

# CITY COUNCIL AGENDA

City of Big Spring  
Tuesday, March 12, 2013

Notice is hereby given that the City Council of the City of Big Spring, Texas will meet in Regular Session on Tuesday, March 12, 2013, at 5:30 p.m. in the City Council Chambers located at 307 East 4<sup>th</sup> Street, Big Spring, Texas.

**The City Council may discuss and/or take action on each of the following items before it and may go into Executive Session on any item listed on the agenda in accordance with Chapter 551 of the Texas Government Code.**

## Presentations & Public Hearings

1. Invocation & Pledge of Allegiance to the United States Flag and to the Texas State Flag Duncan
2. Presentation of "Star Employee" Awards Duncan

## Disposition of Minutes

3. Minutes of the Special Meeting of February 25, 2013 4-9 Davis

## Consent Items

4. Final Reading of an Ordinance Amending Chapter Twenty of the Code of Ordinances Entitled "Building Codes and Board of Adjustments and Appeals," by Amending Sections 20-1 Through 20-8 in Order to Adopt the 2012 Editions of the International Code Council, Inc. Building Codes, and the 2011 Edition of the National Electrical Code Along with Certain Deletions and Amendments Thereto; Providing for a Penalty of up to Five Hundred Dollars or Two Thousand Dollars for Violations of a Fire Safety, Zoning, Public Health or Sanitation Provision; Providing for Severability; Providing for Publication and an Effective Date 10-20 Sjogren
5. Acceptance of McMahon/Wrinkle Airpark Development Board Minutes for Meeting of January 24, 2013 21-22 Walker

## Routine Business

6. Vouchers for 03/07/13 \$ 1,448,137.70 Harbour

**New Business**

- |     |  |       |         |
|-----|--|-------|---------|
| 7.  | Approval of a First Amendment to the John Crane Production Solutions, Inc. Lease Agreement and Authorizing the City Manager or His Designee to Execute Any Necessary Documents                                     | 23-26 | Sjogren |
| 8.  | Approval of an Agreement with Maximus for Cost Allocation Consulting Services and Authorizing the City Manager or His Designee to Execute All Necessary Documents  | 27-32 | Walker  |
| 9.  | Approval of an Interlocal Agreement with Other Local Governmental Entities for Joint Bidding and Engineering Management of the 2013 Seal Coat Project and Authorizing the Mayor to Execute Any Necessary Documents | 33-35 | Darden  |
| 10. | Approval of a Professional Services Agreement with Parkhill, Smith & Cooper, Inc., for the 2013 Seal Coat Project and Authorizing the City Manager or His Designee to Execute Any Necessary Documents              | 36-40 | Darden  |

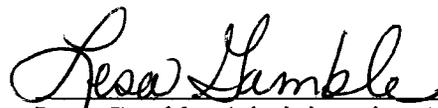
**Interim City Manager's Report**

- |     |                                       |  |        |
|-----|---------------------------------------|--|--------|
| 11. | Report to Council on Current Staffing |  | Darden |
|-----|---------------------------------------|--|--------|

**Council Input**

- |     |         |  |        |
|-----|---------|--|--------|
| 12. | Input   |  | Duncan |
| 13. | Adjourn |  |        |

I hereby certify that this agenda was posted on the official bulletin boards at the Big Spring City Hall Building, 310 Nolan Street, Big Spring, Texas on Thursday, March 7, 2013 at 5:00 p.m. In addition this agenda and supporting documents are posted on the City of Big Spring's website, [www.mybigspring.com](http://www.mybigspring.com) in accordance with legal requirements.

  
\_\_\_\_\_  
Lesa Gamble, Administrative Assistant

THE MEETING FACILITY IS ACCESSIBLE TO DISABLED PERSONS. ANY DISABLED PERSON NEEDING SPECIAL ACCOMMODATIONS OR HEARING-IMPAIRED PERSONS WISHING TO HAVE AN INTERPRETER SHOULD CONTACT LESA GAMBLE AT 264-2401. REQUESTS FOR AN INTERPRETER SHOULD BE MADE AT LEAST 48 HOURS IN ADVANCE OF THE MEETING TIME.

**Agenda Removal Notice** - This public notice was removed from the official posting board at the Big Spring City Hall Building, 310 Nolan Street, Big Spring, Texas on

March \_\_\_\_\_, 2013 at \_\_\_\_\_ a.m./p.m. By: \_\_\_\_\_  
City Secretary's Office

STATE OF TEXAS :  
COUNTY OF HOWARD :  
CITY OF BIG SPRING :

The City Council of the City of Big Spring, Texas, met in a special meeting in the City Council Chambers located at 307 E. 4<sup>th</sup>, Big Spring, Texas, at 5:30 p.m., February 25, 2013, with the following members present:

TOMMY DUNCAN	Mayor
CRAIG OLSON	Mayor Pro Tem
MARCUS FERNANDEZ	Councilmember
GLEN CARRIGAN	Councilmember
BOBBY MCDONALD	Councilmember
MARVIN BOYD	Councilmember

(Councilmember Harbour was not present at this meeting.)

Same and constituting a quorum; and

TODD DARDEN	Interim City Manager
LINDA SJOGREN	City Attorney
PEGGY WALKER	Finance Director/City Secretary
JOHN MEDINA	Human Resources Director
LONNIE SMITH	Police Chief
CRAIG FERGUSON	Fire Chief
JIM LITTLE	Airpark Director
TIM GREEN	Municipal Court Judge

## **PRESENTATIONS & PUBLIC HEARINGS**

### **INVOCATION & PLEDGE OF ALLEGIANCE**

Pastor Holston Banks, Shiloh House of Praise, gave the invocation and Mayor Duncan led the Pledge of Allegiance to the American and State Flags.

### **DISPOSITION OF MINUTES**

#### **MINUTES OF THE REGULAR MEETING OF FEBRUARY 12, 2013**

Motion was made by Councilmember Carrigan, seconded by Councilmember Boyd, with all members of the Council voting “aye” approving minutes of the regular meeting of February 12, 2013.

## **CONSENT ITEMS**

FINAL READING OF AN ORDINANCE CALLING FOR A GENERAL ELECTION TO BE HELD ON MAY 11, 2013, FOR THE PURPOSE OF ELECTING ONE PERSON TO SERVE AS MAYOR OF THE CITY OF BIG SPRING WHO SHALL BE ELECTED BY MAJORITY VOTE OF THE QUALIFIED VOTERS OF THE CITY OF BIG SPRING; AND ELECTING ONE PERSON TO SERVE AS CITY DISTRICT FIVE COUNCIL MEMBERS WHO SHALL BE ELECTED BY MAJORITY VOTE OF THE QUALIFIED VOTERS OF DISTRICT FIVE; DESIGNATING ONE CENTRAL POLLING PLACE WITHIN THE CITY; AUTHORIZING THE MAYOR TO EXECUTE NOTICE AND HAVE THE NOTICE POSTED FOR THE PURPOSE OF NOTIFYING THE PUBLIC OF SAID ELECTION; PROVIDING A SEVERABILITY CLAUSE

FINAL READING OF AN ORDINANCE AMENDING ORDINANCE NUMBER 025-2012 WHICH ORDINANCE ADOPTED THE ANNUAL BUDGET FOR THE CITY OF BIG SPRING FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; PROVIDING FOR INCREASING THE GENERAL FUND BUDGET FOR THE PURPOSE OF PURCHASING A FIRE TRUCK FOR THE BIG SPRING FIRE DEPARTMENT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE

FINAL READING OF AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO DESIGNATE THE PLACEMENT OF STOP SIGNS ON SETTLES STREET WHICH IN CONJUNCTION WITH THE EXISTING STOP SIGNS REGULATING STADIUM STREET WILL CREATE A 4-WAY STOP CONTROLLED INTERSECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY IN ACCORDANCE WITH STATE LAW; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE

FINAL READING OF A RESOLUTION ENDORSING CERTAIN LEGISLATIVE ACTION IN THE REGULAR SESSION OF THE 83<sup>RD</sup> TEXAS LEGISLATURE TO ENHANCE THE COMPETITIVE ELECTRIC MARKET AND SYSTEM RELIABILITY AND TO PROTECT THE TRADITIONAL ROLE OF CITIES IN THE REGULATORY PROCESS

FINAL READING OF AN ORDINANCE AMENDING CHAPTER TWENTY OF THE CODE OF ORDINANCES ENTITLED "BUILDING CODES AND BOARD OF ADJUSTMENTS AND APPEALS" BY AMENDING ARTICLE 2 ENTITLED "BOARD OF ADJUSTMENTS AND APPEALS" SECTIONS 20-16 AND 20-17 IN ORDER TO INCLUDE ONE ALTERNATE MEMBER TO THE BOARD OF ADJUSTMENTS AND APPEALS THAT HAS EXPERIENCE AND TRAINING TO PASS ON FIRE RELATED MATTERS AND TO ADD A CITY FIRE OFFICIAL AS AN EX-OFFICIO MEMBER TO THE BOARD; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

ACCEPTANCE OF CONVENTION AND VISITORS BUREAU COMMITTEE  
MINUTES FOR MEETING OF JANUARY 9, 2013

ACCEPTANCE OF ADJUSTMENTS AND APPEALS BOARD MINUTES FOR  
MEETING OF APRIL 21, 2012

ACCEPTANCE OF HOWARD COUNTY APPRAISAL DISTRICT BOARD  
MINUTES FOR MEETING OF JANUARY 9, 2013

Motion was made by Mayor Pro Tem Olson, seconded by Councilmember Carrigan, with all members of the Council voting “aye” approving the second and final reading of the above listed ordinances, resolution and minutes.

