 | \$0 | \$72,926 | \$72,926 | \$0 | \$0 |
| 4 | \$0 | \$71,944 | \$68,347 | \$3,597 | \$3,597 |
| 5 | \$0 | \$70,985 | \$60,337 | \$10,648 | \$10,648 |
| 6 | \$0 | \$70,049 | \$0 | \$70,049 | \$70,049 |
| 7 | \$0 | \$69,138 | \$0 | \$69,138 | \$69,138 |
| 8 | \$0 | \$68,251 | \$0 | \$68,251 | \$68,251 |
| 9 | \$0 | \$69,532 | \$0 | \$69,532 | \$69,532 |
| 10 | \$0 | \$70,839 | \$0 | \$70,839 | \$70,839 |
| Total | \$0 | \$714,698 | \$352,644 | \$362,055 | \$362,055 |

Costs and benefits for Nacogdoches County, continued

Costs of providing county services to new residents:

| Year | Costs of County Services |
|-------|--------------------------------|
| 1 | \$600 |
| 2 | \$612 |
| 3 | \$624 |
| 4 | \$637 |
| 5 | \$649 |
| 6 | \$662 |
| 7 | \$676 |
| 8 | \$689 |
| 9 | \$703 |
| 10 | \$717 |
| Total | \$6,570 |

Total Benefits for the County:

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|-------|-----------|---------|-----------------|-------------------------------|
| 1 | \$300 | \$600 | (\$300) | (\$300) |
| 2 | \$306 | \$612 | (\$306) | (\$606) |
| 3 | \$312 | \$624 | (\$312) | (\$918) |
| 4 | \$3,916 | \$637 | \$3,279 | \$2,361 |
| 5 | \$10,972 | \$649 | \$10,323 | \$12,684 |
| 6 | \$70,381 | \$662 | \$69,718 | \$82,402 |
| 7 | \$69,476 | \$676 | \$68,800 | \$151,202 |
| 8 | \$68,596 | \$689 | \$67,907 | \$219,109 |
| 9 | \$69,884 | \$703 | \$69,181 | \$288,289 |
| 10 | \$71,197 | \$717 | \$70,480 | \$358,770 |
| Total | \$365,339 | \$6,570 | \$358,770 | |

Costs and Benefits for the Nacogdoches ISD:

Benefits, including property taxes and additional state and federal school funding:

| Year | Property Tax Collections on: | | | Additional | Total |
|-------|------------------------------|-------------------------|-------------------|----------------------|-------------|
| | New Residential Property | The Facility's Property | Total Collections | State School Funding | |
| 1 | \$0 | \$197,856 | \$197,856 | \$5,400 | \$203,256 |
| 2 | \$0 | \$189,721 | \$189,721 | \$5,589 | \$195,310 |
| 3 | \$0 | \$187,141 | \$187,141 | \$5,785 | \$192,926 |
| 4 | \$0 | \$184,620 | \$184,620 | \$5,987 | \$190,607 |
| 5 | \$0 | \$182,159 | \$182,159 | \$6,197 | \$188,355 |
| 6 | \$0 | \$179,758 | \$179,758 | \$6,414 | \$186,171 |
| 7 | \$0 | \$177,419 | \$177,419 | \$6,638 | \$184,057 |
| 8 | \$0 | \$175,144 | \$175,144 | \$6,870 | \$182,014 |
| 9 | \$0 | \$178,431 | \$178,431 | \$7,111 | \$185,542 |
| 10 | \$0 | \$181,784 | \$181,784 | \$7,360 | \$189,144 |
| Total | \$0 | \$1,834,032 | \$1,834,032 | \$63,350 | \$1,897,382 |

Costs of educating children of new workers who move to the district:

| Year | Cost of Educating New Students |
|-------|--------------------------------|
| 1 | \$4,800 |
| 2 | \$4,968 |
| 3 | \$5,142 |
| 4 | \$5,322 |
| 5 | \$5,508 |
| 6 | \$5,701 |
| 7 | \$5,900 |
| 8 | \$6,107 |
| 9 | \$6,321 |
| 10 | \$6,542 |
| Total | \$56,311 |

Reduction in State aid to the school district as a result of new residential property for the facility's employees and the facility's property being added to the school district's tax rolls:

| Year | Reduction in State Aid for the School District |
|-------|--|
| 1 | \$170,528 |
| 2 | \$163,516 |
| 3 | \$161,293 |
| 4 | \$159,120 |
| 5 | \$156,999 |
| 6 | \$154,929 |
| 7 | \$152,914 |
| 8 | \$150,953 |
| 9 | \$153,786 |
| 10 | \$156,676 |
| Total | \$1,580,713 |

