



# **Joint City Council – Odessa Development Corporation Meeting Agenda**

**Third Floor Conference Room – City Hall  
411 W. 8<sup>th</sup> Street  
Odessa, Texas 79761**

**Tuesday, June 25, 2019  
2:00 p.m.**

**Internet website <http://www.odessa-tx.gov>**

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## **Mission Statement**

**Motivated by a proactive, independent and diverse heritage, the City of Odessa will embrace the future through innovative and progressive leadership. Working in partnership with citizens of the community as well as other governmental agencies, we will provide Odessans of today and tomorrow with outstanding services and facilities that will protect and enhance the quality of life.**

## **CITY COUNCIL**

**David R. Turner, Mayor  
Malcolm Hamilton, District 1  
Dewey Bryant, District 2  
Detra White, District 3  
Tom Sprawls, District 4  
Mari Willis, District 5  
Peggy Dean, At-Large**

**Michael Marrero, City Manager**

## **ODESSA DEVELOPMENT CORPORATION**

**Gene Collins (District 1)  
Melanie Hollmann (District 2)  
Betsy Triplett-Hurt (District 3)  
Ted A Tuminowski (District 4)  
Tim Edgmon (District 5)**

- I. INVOCATION
- II. PLEDGE AND TEXAS PLEDGE  
Honor the Texas Flag, I pledge allegiance to Thee,  
Texas, one state under God, one and indivisible
- III. OTHER COUNCIL ACTION
  1. Discuss Type A Corporation Authority and Use of Sales Tax Funds
  2. Discuss and consider Workforce Housing Incentive Guidelines
  3. ODC Project Approval Process
4. Adjourn

#### COURTESY RULES

**Thank you for your presence. The City Council appreciates your interest in Odessa City Government. PLEASE SILENCE OR TURN OFF ALL MOBILE DEVICES.**

**If you wish to address the Council, obtain a speaker card just inside the Council Chambers, complete the information requested on the card, and deliver to the City Secretary before the meeting or as soon as you can.**

**Speakers will be heard as the individual item(s) in which they have registered an interest come before the Council.**

**Your remarks will be limited in duration depending on the number of people wanting to speak on a particular item. PLEASE GIVE YOUR NAME AND ADDRESS FOR THE RECORD.**

**Delay or interruption of the proceedings will not be tolerated.**



#### ASSISTANCE

**Please call (432) 335-3276 if you need assistance with interpretation or translation for this meeting.**

*Si usted necesita ayuda con la interpretación o traducción de cualquier material en este sitio o en una reunión pública de la Ciudad de Odessa por favor llame al (432) 335-3276.*



#### AMERICANS WITH DISABILITIES ACT NOTICE

**The City of Odessa wants to ensure that City Council Meetings are accessible to persons with disabilities. If any individual needs special assistance or accommodations in order to attend a City Council meeting, please contact the City Secretary's Office at (432)335-3276, in advance so accommodations can be made.**



## PUBLIC NOTICE

In accordance with the Open Meetings Act, Chapter 551 of the Government Code of Texas, notice is hereby given to all interested persons that the City Council of the City of Odessa will meet jointly with the Odessa Development Corporation on Tuesday, June 25, 2019 at 2:00 p.m. at City Hall, Third Floor Conference Room, 411 W. 8<sup>th</sup> St., Odessa, Texas for the following purposes:

### **See Attached Agenda**

This Notice is being posted on the south door of City Hall and on the bulletin board of the first floor of City Hall, Odessa, Texas, this the \_\_\_\_\_ day of June, 2019 at \_\_\_\_\_ .m., said time being more than seventy-two hours prior to the time at which the subject meeting will be convened and called to order. The public notice is also posted on the City of Odessa's website [www .odessa-tx.gov](http://www.odessa-tx.gov).

City Council Meetings are available to all persons regardless of disability. Individuals with disabilities who require special assistance should contact the City Secretary's Office at 432/335-3276, or 411 West 8<sup>th</sup> Street, First Floor, Odessa, Texas, during normal business hours at least twenty-four hours (24) in advance of the meeting.