**ROUTINE BUSINESS**

Councilmember Fernandez reviewed the vouchers. Motion was made by Councilmember Fernandez, seconded by Mayor Pro Tem Olson, with all members of the Council voting “aye” approving vouchers in the amount of \$558,927.03 (02/14/13) and \$736,231.50 (02/21/13).

**BIDS**

APPROVAL OF “REQUEST FOR PROPOSAL” FOR THE CITY OF BIG SPRING’S  
ELECTRIC PROVIDER CONTRACT AND AUTHORIZING THE MAYOR TO NEGOTIATE  
FINAL CONTRACT PRICING AND EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember McDonald, seconded by Mayor Pro Tem Olson, with all members of the Council voting “aye” approving a “Request for Proposal” for the City of Big Spring’s Electric Provider Contract and authorizing the Mayor to negotiate final contract pricing and execute any necessary documents.

**NEW BUSINESS**

PRESENTATION AND ACCEPTANCE OF BIG SPRING ECONOMIC DEVELOPMENT  
CORPORATION’S ANNUAL AUDIT FOR YEAR ENDED SEPTEMBER 30, 2012

Dale Newberry, Certified Public Accountant, presented the Big spring Economic Development Corporation’s Annual Audit. Motion was made by Mayor Pro Tem Olson, seconded by Councilmember Carrigan, with all members of the Council voting “aye” approving the Big Spring Economic Development Corporation’s Annual Audit for year ended September 30, 2012.

EMERGENCY READING OF A RESOLUTION ADOPTING RULES TO ENSURE THE  
IDENTIFICATION, SECURITY AND CONFIDENTIALITY OF ELECTRONIC BIDS OR  
PROPOSALS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE  
SUCH STEPS AS ARE NECESSARY TO IMPLEMENT SUCH RULES; AND DECLARING  
AN EMERGENCY

Motion was made by Mayor Pro Tem Olson, seconded by Councilmember Fernandez, with all members of the Council voting “aye” approving an emergency reading of a resolution adopting rules to ensure the identification, security and confidentiality of electronic bids or proposals and authorizing the City Manager or his designee to take such steps as are necessary to implement such rules; and declaring an emergency.

FIRST READING OF AN ORDINANCE AMENDING CHAPTER TWENTY OF THE CODE OF ORDINANCES ENTITLED “BUILDING CODES AND BOARD OF ADJUSTMENTS AND APPEALS,” BY AMENDING SECTIONS 20-1 THROUGH 20-8 IN ORDER TO ADOPT THE 2012 EDITIONS OF THE INTERNATIONAL CODE COUNCIL, INC. BUILDING CODES, AND THE 2011 EDITION OF THE NATIONAL ELECTRICAL CODE ALONG WITH CERTAIN DELETIONS AND AMENDMENTS THERETO; PROVIDING FOR A PENALTY OF UP TO FIVE HUNDRED DOLLARS OR TWO THOUSAND DOLLARS FOR VIOLATIONS OF A FIRE SAFETY, ZONING, PUBLIC HEALTH OR SANITATION PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE

Motion was made by Councilmember Carrigan, seconded by Councilmember Fernandez, with all members of the Council voting “aye” approving first reading of an ordinance amending Chapter Twenty of the Code of Ordinances entitled “Building Codes and Board of Adjustments and Appeals,” by amending Sections 20-1 through 20-8 in order to adopt the 2012 editions of the International Code Council, Inc. Building Codes, and the 2011 edition of the National Electrical Code along with certain deletions and amendments thereto; providing for a penalty of up to five hundred dollars or two thousand dollars for violations of a fire safety, zoning, public health or sanitation provision; providing for severability; providing for publication and an effective date.

DISCUSSION AND CONSIDERATION OF AMENDING THE INTERLOCAL AGREEMENT WITH HOWARD COUNTY FOR CONSTRUCTION AND OPERATION OF THE LAW ENFORCEMENT CENTER IN ORDER TO REIMBURSE THE COUNTY FOR ONE HALF OF ADDITIONAL COST INCURRED IN CONSTRUCTION OF THE CENTER; AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

After a brief discussion, motion was made by Councilmember Fernandez, seconded by Councilmember Boyd, with all members of the Council voting “aye” approving to amend the interlocal agreement with Howard County for construction and operation of the Law Enforcement Center in order to reimburse the County for one half of additional cost incurred in the construction of the center; and authorizing the Mayor or his designee to execute any necessary documents.

DISCUSSION AND CONSIDERATION OF A REPLAT FOR THE PROPERTY REFERENCED AS “MCLELLAN SUBDIVISION,” WHICH IS DESCRIBED AS A 1.14 ACRE TRACT OUT OF A 1.72 ACRE TRACT OUT OF THE SW/4 OF SECTION 6, BLOCK 32, T-1-S, T & P RR CO. SURVEY, HOWARD COUNTY

After a brief discussion, motion was made by Councilmember Carrigan, seconded by Councilmember Boyd, with all members of the Council voting “aye” approving a replat for the property referenced as “McLellan Subdivision,” which is described as a 1.14 acre tract out of a 1.72 acre tract out of the SW/4 of Section 6, Block 32, T-1-S, T&P RR Co. Survey, Howard County.

**DISCUSSION AND CONSIDERATION OF A REPLAT FOR THE PROPERTY REFERENCED AS “DON’S TIRE AND TRUCK SERVICE SUBDIVISION,” WHICH IS DESCRIBED AS A 9.77 ACRE TRACT OUT OF THE N/2 OF SECTION 42, BLOCK 32, T-1-N, T&P RR CO. SURVEY, HOWARD COUNTY**

After a brief discussion, motion was made by Mayor Pro Tem Olson, seconded by Councilmember Boyd, with all members of the Council voting “aye” approving a replat for the property referenced as “Don’s Tire and Truck Service Subdivision,” which is described as a 9.77 acre tract out of the N/2 of Section 42, Block 32, T-1-N, T&P RR Co. Survey, Howard County.

**APPROVAL OF INVESTMENT REPORT FOR THE QUARTER ENDING DECEMBER 31, 2012**

Motion was made by Councilmember Fernandez, seconded by Councilmember McDonald, with all members of the Council voting “aye” approving the investment report for the quarter ending December 31, 2012.

**ACCEPTANCE OF BIG SPRING ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MINUTES FOR REGULAR MEETING OF JANUARY 15, 2013**

Motion was made by Councilmember Carrigan, seconded by Councilmember Boyd, with all members of the Council voting “aye” approving the Big Spring Economic Development Corporation Board of Directors minutes for regular meeting of January 15, 2013.

**CITY MANAGER’S REPORT**

Todd Darden, Interim City Manager, announced that several staff members and councilmembers will be attending conferences and Lonnie Smith, Police Chief, will be in charge.

**COUNCIL INPUT**

Mayor Duncan announced that the staff and council has done a great job working on infrastructure improvements without tax increases. Mayor Duncan also announced that Councilmembers Boyd and McDonald would meet with John Medina, Human Resource Director, to evaluate how the City can compete with other salaries in the area to keep departments fully staffed.

**ADJOURN**

Motion was made by Councilmember Carrigan, seconded by Councilmember McDonald, with all members of the Council voting “aye” to adjourn at 6:15 p.m.

CITY OF BIG SPRING, TEXAS

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Tommy Duncan, Mayor

ATTEST:

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Tami L. Davis, Assistant City Secretary

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING CHAPTER TWENTY OF THE CODE OF ORDINANCES OF THE CITY OF BIG SPRING ENTITLED "BUILDING CODES AND BOARD OF ADJUSTMENTS AND APPEALS" BY AMENDING SECTIONS 20-1 THROUGH 20-8 IN ORDER TO ADOPT THE 2012 EDITIONS OF THE INTERNATIONAL CODE COUNCIL, INC. BUILDING CODES, AND THE 2011 EDITION OF THE NATIONAL ELECTRICAL CODE ALONG WITH CERTAIN DELETIONS AND AMENDMENTS THERETO; PROVIDING FOR A PENALTY OF UP TO FIVE HUNDRED DOLLARS OR TWO THOUSAND DOLLARS FOR VIOLATIONS OF A FIRE SAFETY, ZONING, PUBLIC HEALTH OR SANITATION PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Board of Adjustments and Appeals of the City of Big Spring has recommended adoption of the 2011 edition of the National Electrical Code and the 2012 editions of the International Code Council Building Codes for use within the City; and

**WHEREAS**, the City Council finds that adoption of the referenced codes will be beneficial to the health and safety of the citizens of the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AS FOLLOWS:**

**SECTION 1.** THAT Chapter 20 of the Code of Ordinances of the City of Big Spring entitled "Building Codes and Board of Adjustments and Appeals" Sections 20-1 through 20-8 and a new Section 20-9 are to read as follows:

**Sec. 20-1. International Building Code.**

2012 Edition in its entirety, save and except Chapters 13, 27, and 34 and save and except Appendices A, B, D, E, H, and K and save and except Sections 101.4.5, 105.1.1, 105.1.2 Building subparts 1, 2, 4, 6, 8 and Mechanical subpart 7, and Sections 113 and 114 which shall be deleted in their entirety and with the following amendments:

**(A) 101.1 Title.**

These regulations shall be known as the Building Code of the City of Big Spring, hereinafter referred to as "this code".