Net Benefits for the School District:

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|-------|-------------|-------------|-----------------|----------------------------|
| 1 | \$203,256 | \$175,328 | \$27,928 | \$27,928 |
| 2 | \$195,310 | \$168,484 | \$26,826 | \$54,754 |
| 3 | \$192,926 | \$166,435 | \$26,491 | \$81,245 |
| 4 | \$190,607 | \$164,442 | \$26,165 | \$107,410 |
| 5 | \$188,355 | \$162,507 | \$25,849 | \$133,258 |
| 6 | \$186,171 | \$160,630 | \$25,541 | \$158,799 |
| 7 | \$184,057 | \$158,814 | \$25,243 | \$184,042 |
| 8 | \$182,014 | \$157,060 | \$24,955 | \$208,997 |
| 9 | \$185,542 | \$160,107 | \$25,435 | \$234,432 |
| 10 | \$189,144 | \$163,218 | \$25,926 | \$260,358 |
| Total | \$1,897,382 | \$1,637,024 | \$260,358 | |

Benefits for Nacogdoches County Hospital District

Sales tax collections on spending:

| Year | During Construction and Purchases of Furniture, Fixtures and Equipment | On Direct and Indirect Workers' Spending | On Visitors' Spending | Taxable Sales at the Facility | The Facility's Local Purchases and Taxable Utilities | Total |
|-------|--|--|-----------------------------|-------------------------------------|--|-------------|
| 1 | \$26,370 | \$6,924 | \$0 | \$87,500 | \$6,222 | \$127,016 |
| 2 | \$0 | \$7,062 | \$0 | \$90,563 | \$6,376 | \$104,001 |
| 3 | \$0 | \$7,203 | \$0 | \$93,732 | \$6,535 | \$107,470 |
| 4 | \$0 | \$7,347 | \$0 | \$97,013 | \$6,697 | \$111,058 |
| 5 | \$0 | \$7,494 | \$0 | \$100,408 | \$6,864 | \$114,767 |
| 6 | \$0 | \$7,644 | \$0 | \$103,923 | \$7,035 | \$118,602 |
| 7 | \$0 | \$7,797 | \$0 | \$107,560 | \$7,211 | \$122,568 |
| 8 | \$0 | \$7,953 | \$0 | \$111,324 | \$7,391 | \$126,668 |
| 9 | \$0 | \$8,112 | \$0 | \$115,221 | \$7,575 | \$130,908 |
| 10 | \$0 | \$8,274 | \$0 | \$119,254 | \$7,765 | \$135,293 |
| Total | \$26,370 | \$75,811 | \$0 | \$1,026,497 | \$69,672 | \$1,198,349 |

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: Consider contract with GDVF for the transfer and recycling of mattresses received at the City landfill.

MEETING DATE: November 18, 2014

DESCRIPTION: The City landfill receives hundreds of mattresses each year. If SFA engages in a dormitory remodeling project, hundreds of mattresses can be sent to the landfill in a matter of days. Mattresses are a difficult material to process at the landfill for several reasons.

Each cubic yard of landfill space has been calculated and is accounted for in the anticipated lifespan of the landfill, and thus is reflected in the landfill rates. Typically, the City's landfill compacts 2.4 yards of waste into 1 cubic yard of waste. A mattress is roughly 1 cubic yard of material. Mattresses do not compact, therefore, no compaction gains are available when they are added to the landfill, and for every mattress that enters the landfill 1.4 yards of space is lost.

Due to their construction and shape, mattresses tend to "float" to the surface, meaning they do not retain a daily cover well. The large rectangular shape of a mattress means it cannot fill small voids, and thus smaller pieces of waste shift around and beneath it.

Once exposed during compaction or daily cover operation, the springs of mattresses easily enter into the tracks of landfill equipment, resulting in lost time and costly repairs if staff are unable to manually remove the coils from the equipment.

GDVF is a company that creates decorative items (wreaths, Christmas trees, wall art, chandeliers, etc.) from the coils of mattresses and box springs. Staff recently contacted GDVF to begin transferring some mattresses as a pilot project. During this 90 day pilot project, over 700 mattresses were diverted from the landfill.