Norma Aguilar-Grimaldo, TRMC, CMC  
City Secretary



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 19, 2010

The Honorable Mark Homer  
Chair, Committee on Culture, Recreation  
and Tourism  
Texas House of Representatives  
Post Office Box 2910  
Austin, Texas 78768-2910

Opinion No. GA-0819

Re: Whether the Development Corporation Act of 1979 permits a 4A economic development corporation to grant or use sales tax funds for certain purposes in connection with a nonprofit corporation that provides affordable housing assistance (RQ-0877-GA)

Dear Representative Homer:

You ask whether the Development Corporation Act of 1979 (the “Act”) permits a 4A economic development corporation to grant or use sales tax funds for certain purposes in connection with a nonprofit corporation that provides affordable housing.<sup>1</sup> You relate that the Paris Economic Development Corporation (“PEDC”) was created in 1993 as a “4A” corporation under the Act. Request Letter at 2. The PEDC has been approached for a grant of \$10,000 of PEDC sales tax revenue by Paris Living, Inc. (“Paris Living”), a nonprofit corporation that provides affordable housing assistance for persons with low or middle income. *Id.* at 1–2. The purpose of such a grant from PEDC would be to hire a consultant to assist Paris Living to apply “to the United States Department of Treasury for \$100,000 in technical assistance funding in advance of applying for certification as a first lien lender under the Community Development Financial Institutions Fund [“CDFI”].” *Id.* at 1. Specifically, you ask:

- (1) Whether the Paris Economic Development Corporation, a 4A Economic Development Corporation created pursuant to the [Act] may grant \$10,000 in 4A sales tax funds to Paris Living, Inc., a local non-profit corporation that provides affordable housing assistance to qualifying persons of low-to-moderate income in the Northeast Texas region?
- (2) Does the [Act] allow for 4A Economic Development Corporations (such as PEDC) to use 4A sales tax funds to support an affordable housing program or project?

Request Letter at 1.

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<sup>1</sup>See Request Letter at 1 (*available at* <http://www.texasattorneygeneral.gov>).

The Act is generally intended to promote and develop “new and expanded business enterprises and . . . job training.” TEX. LOC. GOV’T CODE ANN. § 501.004(a) (West Supp. 2010). To that end, the Act authorizes municipalities and other governmental units to create a corporation as “a constituted authority for the purpose of financing one or more projects.” *Id.* § 501.151; *see also id.* §§ 501.002(5), (17) (definitions of “Corporation” and “Unit”), 501.051 (authority of unit to create a corporation). The Act has been codified as title 12, subtitle C1 of the Local Government Code, effective April 1, 2009. Act of May 15, 2007, 80th Leg., R.S., ch. 885, §§ 3.01, 4.02, 2007 Tex. Gen. Laws 1905, 2082–2132, 2163 (codified at TEX. LOC. GOV’T CODE ANN. §§ 501.001–505.355). Prior to codification, a corporation was referred to as a “4A corporation” or a “4B corporation” in reference to the particular section of the Act that governed a corporation’s creation and authority.<sup>2</sup> Now, the Act as codified in the Local Government Code refers to a “Type A corporation” and a “Type B corporation.” TEX. LOC. GOV’T CODE ANN. § 501.002(15), (16) (West Supp. 2010). For purposes of this opinion, we assume that the PEDC is a Type A corporation under the Local Government Code.

A key concept under the Act is its provision for authorized “projects.” *See id.* § 501.151 (stating that a development corporation is “a constituted authority for the purpose of financing one or more projects” (emphasis added)). The Act specifies and limits the kinds of projects that a particular development corporation, depending on its authority, may facilitate. *See id.* § 501.002(13) (defining “project”); *see, e.g., id.* §§ 501.101–107 (subchapter C, “Authorized Projects”). Thus, while you have asked about a specific “grant” and “support,” we understand your questions to more broadly concern whether the provision of affordable housing or the financial, administrative, or construction activity related to the provision of affordable housing may constitute an “authorized project” with respect to a Type A corporation.