**(B) 109.2 Schedule of Permit Fees.**

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in

accordance with the schedule as established by the applicable governing authority.

Up to \$3,000.00	\$ 25.00
\$3,001.00 to \$49,999.00 (\$5.00 dollars per thousand)	\$ 5.00
\$50,000.00	\$ 260.00
\$50,001.00 to \$99,999.00 (\$4.00 per thousand)	\$ 4.00
\$100,000.00	\$ 460.00
\$100,001.00 to \$499,999.00 (\$3.00 per thousand)	\$ 3.00
\$500,000.00	\$ 1660.00
\$500,001.00 and above (\$2.00 per thousand)	\$ 2.00
Moving Fee	\$ 100.00
Demolition – One Story	\$ 50.00
Demolition – Additional Story	\$ 25.00
Curb Cuts Commercial	\$ 25.00
ZBA Charge	\$ 50.00
Commercial Plan Review	\$ 50.00
Re-Inspect Fee	\$ 25.00

**(C) 1612.3 Establishment of Flood Hazard Areas.**

To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management agency in an engineering report entitled “The Flood Study for the City of Big Spring”, dated 8<sup>th</sup> day of September, 1981, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Flood Insurance Rate Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be a part of this section.

**(D) 3412.2 Applicability.**

Structures existing prior to 1986 in which there is work involving additions,

alterations, or changes of occupancy shall be made to conform to the requirements of this section or the provisions of Sections 3403 through 3409. The provisions in Sections 3412.2.1 through 3412.2.1 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S, and U. These provisions shall not apply to buildings with occupancies in Group H or I.

**Sec. 20-2. International Residential Building Code.**

2012 Edition in its entirety, save and except Chapter 34 thru 43, Sections R105.2 Buildings subparts 1, 2, 3, 5 and 9, Mechanical Subpart 7, Appendices A, B, C, D, F, J, L, N, Q and Sections R112, R113 which shall be deleted in their entirety and with the following amendments:

**(A) R101.1 Title.**

These provisions shall be known as the International Residential Code of the City of Big Spring and shall be cited as such and will be referred to herein as “this code.”

**(B) R108.2 Schedule of Permit Fees.**

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the established by the applicable governing authority.

Up to \$3,000.00	\$ 25.00
\$3,001.00 to \$49,000.00 (\$5.00 per thousand)	\$ 5.00
\$50,000.00	\$ 260.00
\$50,001.00 to \$99,000.00 (\$4.00 per thousand)	\$ 4.00
\$100,000.00	\$ 460.00
\$100,001.00 to \$499,999.00 (\$3.00 per thousand)	\$ 3.00
\$500,000.00	\$ 1,660.00
\$500,001.00 and above (\$2.00 per thousand)	\$ 2.00
Moving Fee	\$ 100.00
Demolition – One Story	\$ 50.00
Demolition – Additional Story (\$25.00 per story)	\$ 25.00

Curb Cuts Residential	\$ 25.00
ZBA Charge	\$ 50.00
Residential Plan Review (Min. \$140.00 up to 1600 square feet - .12 cents per square foot	\$ 140.00
Re-Inspect Fee	\$ 25.00

**(C) R301.2 Climatic and Geographic Design Criteria.**

Buildings shall be constructed in accordance with the provisions of this code as limited by the provisions of this section. Additional criteria shall be established by the local jurisdiction and set forth in Table R301.2(1).

**(D) Table R301.2.1 Wind Design Criteria.**

Buildings and portions thereof shall be constructed in accordance with the wind provisions of this code using the basic wind speed in Table R301.2 (1) as determined from Figure R301.2(4)A. Basic wind speeds shall be determined from figure R301.2(4)B or where the basic wind speed from Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s).

**(E) P2603.5.1 Sewer Depth.**

Building sewer that connect to private sewage disposal systems shall be not less than twelve (12) inches (305mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of (12) inches (305mm) below grade.

**(F) P3103.1 Roof Extensions.**

Open vent pipes that extend through a roof shall be terminated at least (6) inches (152mm) above the roof or (6) inches (152mm) above the anticipated snow accumulation, whichever is greater, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run at least seven (7) feet (2134mm) above the roof.

**Sec. 20-3. International Existing Building Code.**

2012 Edition in its entirety save and except Sections 112, 113 and 114 which shall be deleted in their entirety and save and with the following amendments:

**(A) 101.1 Title.**

These provisions shall be known as the International Existing Building Code of the City of Big Spring and shall be cited as such and will be referred to herein as “this code.”

**(B) 1401.2 Applicability.**

Structures existing prior to 1986, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12. The provisions of Sections 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Group H or Group I.

**Sec. 20-4. National Electrical Code.**

2011 Edition in its entirety including Annex H entitled "Administration and Enforcement", save and except for Section 80.15, 80.19F(3), 80.23, and 80.27 which shall be deleted in their entirety and with the following amendments:

**(A) 80.19 (E) Fee Schedule.**

On all electrical systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the established governing authority.

Minimum Permit Fee	\$ 25.00
Meter Loop	\$ 25.00
Temporary Meter Loop	\$ 25.00
Temporary Power Pole	\$ 25.00
Temporary Service on Structure	\$ 25.00
New Service (per meter)	\$ 25.00
Meter Loop (move, change, alter)	\$ 25.00
Electrical Safety (commercial name change)	\$ 25.00
Rewire	
Per Sq. Ft. (Residential)	\$ 0.02
Per Sq. Ft. (Commercial)	\$ 0.04
Condenser Unit Disconnect	\$ 5.00
Electrical Sign Hookup	\$ 5.00
Ranges & Heaters (each)	\$ 1.00

Washers & Dryers (each)	\$ 1.00
Pumps	\$ 2.00
Dispenser	\$ 2.00
1 <sup>st</sup> Motor 01 to 5 HP or less	\$ 2.00
Additional Motors 01 HP or less	\$ 2.50
Motors 01 to 5 HP	\$ 5.00
Motors above 5 HP	\$ 2.50
Re-Inspect Fee	\$ 25.00
Commercial Plan Review	\$ 50.00

**(B) 4-a Permit – Required; Exceptions to Licensing Requirement.**

Any homeowner personally installing electrical conductors or equipment within his own home; provided, that the owner shall file with the Electrical Inspector approved plans and specifications, shall satisfy the Electrical Inspector as to his ability to install electrical wiring, shall apply for and secure a permit, shall pay the required fees, shall do work in accordance with this chapter and shall request the required inspections and obtain a certificate of approval. Homeowner shall sign an Electrical Liability Waiver before obtaining a permit. Personal installation by an owner under this subsection shall be by himself, on his homestead premises.

**(C) 4-b Sign Manufacturer's License.**

The first annual fee for an electrical sign manufacturer's license shall be One Hundred Dollars (\$100.00) for the first year, payable in full and in advance, and the annual renewal fee for such a license shall be Fifty Dollars (\$50.00), payable in full on the expiration date of the annual period for which license fee was paid theretofore; and shall in no way constitute ability to do electrical installations of their signs.

**(D) 4-c Electric Fences Prohibited.**

Electric fences, whether of the battery or the transformer type, shall not be installed or used in the city.

**Sec. 20-5. International Energy Conservation Code.**

2012 Edition in its entirety and with the following amendments:

**(A) 101.1 Title.**

These regulations shall be known as the International Energy Conservation Code of the City of Big Spring herein after referred to as “this code.”

**(B) 107.2 Conflicting Requirements.**

Where the provisions of this code and the referenced standards conflict, except those of the ICC, the provisions of this code shall take precedence.

**Sec. 20-6. International Fuel Gas Code.**

2012 Edition in its entirety, save and except Sections 108.1, 108.2, 108.3 108.4 and 109 which shall be deleted in their entirety and with the following amendments:

**(A) 101.1 Title.**

These regulations shall be known as the Fuel Gas Code of the City of Big Spring, hereinafter referred to as “this code.”