The contract between GDVF and the City accomplishes the following:

- Grants exclusive rights to GDVF to any mattresses received by the city
- Specifies the transfer of the mattresses is the responsibility of GDVF
- Specifies GDVF accepts full responsibility for the proper final disposal of the mattresses and/or any remaining materials
- Allows either party to terminate the agreement with 30 days notice

COST: \$0 - A cost savings will occur, but is difficult to predict.

BUDGET AMENDMENT REQUIRED?: No

FUNDING FROM CURRENT BUDGET

| FUNDING: | Acct. Name & No. | Adopted Budget | Balance | Requested |
|-----------------|-----------------------------|-----------------------|----------------|------------------|
| | N/A | | | |

SCHEDULE: Upon approval of the contract, staff will ensure its immediate execution.

RECOMMENDED ACTION: Approval of the contract.

CITY CONTACT: Cary Walker, Public Works Manager, walkercl@ci.nacogdoches.tx.us, 559-2582

ATTACHMENTS: None. A copy of the contract can be provided by staff.

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: Receive update on Payday Lending

MEETING DATE: November 18, 2014

DESCRIPTION: Payday lending has been previously discussed with Council, and this is an update. This largely unregulated and seemingly predatory practice continues to proliferate. About 34 of Texas' 1200 cities have passed ordinances regulating the practice since the last three state legislative sessions have not resulted in adequate regulation. Representative Clardy and Senator Nichols are on record favoring reasonable lending regulation at the State level.

Early ordinances have drawn litigation which is on appeal by the lenders and thus the law on validity of various types of payday lending ordinances is not yet fully settled.

COST: \$0.00

BUDGET AMENDMENT REQUIRED?:

| FUNDING: | N/A | Acct. Name & No. | Original Budget | Requested |
|----------|-----|------------------|-----------------|-----------|
|----------|-----|------------------|-----------------|-----------|

SCHEDULE: None

RECOMMENDED ACTION: Discussion by City Council

CITY CONTACT: Rob Atherton

ATTACHMENTS: List of cities which have addressed the issue

City Regulation of Payday and Auto Title Lenders

September 17, 2014, Update

To the best of TML's knowledge, the following cities have enacted "business regulations" over payday lenders that are similar to the example ordinance available from TML:

1. Austin
2. Amarillo
3. Balcones Heights
4. Baytown
5. Bellaire
6. Bryan
7. College Station
8. Dallas
9. Denton
10. Dickinson
11. El Paso
12. Flower Mound
13. Garland
14. Houston
15. Midland
16. San Antonio
17. Somerset
18. South Houston
19. Universal City
20. West University Place

The following cities have enacted land use regulations:

1. Belton
2. Brownsville
3. Bryan
4. Corinth
5. Farmers Branch
6. Garland
7. Irving
8. Little Elm
9. Mesquite
10. Missouri City
11. Richardson
12. Sachse
13. Saginaw
14. Watauga

The following cities have enacted a resolution calling on the legislature to leave municipal authority in place:

1. Lubbock
2. Somerset

ITEM NO. 10

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: Consider ratification of acceptance of Department of Homeland Security-Division of Emergency Management 2014 SHSP-LETPA Grant in the amount of \$169,970.00; and approve an Emergency Budget Amendment to incorporate funding into current budget.

MEETING DATE: November 18, 2014

DESCRIPTION: Consider approval to ratify acceptance of Department of Homeland Security-Division of Emergency Management 2014 SHSP-LETPA Grant in the amount of \$169,970.00; and approve Emergency Budget Amendment Request.

COST: None

BUDGET AMENDMENT REQUIRED?: YES

BUDGET AMENDMENT

| FUNDING: | <u>Acct. Name & No.</u> | <u>Requested</u> |
|--------------------|---|------------------|
| Special Grant Fund | Police Department | |
| | 24.560.32 Homeland Security Grant Revenue | \$169,970.00 |
| | 24.15.610.35 Computer Equipment Expense | (\$169,970.00) |

SCHEDULE: n/a

RECOMMENDED ACTION: Ratify acceptance of 2014 SHSP-LETPA Grant and approve Emergency Budget Amendments to incorporate funding into current budget.

CITY CONTACT: Jim Sevey, Police Chief
Stacy Corley, Grant Coordinator

ATTACHMENTS: Contract documents available for review in grant coordinator's office.

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: Consider adoption of an ordinance regulating a no parking zone on Rusk Street from North Street to Pearl Street.