Chapter 501, subchapter C provides a general listing of authorized development corporation projects. *Id.* § 501.002(13).<sup>3</sup> Of particular importance, section 501.101 authorizes projects related to the creation or retention of “primary jobs.”<sup>4</sup> *Id.* § 501.101(1). Section 501.101 provides:

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<sup>2</sup>*See* Act of May 27, 1989, 71st Leg., R.S., ch. 877, § 2, sec. 4A, 1989 Tex. Gen. Laws 3871, 3871–73 (providing for 4A corporations), *and* Act of Mar. 21, 1991, 72d Leg., R.S., ch. 11, § 2, sec. 4B, 1991 Tex. Gen. Laws 37, 37–39 (providing for 4B corporations), *both repealed by* Act of May 15, 2007, 80th Leg., R.S., ch. 885, § 3.78, 2007 Tex. Gen. Laws 1905, 2163.

<sup>3</sup>*See* TEX. LOC. GOV’T CODE ANN. §§ 501.101 (West Supp. 2010) (projects for the creation of primary jobs), 501.102 (projects related to certain job training), 501.103 (certain infrastructure improvement projects), 501.104 (projects related to certain military bases or missions), 501.105 (certain career center projects), 501.106 (airport facilities or other projects concerning certain border municipalities), 501.107 (infrastructure projects concerning certain border counties); *see also id.* § 501.162 (use of tax revenue for job training).

<sup>4</sup>As applicable here, a “primary job” is one that is “available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy” and is included in specified job sectors in the North American Industry Classification System. *Id.* § 501.002(12)(A)(i)–(ii).

[A] “project” includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are:

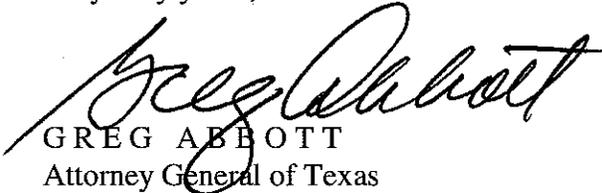
- (1) for the creation or retention of primary jobs; *and*
- (2) found by the board of directors to be required or suitable for the development, retention, or expansion of [certain categories of facilities].

*Id.* § 501.101(1)–(2) (emphasis added). Also, chapter 504 authorizes projects specifically concerning Type A corporations. *See id.* § 504.103(c) (projects concerning certain general aviation business service airports, port-related facilities, or airport-related facilities). And chapter 505 authorizes a Type A corporation to provide funding for a specific Type B corporation project or category of projects by submitting the matter to the authorizing municipality’s voters, preceded by notice and a hearing. *Id.* §§ 504.152(a), .153; *see also id.* § 505.153 (Type B corporation project concerning affordable housing). However, whether a particular project or a specific expenditure is authorized under the Act involves fact issues that may not be resolved in the opinion process and are matters for the board of directors of the development corporation to determine in the first instance. *See, e.g.,* Tex. Att’y Gen. Op. No. GA-0086 (2003) at 2–3; Tex. Att’y Gen. LO-97-061, at 3 & n.6; Tex. Att’y Gen. LO-94-037, at 3.

S U M M A R Y

It is for the board of directors of a development corporation to determine, in the first instance, whether a project or expenditure is authorized under the Development Corporation Act.

Very truly yours,

  
GREG ABBOTT  
Attorney General of Texas

DANIEL T. HODGE  
First Assistant Attorney General

DAVID J. SCHENCK  
Deputy Attorney General for Legal Counsel

NANCY S. FULLER  
Chair, Opinion Committee

William A. Hill  
Assistant Attorney General, Opinion Committee



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 16, 2016

The Honorable G. A. Maffett III  
Wharton County Attorney  
100 South Fulton Street, Suite 105  
Wharton, Texas 77488

Opinion No. KP-0065

Re: Definition of the term "site improvements" for purposes of section 501.103 of the Local Government Code, relating to an economic development corporation's funding of the same (RQ-0048-KP)

Dear Mr. Maffett:

You ask for an opinion on the meaning of the term "site improvements" under section 501.103 of the Local Government Code.<sup>1</sup> Specifically, you inquire whether a program of the El Campo Economic Development Corporation ("Corporation") falls within the scope of the term. *See* Request Letter at 2. You explain that the Corporation has created a "Revitalization and Site Improvement Campaign" ("campaign") to promote certain businesses located in the City of El Campo. *Id.* You tell us the campaign uses Corporation funds to "provide matching grants to qualified El Campo businesses (both retail and industrial) to enhance their property and provide visual improvements to their facilities." *Id.* Under the campaign, eligible improvements include "exterior painting, glass replacement, general property clean-up or removal of debris, architectural or accent lighting, new landscaping, and signage." *Id.* You inform us that the Corporation bases its authority to use its economic development funds for this campaign on the term "site improvements" contained in subsection 501.103(1) of the Local Government Code. *Id.* You ask whether the Corporation's expenditures for these improvements qualify as site improvements under section 501.103. *Id.* As this office has previously observed, the question whether a particular expenditure of an economic development corporation is authorized is one that involves fact issues and cannot be resolved in an attorney general opinion. *See* Tex. Att'y Gen. Op. No. GA-1066 (2014) at 1 (relating to the propriety of expenditures of a Type B economic development corporation under chapters 501 and 505, Local Government Code). The question "is a matter in the first instance for the corporation's board of directors." *Id.* at 2. Thus, we can advise you only generally about the meaning of the term "site improvements." *See id.*

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<sup>1</sup>*See* Letter from Honorable G. A. Maffett III, Wharton Cty. Att'y, to Honorable Ken Paxton, Tex. Att'y Gen. at 1 (Aug. 17, 2015), <https://www.texasattorneygeneral.gov/opinion/requests-for-opinion-rqs> ("Request Letter").

A Type A economic development corporation is governed primarily by chapters 504 and 501 of the Local Government Code.<sup>2</sup> See TEX. LOC. GOV'T CODE §§ 504.001–.353 (governing Type A corporations); *id.* § 501.002(15) (defining a Type A corporation as one governed by chapter 504). Under chapter 501 of the Local Government Code, a Type A “corporation is a constituted authority for the purpose of financing one or more projects.” *Id.* § 501.151; see also *id.* § 501.002(5) (defining corporation as a corporation organized under subtitle C1, title 12, Local Government Code). A “project” is a “project specified as such under subchapter C.” See *id.* § 501.002(13); see also *id.* §§ 501.101–.108 (subchapter C). Subsection 501.103(1), about which you ask, includes as a “project” those “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements.” *Id.* § 501.103(1). This office has previously determined that section 501.103 is an exclusive, or limited, list such that “an expenditure . . . that does not fall precisely within [its] contours . . . is not an authorized project.” Tex. Att’y Gen. Op. No. GA-1066 (2014) at 3.

The term “site improvements” is undefined by chapters 501 and 504. And we find no judicial opinion defining the term. Thus, we look to its ordinary meaning. See *William Marsh Rice Univ. v. Refaey*, 459 S.W.3d 590, 593 (Tex. 2015) (stating that courts “give undefined words ‘their common, ordinary meaning unless the statute clearly indicates a different result’”). “Site” is commonly defined as “an area of ground on which a town, building, or monument is constructed.” NEW OXFORD AMERICAN DICTIONARY 1634 (3d ed. 2010). “Improvement” means “an example or instance of improving or being improved” or a permanent enhancement. *Id.* at 875; *Karisch v. Allied-Signal, Inc.*, 837 S.W.2d 679, 680 (Tex. App.—Corpus Christi 1992, no writ) (defining “improvement” to “include everything that permanently enhances the value”). Together, the two words may be generally construed to mean the improvement or permanent enhancement of an area of ground on which a town, building, or monument is constructed.

Subsection 501.103(1) provides additional, relevant context. Along with “site improvements,” subsection 501.103(1) lists other items for which an expenditure constitutes a project. See TEX. LOC. GOV'T CODE § 501.103(1). These terms—“streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, [and] drainage”—all relate to preparing an area for development. *Id. Noscitur a sociis* is a canon of statutory construction providing “that the meaning of a word or phrase, especially one in a list, should be known by the words immediately surrounding it.” *Greater Houston P’ship v. Paxton*, 468 S.W.3d 51, 61 (Tex. 2015) (citing *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 441 (Tex. 2011)). Given the limited nature of the other items in subsection 501.103(1), the term “site improvement” should be construed similarly to mean an improvement or permanent enhancement that relates to the development of an area of ground on which a town, building, or monument is constructed. But, as noted previously, it is for the Corporation’s board of directors to determine, in the first instance