**(B) 106.5.2 Fee Schedule.**

The fees for work shall be as indicated in the following schedule:

Minimum Permit Fee	\$ 25.00
Re-Inspection Fee	\$ 25.00
Gas Service Line	\$ 7.00
Each Gas Opening	\$ 2.00

**(C) 106.6.3. Fee refunds.**

The Building Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than fifty percent (50%) of the plan review fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than fifty percent (50%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permit fee not later than 180 days after the date of fee payment.

**Sec. 20-7. International Mechanical Code.**

2012 Edition in its entirety save and except Appendix B, and save and except Sections 106.2(7), 108.1, 108.2, 108.3, 108.4, 108.5 and 109 which shall be deleted in their entirety and with the following amendments:

**(A) 101.1 Title.**

These provisions shall be known as the International Mechanical Code of the City of Big Spring and shall be cited as such and will be referred to herein as “this code.”

**(B) 106.5 Fees.**

The fees for mechanical work shall be as indicated in the following schedule:

Mechanical Permit	\$ 25.00
0-5 Tons HVAC Cooling	\$ 10.00
150,000 BTU Gas or 25 kw Electric Heat	\$ 10.00
Package Unit or Roof Top Unit (RTU) (with or without heat-includes duct openings)	\$ 20.00
5 ½ - 15 Tons HVAC Cooling	\$ 25.00
150,001 to 250,000 BTU Gas or 26-50 kw Electric Heat	\$ 25.00
Package Unit or Roof Top Unit (RTU) (with or without heat-includes duct openings)	\$ 45.00
15.1 + Tons Cooling	\$ 4.00 per ton
251,000 + BTU Gas or 51 + kw Electric Heat	\$ 50.00
Package Unit or Roof Top Unit (RTU) (with or without heat)	\$ 4.00 per ton
Commercial Vent-a-Hood	\$ 25.00
Re-Inspect Fee	\$ 25.00

Commercial Plan Review

\$ 50.00

**(C)106.5.3 Fee Refunds.**

The Building Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than fifty percent (50%) of the plan review fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than fifty percent (50%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permit fee not later than 180 days after the date of fee payment.

**Sec. 20-8. International Plumbing Code.**

2012 Edition in its entirety save and except Appendices A and save and except Sections 108.1, 108.2, 108.3, 108.4 and 109 which shall be deleted in their entirety and with the following amendments and additions:

**(A)101.1 Title.**

These provisions shall be known as the International Plumbing Code of the City of Big Spring and shall be cited as such and will be referred to herein as "this code."

**(B)106.6.2 Fee Schedule.**

The fees for all plumbing work shall be as indicated in the following schedule:

Basic Fee	\$ 25.00
Each fixture or set of fixtures of 01 trap including water and drain piping	\$ 2.00
Install/replace/repair Sewer Line	\$ 7.00
Water Heater	\$ 5.00
Lawn Sprinkler System 1 <sup>st</sup> Five (5) Heads	\$ 2.00

Additional heads over Five (5)	\$ 0.25 ea.
Install/replace/repair Water Line	\$ 7.00
Re-Inspection (Red Tag)	\$ 25.00
Additional Water Heater	\$ 5.00
Fire suppression (sprinkler)	\$ 0.01 sq ft of sprinklered area

**(C)106.6.3 Fee Refunds.**

The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than fifty percent (50%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than fifty percent (50%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

**(D)305.4.1 Sewer Depth.**

Building sewers that connect to private sewage disposal systems shall be a minimum of twelve (12) inches (305 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of twelve (12) inches (305 mm) below grade.

**(E)904.1 Required Vent Extension.**

All open vent pipes that extend through a roof shall be terminated at least six (6) inches (15mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven (7) feet (2134mm) above the roof.

**Sec. 20-9. Penalty.**

Any person who shall violate a provision of this chapter or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the building official, or of a permit or certificate

used under provision of this code, shall be guilty of a misdemeanor punishable by a fine of not to exceed Five-Hundred Dollars (\$500.00); however, a violation of this chapter governing fire safety, zoning or public health and sanitation, shall not exceed Two-Thousand Dollars (\$2000.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**SECTION 2.** THAT if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The City of Big Spring, hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 3.** THAT nothing in this ordinance or in the corresponding codes published by the International Code Council, Inc. or the National Fire Protection Association, Inc. hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**SECTION 4.** THAT the City Secretary is hereby ordered and directed to cause the descriptive caption, as well as the penalties for violation of this ordinance, to be published as provided by law.

**SECTION 5.** THAT this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect upon completion of publication as provided by law.

PASSED AND APPROVED on first reading at a special meeting of the City Council on the **25<sup>th</sup>** day of **February, 2013**, with all members voting “aye” for passage of the same.

PASSED AND APPROVED on second reading at a regular meeting of the City Council on the **12<sup>th</sup>** day of **March, 2012**, with all members voting “aye” for passage of the same.

\_\_\_\_\_  
Tommy Duncan, Mayor

ATTEST:

\_\_\_\_\_  
Tami Davis, Asst. City Secretary

**City of Big Spring**  
**Big Spring McMahon-Wrinkle Airport and Industrial Park**  
**Development Board Meeting Minutes**  
**January 24, 2013**

The Big Spring Airport and Industrial Park Development Board met in Special Session at 5:30 p.m., Thursday, January 24, 2013 at the Airport Terminal conference room, 3200 Rickabaugh Drive, Big Spring, Texas. Marc Marchesseault called the meeting to order at 5:30 p.m. with the following members in attendance:

Marc Marchesseault, Chairman	Paschal Odom, Vice-Chairman
Wayne Dawson, Safety Officer	Ned Crandall
Jan Hansen	Jim DeVille
Willie Rangel	

Absent:

Also in attendance:	Jim Little, Airport Director	Kelly Grant, Director's Assistant
	Terry Wegman, EDC	Phillip Welch, Pilot

**Item # 1**

**Call to Order**

Marc called the meeting to order at 5:30 pm.

**Item # 2**

**Review and approve minutes from November 15, 2012 meeting**

Motion to approve made by Wayne Dawson, seconded by Paschal Odom, with all members voting "aye" for acceptance of the minutes as written.

**Item # 3**

**Election of Officers**

Marc briefly discussed the possibility of his relocating and the effects that may have on his tenure with the board. The floor was opened for nominations for the Chairman and Vice-Chairman positions, with current officers being nominated for re-election. There were no new nominations. A motion was made by Wayne Dawson to keep the existing officers, seconded by Jim DeVille, with all members of the board voting "aye" for re-election of the current officers.

**Item # 4**

**Big Spring Economic Development Corporation Update**

Terry Wegman gave an update stating that Boyce Galvanizing is ready to install the last of their new vats which will be delivered in the next two weeks. A company called High Sierra is looking to use the rail spur for a crude transloading operation. Terry discussed the effects of the Cline Shale discovery and the possibilities of having upwards of 200 rail cars per day of crude coming in and out of Big Spring. The EDC is planning to have a community meeting regarding the impacts of the increased oilfield traffic and to address the concerns and questions that the community may have regarding the increase in business activity.

**Item # 5**

**THS Update**

Jim stated that THS is getting a new engine in, to replace an existing engine. CoEx Pipe is still using the spur and there are many other companies gearing up to get on board.

**Item # 6**

**Airport Terminal Apron Upgrade Project, Status**

Jim stated that we have gotten clearance to go out for bids, as of today. We will be able to keep the terminal and ramp area open during the construction process as it will be done in phases. The 17/35 Runway project will be done in conjunction with this project.

**Item # 7**

**Airport Fuel Tank Farm Project, Status**

The Fuel Farm project is moving forward, with the turnkey type product being approved. This work will be done as three separate projects; the Apron, the Tank Pads, and then Fuel Tanks. Hopefully, the work will be done at the same time as the Terminal Apron.

**Item # 8**

**Airport Directors Update**

Jim gave an update on some of the new leases that we have with Ft. Worth Pipe and other prospective tenants. The need for land is increasing and in turn has generated a great deal of activity on the airpark. We recently had two Fed Ex aircraft diverted to Big Spring due to inclement weather and low fog in Midland. We have the Croman Fire Fighting Helicopter back here for staging during the fire season. Additionally, we have a new company called Haverfield Aviation stationed here with two small helicopters used for high voltage power line construction work. Jim discussed the recent Permian Basin Airport Board Meeting and the developments with XCOR. Jim updated the board on his recent trip to Austin regarding the Truck Reliever Route and Access Road to the airpark. An overpass and access road are being proposed for the airport and construction should begin this year. Issues with new businesses and what to allow on the airpark including type of uses, new construction and utility availability were discussed by the board. Jim gave an update on the US Flight Academy, including their aircraft repair issues and the progress of the foreign students. Jim mentioned an inquiry he recently received about opening a Sky Diving Center at the airport and the topic was briefly discussed by the board. Jim DeVille commented on a recent meeting he attended regarding the Future of General Aviation. He stated that there is currently a lack of CFI's that can provide quality flight training in the US and that there is an increasing use of drones and unmanned aircraft to do missions once performed by military pilots. Many countries are combating the CFI shortage by offering programs that take a student from secondary education straight into flying training and careers in flight instruction. Jim updated the board on his upcoming travel plans including the Howard County Day in Austin at the State Capitol on February 5<sup>th</sup> and the TxDOT Aviation Conference in Austin on May 13-15<sup>th</sup>. For show and tell the board discussed the recent opening of the Hotel Settles.