MEETING DATE: November 18, 2014

DESCRIPTION: Staff received a request for a no parking zone for the block of Rusk Street located between North Street and Pearl Street. Several conditions on this street make on-street parking hazardous, including the width of the road, and the traffic entering and exiting the driveways on the street. There are several head-in parking spaces on the north side of the east end of Rusk Street, these spaces will not be affected, as they are offset from the road.

The traffic committee has reviewed the request and supports the request for a no parking zone, as shown on the attached map.

Council must adopt an ordinance to create a no parking zone so that municipal citations may be written to violators.

COST: \$0

BUDGET AMENDMENT REQUIRED?: No

FUNDING FROM CURRENT BUDGET

| FUNDING: | Acct. Name & No. | Adopted Budget | Balance | Requested |
|-----------------|-----------------------------|-----------------------|----------------|------------------|
| | N/A | | | |

SCHEDULE: Upon adoption by the City Council, the ordinance will become effective immediately. Public Works will be scheduled to install the signs immediately. The ordinance will not be enforced until the signs are installed.

RECOMMENDED ACTION: Adoption of the ordinance.

CITY CONTACT: Larissa Philpot, City Planner; 559-2571, philpotl@ci.nacogdoches.tx.us

ATTACHMENTS: Map of the area.



CITY OF NACOGDOCHES **AGENDA INFORMATION SHEET:**

PROJECT: Consider adoption of an ordinance regulating a no parking zone near the intersection of Lady Jennifer and Post Oak Road.

MEETING DATE: November 18, 2014

DESCRIPTION: Residents have requested the area near the intersection of Lady Jennifer and Post Oak Road be made a no parking zone, due to the low visibility at the intersection.

The traffic committee has reviewed the request and supports the request for a no parking zone, as shown on the attached map.

Council must adopt an ordinance to create a no parking zone so that municipal citations may be written to violators.

COST: \$0

BUDGET AMENDMENT REQUIRED?: No

FUNDING FROM CURRENT BUDGET

| FUNDING: | Acct. Name & No. | Adopted Budget | Balance | Requested |
|----------|------------------|----------------|---------|-----------|
| | N/A | | | |

SCHEDULE: Upon adoption by the City Council, the ordinance will become effective immediately. Public Works will be scheduled to install the signs immediately. The ordinance will not be enforced until the signs are installed.

RECOMMENDED ACTION: Adoption of the ordinance.

CITY CONTACT: Larissa Philpot, City Planner; 559-2571, philpotl@ci.nacogdoches.tx.us

ATTACHMENTS: Map of the area.

Post Oak and Lady Jennifer



LADY JENNIFER DR

POST OAK RD

NE STALLINGS DR

1 inch = 50 feet

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: Consider an ordinance updating the process for appointment of a fire marshal.

MEETING DATE: November 18, 2014

DESCRIPTION: Current City Code requires that the Fire Marshal be appointed by the City Manager with the consent of Council. Code also makes the Fire Marshal the only one who can conduct investigations related to fires. The Fire Marshal has, for many years, been an employee of the Fire Department and operates under the direction of the Fire Chief. The Department has a number of investigators who perform fire investigations under the direction of the Fire Chief and Fire Marshal. This proposed change would:

- make the Fire Marshal position consistent with other fire department employees by changing the appointment authority to the Fire Chief with the approval of the City Manager
- clarify that the Fire Marshal's office is under the supervision of the Fire Chief
- Authorize the Fire Marshal's designee (other investigators) to perform functions related to fire investigations.

COST: None

SCHEDULE: NA

RECOMMENDED ACTION: Approval of the ordinance as presented.

CITY CONTACT: Keith Kiplinger, Fire Chief

ATTACHMENTS: Draft Ordinance

2

son

son

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son

The office of fire marshal is created in the city, which office shall be under the supervision and direction of the fire chief. Any action or responsibility of the fire marshal may be performed by his designee.

Sec. 38-57. – Appointment

The fire marshal shall be appointed by the fire chief, with the approval of the city manager.

2. **Severability:** If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.
3. **Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portion of conflicting ordinances shall remain in full force and effect.
4. **Effective Date:** This Ordinance shall take effect immediately from and after its passage and publication if required by governing law.
5. **Proper Notice & Open Meeting:** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED, this the ____ day of _____, 2014, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches.

CITY OF NACOGDOCHES

By: _____
Roger Van Horn, Mayor

ATTEST:

Lila Fuller, City Secretary

APPROVED AS TO FORM:

Rob Atherton, City Attorney

APPROVED AS TO CONTENT:

Keith Kiplinger, Fire Chief