**Item # 9**

**Leased Building Issues**

Jim updated the board regarding the fact that we have virtually 100% occupancy at this time in our buildings and the increased interest in land for commercial trucking companies and oilfield construction related businesses.

**Item # 10**

**Airport Safety Committee Report**

Wayne Dawson briefly discussed the upcoming Pilot Safety Meeting which is scheduled to take place immediately following the February meeting. He has contacted XCOR, the space flight company in Midland to give a presentation. He is still finalizing the details. He also mentioned the new program that he and Jim are working on – the Wright Brothers Master Pilot Award. Qualification requires a minimum of 50 years of safe flight operations piloting aircraft and can include up to 20 years of military aviation hours, but focuses primarily on general aviation. Nominations for qualified recipients are being requested at this time.

**Item # 11**

**Other Events & Activities**

No other events or activities at this time.

**Item # 12**

**Board Member Updates**

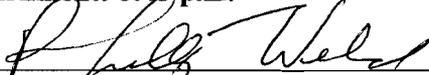
There are no updates at this time.

**Item # 13**

**Next Meeting Date**

February 28, 2013

**Adjournment: 6:45 p.m.**

  
Approved by Marc Marchesseault, Chairman

Phillip Welch

**FIRST AMENDMENT TO THE COMBINED  
INDUSTRIAL PARK LEASE AGREEMENT  
BETWEEN THE CITY OF BIG SPRING AND  
JOHN CRANE PRODUCTION SOLUTIONS, INC.**

This First Amendment to the Combined Industrial Park Lease Agreement Between the City of Big Spring and John Crane Production Solutions (“Amended Lease”) is made and entered into effective as of February 1, 2013 (the “Effective Date”), by and between the CITY OF BIG SPRING, a Texas home-rule municipal corporation with its principal address at 310 Nolan St., Big Spring, Texas 79720, hereinafter referred to as “Lessor”, and **John Crane Production Solutions, Inc.**, a Texas corporation with its principal address at 6400 West Oakton St., Morton Grove, IL 60053, hereinafter referred to as “Lessee”.

WHEREAS, Lessor and Lessee entered into that certain Industrial Park Lease Agreement effective as of February 1, 2010, hereinafter referred to as the “Lease.” The Lease concerns certain land, buildings and improvements located at the McMahon Wrinkle Airport and Industrial Park in Howard County, Texas, specifically including Building number 615 D & E with approximately 4 acres of land and Building number 632 A – G with one acre of land; and

WHEREAS, Lessor and Lessee mutually desire to extend the term of the Lease and to enact changes to the Lease by adding building space and land area, making changes to the rent to reflect the additional space and providing for subsequent renewals of the Lease as more specifically set forth herein;

NOW THEREFORE, for and in consideration of the mutual promises, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby amend the Lease as follows:

1. **Article 1 is amended to read as follows:**

**ARTICLE 1.  
PREMISES**

Premises A. Building # 615 –D & E; 2514 Bethel Dr. Big Spring, TX 79720.  
60,194 sq. ft. Warehouse Space @ \$1.09/sq. ft. - \$65,611.46  
annually, \$5,467.63 monthly.

Approximately 4 acres of Land @ \$50.00/acre, \$200.00 monthly

Premises B. Building 632; 1411 First St. Big Spring, TX 79720  
13,325 sq. ft. @ \$1.09/sq. ft. - \$14,524.25 annually, 1,210.36  
monthly

Approximately 4.24 Acres of land @ \$50.00 per acre per month =  
\$212.00 monthly.

Management fee @\$180.00 annually - \$15.00 monthly

For further identification, such Premises are also depicted in Exhibit “A” attached hereto.

2. **Article 2 is amended to read as follows:**

**ARTICLE 2.  
TERM**

The initial term of this Amended Lease (“Initial Term”) shall be for a term of **THREE** (3) years commencing on the 1<sup>st</sup> day of February 2013, and expiring on the 31<sup>st</sup> day of January 2016.

If not in default hereunder, at the end of the Initial Term, Lessee shall have the right to extend this Amended Lease on the same terms contained herein for two (2) additional periods of three (3) years (hereinafter referred to as the “Renewal Terms”). Each Renewal Term shall be on the same terms and conditions as set forth in this Agreement, except that Rent shall increase as provided in Article 3. This Amended Lease shall automatically renew for any Renewal Term unless Lessee notifies Lessor in writing of Lessee’s intention not to renew at least thirty (30) days prior to the expiration of the Initial Term or Renewal

Term which is then in effect.

**3. Article 3 is amended to read as follows:**

**ARTICLE 3.  
RENT**

Lessee shall pay to Lessor at 310 Nolan St., Big Spring, Texas, 79720 monthly in advance the following sums during the Initial Term of this Amended Lease:

**Premises A - \$5467.63 per month + \$200.00 for acreage = \$5667.63**  
**Premises B - \$1210.36 per month + \$212.00 for acreage**  
**Management Fee = \$15.00**

At the beginning of each Renewal Term Lessee's Rent shall be increased by the percentage equal to one percent (1%) per point of increase in the Consumer Price Index based on the United States Average published by the Bureau of Labor Statistics, U. S. Department of Labor, at the time of the exercise option over the Consumer Price Index for United States Average as published by the Bureau of Labor Statistics, U. S. Department of Labor at the effective date of this Amended Lease.

**4. Severability.**

In the event that any one or more of the provisions contained in the Lease is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provision. The Lease will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

**5. Successors and Assigns; Governing Law.**

This Amended Lease shall be binding upon and shall inure to benefit of the parties hereto and their respective successors and assigns and shall be governed by Texas law.

**6. Counterparts.**

This Amended Lease may be executed in multiple counterparts, each of which shall be deemed an original, and counterpart signature pages may be assembled to form a single original document.

**7. All Other Provisions.**

Except as specifically amended hereby, all other provisions of the Lease shall continue in full force and effect.

IN WITNESS WHEREOF, Lessor and Lessee have respectively executed this Amended Lease to be effective as of the Effective Date.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2013 by:

**CITY OF BIG SPRING**

By: \_\_\_\_\_  
Gary Fuqua, City Manager

ATTEST:

\_\_\_\_\_  
Tami Davis, Asst. City Secretary

Executed this \_\_\_\_ day of \_\_\_\_\_, 2013 by:

**JOHN CRANE PRODUCTION  
SOLUTIONS, INC.**

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

## AGREEMENT TO PROVIDE PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and between MAXIMUS Consulting Services, Inc. ("Consultant"), and the City of Big Spring, Texas ("Client"). In consideration of mutual promises and covenants, the parties agree as follows:

- (1) Scope of Services. Consultant shall perform in a professional manner the Services detailed in Exhibit A.
- (2) Term. This Agreement shall commence on the Effective Date and shall remain in effect until (a) seventy-two (72) months thereafter, (b) completion of, and payment in full for, the Services specified in Exhibit A, or (c) termination in accordance with Section 4, whichever occurs first. Should the Services not be completed at the conclusion of the 60 month term, and this Agreement has not been terminated pursuant to Section 4, the parties may agree to extend the agreement for a specified period of time pursuant to an amendment signed by both parties.
- (3) Compensation. Client shall pay Consultant a fee for services rendered as set forth in Exhibit B, incorporated herein by reference as if fully set forth as part of this Agreement.
- (4) Termination.
  - a) Termination for Cause. Upon material breach of the terms of this Agreement, the non-breaching party shall provide written notice to the breaching party specifying the nature of the default. The breaching party shall have 30 days (or such longer period as the parties may mutually agree upon) from the date of receipt to cure any such default prior to the effective date of termination. Any notice of default shall be delivered by certified mail or overnight courier.
  - b) Termination for Convenience. Either party may terminate this Agreement without cause upon 60 days prior written notice to the other. In the event the Agreement is so terminated by Client, Client shall reimburse Consultant for all reasonable costs incurred by Consultant due to such early termination.
  - c) Rights Upon Termination. Upon termination for whatever reason and regardless of the nature of the default (if any), Client agrees to pay Consultant in full for all goods and/or services provided to Client under this Agreement, or any amendment thereto, as of the effective date of termination of the Agreement.
- (5) Services and Materials to be Furnished by Client. Consultant shall provide guidance to Client in determining the data required. The Client acknowledges and agrees that Consultant shall be entitled to rely upon the accuracy and completeness of the data provided by the Client to perform the Services. Client shall provide all such data in a timely manner sufficient to allow Consultant to provide the Services. Consultant shall have no liability to Client whatsoever if Client provides incomplete or inaccurate data or provides data in an untimely manner.
- (6) Records and Inspections. Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for 6 years after the completion of the Services. During such period, Client shall have the right to examine and audit the records and to make transcripts therefrom. Client shall provide 30 days written notice of its intent to inspect or audit any such records and shall conduct such inspection or audit only during

Consultant's normal business hours and no more than once every six months. Any employee, consultant, subcontractor or agent of Client granted access to such records shall execute a non-disclosure agreement prior to being granted such access.

- (7) Copyright for Consultant's Proprietary Software. To the extent that the Services provided by Consultant are generated by Consultant's proprietary software, nothing contained herein is intended nor shall it be construed to require Consultant to provide such software to Client. Client agrees that it has no claims of ownership, including copyright, patents or other intellectual property rights to Consultant's software. Nothing in this Agreement shall be construed to grant Client any rights to Consultant's materials created prior to the execution of this Agreement. All of the deliverables prepared by Consultant for Client included in the Services are specifically set out in Exhibit A.
- (8) Insurance. Consultant shall maintain appropriate general liability insurance, workers' compensation insurance, automobile insurance, and professional liability insurance.
- (9) Indemnification. To the extent allowed by law, each party (an "Indemnifying Party") shall defend, indemnify and hold harmless the other party (an "Indemnified Party") from and against any and all third-party claims and resulting proven direct damages, liabilities and costs (including reasonable attorney fees) to the extent proximately caused by the negligent actions or willful misconduct of the Indemnifying Party, its employees or agents. The Indemnifying Party shall not be responsible for any damages, liabilities or costs resulting from the negligence or willful misconduct of the Indemnified Party, its employees, consultants, or agents or any third party.
- (10) Limitation of Liability. Client agrees that Consultant's total liability to Client for any and all damages whatsoever arising out of, or in any way related to, this Agreement from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed the lesser of (a) the amount actually paid to Consultant during the contract year in which the claim arose, or (b) \$150,000.

In no event shall Consultant be liable for indirect, special, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if Consultant has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

Any claim by Client against Consultant relating to this Agreement must be made in writing and presented to Consultant within one (1) year after the date on which Consultant completes performance of the services specified in this Agreement.

- (11) Consultant Liability if Audited. The Client represents that all financial and statistical information provided to Consultant by Client, its employees and/or agents is accurate and complete to the best of Client's knowledge. Consultant shall, upon notice of audit, make work papers and other records available to the auditors. Consultant's sole responsibility under an audit shall be to provide reasonable assistance to the Client through the audit and to make those changes to the work product as required as a result of the audit. Consultant shall not be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the Services, regardless of cause.
- (12) Notices. Any notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties in the United States mail, postage paid, to the address noted below:

Peggy Walker, Director of Finance  
310 Nolan  
Big Spring, Texas 79720-2657  
Telephone: (432) 264-2514  
Fax: (432) 263-8310  
pwalker@mybigspring.com

Mark Rewolinski  
MAXIMUS Consulting Services, Inc.  
5628 Green Oaks Blvd, Suite A  
Arlington, TX 76017  
Telephone: 972-490-9990  
markrewolinski@maximus.com

Such notice shall be deemed delivered 5 days after deposit in the U.S. mailbox.

- (13) Changes. The terms and scope of Services of this Agreement may be changed only by written agreement signed by both parties.
- (14) Miscellaneous.
- a. There are no third-party beneficiaries to this Agreement and nothing in this Agreement shall be construed to provide any rights or benefits to any third-party.
  - b. The parties intend that Consultant, in performing the Services specified in this Agreement shall act as an independent contractor and shall have full control of the work and the manner in which it is performed. Consultant and Consultant's employees are not to be considered agents or employees of Client for any purpose.
  - c. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason, this Agreement will continue in full force and effect without said provision, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and this Agreement will be interpreted to reflect the original intent of the parties insofar as possible.
  - d. The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.
  - e. This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.
  - f. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, labor conditions, material shortages or any other cause which is beyond the reasonable control of such party.
  - g. Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.
  - h. Waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder will not operate or be construed as a waiver of any subsequent breach of that provision or as a waiver of that right.

IN WITNESS WHEREOF, the Client and the Consultant have executed this Agreement as of the date first written below.

By: \_\_\_\_\_  
(Client Official)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

MAXIMUS Consulting Services, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A Scope of Services**

### Description of Services:

The Consultant shall do, perform, and carry out in a good and professional manner the following services:

- Prepare an OMB A-87 acceptable cost allocation plan based on actual costs incurred as well as a full cost allocation plan based on budgeted expenditures. These plans will identify the various costs incurred by the City to support and administer non-general fund programs.
- Under direction of the Consultant, the City shall gather input data.
- Computer processing of the plan prepared.
- Provide the City draft reports; Consultant shall revise the reports based on the City's feedback.
- Assist the City in its negotiation of acceptable rates with federal and state authorities, as necessary.

The final document shall comply with the cost principles established by the Federal Office of Management and Budget Rules and Regulations, 2 C.F.R. part 225 (formerly known as OMB A-87) for state and local governments.

Consultant represents that it has, or will secure at its own expense, all personnel required in the performance of Services under this Agreement. All of the Services required hereunder will be performed by Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified to perform the services described herein. .

Consultant shall provide the Services stated in this Exhibit A in a professional and workmanlike manner consistent with the typical standards of the industry. Consultant specifically disclaims all other warranties, express or implied, including but not limited to the warranties of merchantability and fitness for a particular purpose.

## EXHIBIT B Compensation

For Services provided as set forth in Exhibit A, Client agrees to pay Consultant compensation in the amount of ten thousand nine hundred eighteen dollars (\$10,918) for all services required for completion of the OMB A-87 cost plan for the year ending September 30, 2012 and the full cost allocation plan based on the budget for the year ending September 30, 2013 which shall include reimbursement for expenses incurred. For each year thereafter, the City agrees to pay Consultant a sum not to exceed:

OMB Actual Plan for FY 2013, Full Cost Plan for FY 2014	\$11,246
OMB Actual Plan for FY 2014, Full Cost Plan for FY 2015	\$11,583

Upon expiration of the initial three year term, this Agreement will be automatically renewed for three successive one-year terms on the same terms and conditions. If the Finance Director or the City chooses not to renew this Agreement, the Finance Director shall notify Consultant of non-renewal at least 30 days before the expiration of the then-current term. For each renewal year, the City agrees to pay Consultant a sum not to exceed:

OMB Actual Plan for FY 2015, Full Cost Plan for FY 2016	\$11,930
OMB Actual Plan for FY 2016, Full Cost Plan for FY 2017	\$12,288
OMB Actual Plan for FY 2016, Full Cost Plan for FY 2017	\$12,657

Payment of the standard fee which shall include reimbursement for expenses incurred shall be made in two installments: ninety-five percent (95%) of the standard fee shall be due upon delivery of draft plan(s); the remaining five percent (5%) of the standard fee shall be due upon delivery of the final plan(s). Invoices shall provide detail sufficient to Client's requirements.

Consultant will render to Client one or more invoices for the fees specified herein, with payment due thirty (30) days after the invoice date.

The services and associated compensation covered under this Agreement may be modified through a written amendment, approved and executed by both parties. For additional Services, the inclusive hourly rates by resource category are as follows:

Executive Director	\$200/hr
Senior Project Manager	\$175/hr
Project Manager	\$150/hr
Senior Consultant	\$125/hr
Consultant/Analyst	\$100/hr

## INTERLOCAL AGREEMENT

This Agreement for the joint bidding and engineering management of street improvement projects is entered into between each of the signatories to this Agreement (hereinafter "Participant(s)") and between each additional participant who may hereafter consent to be bound by the terms of this Agreement by appropriate resolution executed by its governing body. This Agreement is executed pursuant to TEXAS GOVERNMENT CODE CHAPTER 791, the Texas Interlocal Cooperation Act.

The Agreement of the parties is as follows:

**1. Term.**

This Agreement shall extend through the 2013 seal coating season and for so long thereafter as may be necessary to complete the 2013 seal coating program in a manner satisfactory to the individual participants.

**2. Consideration.**

Each participant agrees to jointly bid their individual seal coating programs and to coordinate the bidding process in order to take advantage of economies of scale and to eliminate repetitive efforts by each of the participants. Each participant agrees to be bound by the bid specifications attached to this Agreement as Exhibit "A". Additionally, each participant agrees that the lowest responsible bid received pursuant to the bid process shall be accepted by each of the participants.

**3. Joint Bid Process.**

It is hereby agreed by the parties that the firm of Parkhill, Smith & Cooper, Inc. ("hereinafter "engineers") will be the agent for each of the participants in all matters relating to the bidding of the seal coat program and the management of the program once the bidding has been completed. Each participant agrees to be bound by the fee schedule submitted by engineers.

**4. Communication.**

Engineers shall keep the individual participants informed as to the progress of the bidding process and following the awarding of the bids shall coordinate the seal coat program.

**5. Payment.**

Each participant agrees to pay the cost of its portion of the seal coat program within thirty (30) days of completion of its portion of the program

**6. Force Majeure.**

In the event any party shall be rendered unable to carry out its obligation under this Agreement in whole or in part as a result of "Force Majeure", and if the party shall give notice and describe in detail the nature of the occurrence, then the obligation of the party giving such notice, so far as it is affected by such "Force Majeure" shall be suspended during the continuance of the inability then claimed, but for no longer period. The affected party shall use its best efforts to endeavor to overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbance, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, earthquake, fires, hurricanes, storms, floods, washouts, civil disturbances, explosions, breakage or accidents to machinery.

**7. Modification.**

This Agreement may be amended only with the consent of the governing bodies of each of the parties through appropriate written resolutions, executed and delivered to the parties.

**8. Construction.**

This Agreement is intended to express the mutual intent of the participants and, irrespective of the identity of the participant preparing this Agreement or any document or instrument referred to herein, no rule of strict construction against the party preparing the document shall be applied.

**9. Severability.**

In the event any portion of this Agreement shall be declared to be invalid or unenforceable for any reason, such finding shall not affect the validity of the balance of this agreement.

**10. Entire Agreement.**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous agreements or understandings, whether written or oral with respect to the subject matter hereof. No verbal agreement or conversation with any officer, agent or employee of a participant either before or after execution of

the Agreement shall affect or modify any of the terms or obligations contained in the contract. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon the participants.

**11. Additional parties.**

Each of the original signatories to this Agreement consents to the ratification of this Agreement by addition governmental participants so long as each additional participant agrees to be bound by the terms and conditions of this Agreement to the same extent as the original signatories.

**12. Venue**

Venue and jurisdiction of any suit, or cause of action arising or in connection with this Agreement shall lie exclusively in Lubbock County, Texas.

**13. Effective Date.**

This Agreement shall be effective as to each of the signatories on the date of the final execution of their respective resolutions adopting this Agreement.

This Agreement contemplates that all payments shall be made from current funds budgeted for the year 2012-2013. In the event the governing body of the City of Big Spring shall fail to appropriate funds to participate in the seal coat program in the 2012-2013 budget, then this Agreement shall terminate on the last day of the fiscal year preceding the year for which appropriation is not made.

City of Big Spring

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Secretary

**Agreement for Professional Services**

Date January 11, 2013  
 PSC Job No 01.3729.13  
 Project Manager Alan Holly, PE

**Office Location:**  
 Address 4222 85<sup>th</sup> Street  
Lubbock, TX 79423  
 Phone 806.473.2200 Fax 806.473.3500

**City of Big Spring**, hereinafter CLIENT, does hereby authorize **Parkhill, Smith & Cooper, Inc.**, hereinafter CONSULTANT, a corporation organized and existing under the laws of the State of Texas, to perform the services set forth below, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH BELOW AND ON THE NEXT PAGE, **Standard Conditions.**

**A. Client Information**

Name City of Big Spring  
 Address 310 Nolan  
 City Big Spring State TX Zip 79720  
 Representative Gary Fuqua Phone \_\_\_\_\_  
 Owner of Property Involved \_\_\_\_\_

**B. Project Description**

Project Name 2013 Group Seal Coat Program Client PO No. \_\_\_\_\_  
 Location Various  
 Estimated Completion Date \_\_\_\_\_  
 Description of CONSULTANT'S Service or Scope of Work: \_\_\_\_\_

Client will provide access to work site(s).

**C. Compensation**

1. CONSULTANT'S total fee is estimated to be \$\_\_\_\_. Actual fee shall not exceed such estimate by more than ten percent (10%) without the express written consent of CLIENT.
2. Basis of CONSULTANT'S fee (check one)
  - Lump Sum with Progress Payments (schedule attached)
  - Time and Materials in accordance with the Schedule of Charges dated January 2013
  - Other (description) \_\_\_\_\_
3. CLIENT shall pay a retainage fee of \$\_\_\_\_, which fee shall be paid in full prior to commencement of the services herein contemplated. Said fee shall be applied to CLIENT'S final payment for the services or products provided under this agreement.

**D.** CLIENT has read and understood the terms and conditions set forth in the **Standard Conditions** and agrees that such items are hereby incorporated into and made a part of this agreement

**E.** Having read, understood and agreed to the foregoing, CLIENT and CONSULTANT, by and through their authorized representatives, have subscribed their names hereon effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

<b>Client: <u>City of Big Spring</u></b>	<b><u>Parkhill, Smith &amp; Cooper, Inc.</u></b>
Name _____	Name <u>Robert Holly Holder</u>
<u>Gary Fuqua</u>	Robert H. (Holly) Holder, PE
Title <u>City Manager</u>	Title <u>Firm Principal</u>
Date _____	Date <u>01/11/13</u>

Agreement to be executed in duplicate

08/11

**CLIENT:** City of Big Spring

**DATE:** January 11, 2013

**STANDARD CONDITIONS: CLIENT and CONSULTANT (Parkhill, Smith & Cooper, Inc.) agree that the following Provisions shall be part of their Agreement.**

**ARTICLE 4. SERVICES**

**4.1 INVOICING**

Invoices shall be submitted by the CONSULTANT monthly and are due upon presentation and shall be considered past due if not paid within thirty (30) days of the due date. Past due invoices shall bear interest at one-and-one-half (1.5) percent (or the maximum rate allowable by law, whichever is less) of the PAST DUE amount per month, which shall be calculated from the invoice due date.

If the CLIENT fails to make payment to the CONSULTANT in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by the CONSULTANT and may, in addition to any other remedies provided by law, file an affidavit in support of a lien on the Property pursuant to Chapter 53 of the Texas Property Code.

**4.2 SERVICES DURING CONSTRUCTION**

The CONSULTANT shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor. The CLIENT agrees that the general contractor shall be solely responsible for jobsite and worker safety and warrants that this intent shall be carried out in the CLIENT's contract with the General Contractor.

The CONSULTANT shall not be responsible for any acts or omissions of the Contractor, any subcontractor, any entity performing any portions of the Work or any agents or employees of any of them. The CONSULTANT does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

**4.3 ESTIMATES OR OPINIONS OF PROBABLE CONSTRUCTION COST**

In providing estimates or opinions of probable construction cost, the CLIENT understands that the CONSULTANT has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the CONSULTANT's estimates or opinions of probable construction costs are made on the basis of the CONSULTANT's professional judgment and experience. The CONSULTANT makes no warranty, express or implied, that the bids or the negotiated construction cost will not vary from the CONSULTANT's estimates or opinions of probable construction cost.

**4.4 HAZARDOUS MATERIALS**

As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the project site.

Both parties acknowledge that the CONSULTANT's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the CONSULTANT or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to the CONSULTANT that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the CONSULTANT's services, the CONSULTANT may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the CLIENT retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

**4.5 ACCESSIBILITY – TEXAS ACCESSIBILITY STANDARD (TAS)**

The CLIENT acknowledges that the requirements of the Americans with Disabilities Act (ADA), Texas Accessibility Standards (TAS) for projects in the State of Texas, and other federal, state and local accessibility laws, rules, codes, ordinances, and regulations will be subject to various and possibly contradictory interpretations. The CLIENT further acknowledges that the ADA is a Civil Rights law and not a building code, and does not have prescriptive language. The CONSULTANT, therefore, will use its reasonable professional efforts and judgment to interpret applicable accessibility requirements in effect as of the date of the execution of this Agreement, and as they apply to the Project. The CONSULTANT, however, cannot and does not warrant or guarantee that the CLIENT's Project will comply with all interpretations of the accessibility requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project.

All projects in the State of Texas must be submitted to the Texas Department of Licensing and Regulations (TDLR) – Elimination of Architectural Barriers (EAB) Division for plan review for compliance with TAS requirements. The CONSULTANT will include in the design of the Project all changes that are the result of the TDLR plan review. After construction of the project TDLR requires an inspection of the project for compliance confirmation. However, the CONSULTANT cannot and does not warrant or guarantee that different rules and or interpretation may be applied to the CLIENT's Project at the time of the final TDLR inspection. Compliance with changes required by the TDLR final inspection that were not mentioned in the TDLR plan review will be additional services. CONSULTANT's plan review and inspection basis of compensation will be time and materials unless otherwise specified.

4.6 SERVICES BY CLIENT

CLIENT will provide access to work site, obtain applicable permits, provide all legal services in connection with the project, and provide environmental impact reports and energy assessments unless specifically included in the Scope of Work. CLIENT shall pay the costs of checking and inspection fees, zoning application fees, soils engineering fees, testing fees, surveying fees, and all other fees, permits, bond premiums, and all other charges not specifically covered by the terms of this Agreement.

4.7 OWNERSHIP OF DOCUMENTS

All reports, drawings, specifications, computer files, field data, notes, data on any form of electronic media, and other documents prepared by the CONSULTANT as Instruments of Service shall remain the property of the CONSULTANT. The CONSULTANT shall retain a common law, statutory and other reserved rights, including copyrights.

The CONSULTANT grants to the CLIENT a nonexclusive license to reproduce the CONSULTANT's Instruments of Service solely for the purpose of constructing, using and maintaining the Project. The CLIENT shall not use the Instruments of Service for other projects without prior written agreement of the CONSULTANT.

The CLIENT shall not make any modification to the Instruments of Service without the prior written authorization of the CONSULTANT. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CONSULTANT against any damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the Instruments of Service by the CLIENT or any person or entity that acquires or obtains the Instruments of Service from or through the CLIENT without the written authorization of the CONSULTANT.

4.8 DELIVERY OF ELECTRONIC FILES

In accepting and utilizing any form of electronic media generated and furnished by the CONSULTANT, the CLIENT agrees that all such electronic files are Instruments of Service of the CONSULTANT. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy Contract Documents. In the event of a conflict between the original signed Contract Documents prepared by the CONSULTANT and electronic files, the original signed and sealed hard-copy Contract Documents shall govern.

Electronic files created by the CONSULTANT through the application of software licensed for the sole and exclusive use by the CONSULTANT will be furnished to the CLIENT in read-only format. The CLIENT is responsible to obtain and maintain software licenses as appropriate for the use of electronic files provided by the CONSULTANT.

Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by the CONSULTANT, and the CONSULTANT makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the CONSULTANT be liable for indirect or consequential damages as a result of the CLIENT's use or reuse of the electronic files.

ARTICLE 5. GENERAL PROVISIONS

5.1 APPLICABLE LAW

This agreement shall be interpreted and enforced according to the laws of the State of Texas, unless agreed otherwise.

5.2 PRECEDENCE OF CONDITIONS

Should any conflict exist between the terms herein and the terms of any purchase order or confirmation issued by CLIENT, the terms of these Standard Conditions shall prevail.

5.3 ASSIGNMENT

Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by the CONSULTANT as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

5.4 AMENDMENTS

This agreement may be amended only by a written instrument, signed by both CLIENT and CONSULTANT, which expressly refers to this agreement.

5.5 DELAYS

The CLIENT agrees that the CONSULTANT is not responsible for damages arising directly or indirectly from any delays for causes beyond the CONSULTANT'S control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; failure of any government agency to act in timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by the CONSULTANT to perform its services in an orderly and efficient manner, the CONSULTANT shall be entitled to a reasonable adjustment in schedule and compensation.

5.6 INSURANCE

The CONSULTANT agrees to provide Professional Liability Insurance and General Liability Insurance during the scope of the services provided for this project and for a period of 3 years after the completion of services.

5.7 MERGER: WAIVER: SURVIVAL

Except as set forth in AMENDMENT above, this agreement constitutes the entire and integrated agreement between the parties hereto and supercedes all prior negotiations, representations and/or agreements, written or oral. One or more waiver of any term, condition or other provision of this agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provisions. If any term or provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, such holding shall be applied only to the provision so held, and the remainder of this Agreement shall remain in full force and effect.

5.8 TERMINATION

This agreement may be terminated by either party upon seven (7) days written notice should the other party fail substantially to perform in accordance with this agreement through no fault of the party initiating the termination. This agreement may be terminated by CLIENT upon at least fourteen (14) days written notice to CONSULTANT in the event that the Project is abandoned.

If this agreement is terminated by CLIENT through no fault of the CONSULTANT, CONSULTANT shall be paid for services performed and costs incurred by it prior to its receipt of notice of termination from CLIENT, including reimbursement for Direct Expenses due, plus an additional amount, not to exceed ten percent (10%) of charges incurred to the termination notice date to cover services to orderly conclude the services and prepare project files and documentation, plus any additional Direct Expenses incurred by CONSULTANT including but not limited to cancellation fees or charges. CONSULTANT will use reasonable efforts to minimize such additional charges.

5.9 CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the CLIENT nor the CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the CLIENT and the CONSULTANT shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

5.10 THIRD-PARTY BENEFICIARIES

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other party or entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services hereunder. The CLIENT and CONSULTANT agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

5.11 MAINTENANCE/WEAR AND TEAR

Both the CLIENT and CONSULTANT acknowledge that the CLIENT, and only the CLIENT, is responsible for maintenance, wear and tear on the project upon substantial completion. The CLIENT is responsible for providing routine inspections and maintenance of the project to maintain a safe and weather tight facility. Should the CLIENT fail to provide routine inspections and maintenance, and damage occur to the project, the CONSULTANT is not responsible for any such resultant damage.

ARTICLE 6. ALLOCATION OF RISK, WARRANTY

6.1 WARRANTY; STANDARD OF CARE

In providing services under this Agreement, the CONSULTANT shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. The CONSULTANT makes no warranty, express or implied, as to its professional services rendered under this Agreement.

6.2 DISPUTE RESOLUTION

CONSULTANT and CLIENT agree to negotiate all disputes between them in good faith for a minimum of 30 days from the date of notice. Should such negotiations fail, the CONSULTANT and CLIENT agree that any dispute between their arising out of, or relating to this Agreement shall be submitted to nonbinding mediation prior to exercising any other rights under law, unless the parties mutually agree otherwise.

6.3 BETTERMENT

If, due to an error or an omission by the CONSULTANT, any required item or component of the project is omitted from the Construction Documents, the CONSULTANT shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the project or otherwise add value or betterment to the project.

6.4 ALLOCATION OF RISK

In recognition of the relative risks and benefits of the Project to both the CLIENT and the CONSULTANT, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of the CONSULTANT and CONSULTANT'S officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert-witness fees and costs, so that the total aggregate liability of the CONSULTANT and CONSULTANT'S officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed \$50,000, or the CONSULTANT'S total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

\*\*\* END \*\*\*

PARKHILL, SMITH & COOPER, INC. (CONSULTANT)

City of Big Spring

By Robert Holly Holder  
Robert H. (Holly) Holder, PE  
Firm Principal

Accepted By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Parkhill, Smith & Cooper, Inc.**  
**Hourly Rate Schedule**  
**Current through December 31, 2013**

Client: **City of Big Spring**  
 Project: 2013 Group Seal Coat Program  
 Agreement Date: January 2013

**January 1, 2013**

Classification	Hourly Rate	Classification	Hourly Rate
PROFESSIONAL LEVEL VII	\$187.00	PROFESSIONAL LEVEL I	\$83.00
Engineer VII		Intern (Architect) I	
Architect VII		Intern (Interiors) I	
Landscape Architect VII		Intern (Landscape Architect) I	
Interior Designer VII		Technologist I	
		Resident Project Representative I	
		Clerical Supervisor I	
PROFESSIONAL LEVEL VI	\$158.00	SUPPORT STAFF III	\$80.00
Engineer VI		Engineering Technician III, IV	
Architect VI		CADD III, IV	
Landscape Architect VI		Administrative Secretary III	
Interior Designer VI		Architect Technician III, IV	
		Project Assistant I/II	
PROFESSIONAL LEVEL V	\$141.00	SUPPORT STAFF II	\$73.00
Engineer V		Architect Technician I, II	
Architect V		Engineering Technician I, II	
Landscape Architect V		CADD I, II	
Interior Designer V		Accounting Clerk I, II	
		Administrative Secretary I, II	
		Project Assistant EL	
		Word Processor I, II	
		Receptionist I, II	
		File Clerk I	
PROFESSIONAL LEVEL IV	\$122.00	SUPPORT STAFF I	\$42.00
Engineer III, IV		Architectural Student EL	
Architect IV, Intern (Architect) IV		Engineering Student EL	
Landscape Architect IV		Landscape Architecture Student EL	
Interior Designer IV		Interiors Student EL	
Technologist IV		CADD EL	
Resident Project Representative IV		Accounting Clerk EL	
		Word Processor EL	
		Receptionist EL	
		File Clerk EL	
PROFESSIONAL LEVEL III	\$103.00		
Engineer I/II			
Architect III, Intern (Architect) III			
Landscape Architect III			
Intern (Landscape Architect) III			
Interior Designer III			
Technologist III			
Resident Project Representative III			
PROFESSIONAL LEVEL II	\$91.00		
Intern (Architect) II			
Interior Designer II, Intern (Interiors) II			
Landscape Architect II			
Technologist II			
Resident Project Representative II			
Clerical Supervisor II			

**Expenses**

Reimbursement for expenses, as listed below, but not limited to, incurred in connection with the services, will be at cost plus fifteen percent for items such as:

1. Maps, photographs, postage, telephone, reproductions, printing, equipment rental, and special supplies related to the services.
2. Consultants, soils engineers, surveyors, contractors, and other outside services.
3. Rented vehicles, local public transportation and taxis, road toll fees, travel, and subsistence.
4. Special or job specific fees, insurance, permits, and licenses applicable to the work services.
5. Mileage at IRS approved rate.

Rate for professional staff for legal proceedings or as expert witnesses will be a rate one and one-half times the Hourly Rates specified above.

Excise and gross receipts taxes, if any, will be added as an expense.

The foregoing Schedule of Charges is incorporated into the agreement for the services provided, effective January 1, 2013 through