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<sup>2</sup>You tell us the Corporation was created as a Section 4A Economic Development Corporation. See Request Letter at 1.

and subject to judicial review, whether the expenditures qualify as an improvement or permanent enhancement that relates to the development of an area of ground on which a town, building, or monument is constructed.<sup>3</sup> *See* Tex. Att’y Gen. Op. No. GA-1066 (2014) at 2–3 (citing *Pearce v. City of Round Rock*, 78 S.W.3d 642–47 (Tex. App.—Austin 2002, pet. denied) (utilizing abuse of discretion standard to review decision of city’s development review board)).

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<sup>3</sup>We address only the definition of the term “site improvements.” *See* Request Letter at 1–2. We cannot opine about the ultimate determination of whether the Corporation’s expenditures in furtherance of the campaign properly constitute a project under subsection 501.103(1). *See* TEX. LOC. GOV’T CODE § 501.103(1) (requiring an expenditure to be “required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises”). This determination is also one for the Corporation’s board of directors. *See* Tex. Att’y Gen. Op. No. GA-1066 (2014) at 2.

S U M M A R Y

Under subsection 501.103(1) of the Local Government Code, the term "site improvement" should be construed to mean an improvement or permanent enhancement that relates to the development of an area of ground on which a town, building, or monument is constructed. The question whether any particular expenditure constitutes a project under section 501.103 is a question in the first instance for the board of the economic development corporation to determine.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, slightly slanted style.

KEN PAXTON  
Attorney General of Texas

CHARLES E. ROY  
First Assistant Attorney General

BRANTLEY STARR  
Deputy Attorney General for Legal Counsel

VIRGINIA K. HOELSCHER  
Chair, Opinion Committee

CHARLOTTE M. HARPER  
Assistant Attorney General, Opinion Committee

## SUBCHAPTER C. AUTHORIZED PROJECTS

Sec. 501.101. PROJECTS RELATED TO CREATION OR RETENTION OF PRIMARY JOBS. In this subtitle, "project" includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are:

- (1) for the creation or retention of primary jobs; and
- (2) found by the board of directors to be required or suitable for the development, retention, or expansion of:
  - (A) manufacturing and industrial facilities;
  - (B) research and development facilities;
  - (C) military facilities, including closed or realigned military bases;
  - (D) transportation facilities, including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities, and parking facilities;
  - (E) sewage or solid waste disposal facilities;
  - (F) recycling facilities;
  - (G) air or water pollution control facilities;
  - (H) facilities for furnishing water to the public;
  - (I) distribution centers;
  - (J) small warehouse facilities capable of serving as decentralized storage and distribution centers;
  - (K) primary job training facilities for use by institutions of higher education; or
  - (L) regional or national corporate headquarters facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 15.012(a), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 150 (S.B. [2052](#)), Sec. 1, eff. September 1, 2009.

Sec. 501.103. CERTAIN INFRASTRUCTURE IMPROVEMENT PROJECTS. In this subtitle, "project" includes expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to:

- (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements;
- (2) telecommunications and Internet improvements; or
- (3) beach remediation along the Gulf of Mexico.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. AUTHORIZATION FOR ADDITIONAL PROJECTS

Sec. 504.151. DEFINITIONS. In this subchapter:

(1) "Related infrastructure" has the meaning assigned by Section [334.001](#).

(2) "Sports venue" means an arena, coliseum, stadium, or other type of area or facility:

(A) that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events; and

(B) for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 504.152. ELECTION TO AUTHORIZE PROJECTS APPLICABLE TO TYPE B CORPORATIONS. (a) An authorizing municipality may submit to the voters of the municipality a ballot proposition that authorizes the Type A corporation to use the sales and use tax imposed under this chapter, including any amount previously authorized and collected, for a specific project or for a specific category of projects that do not qualify under this chapter but qualify under Chapter [505](#), including a sports venue and related infrastructure.

(b) The project or category of projects described by Subsection (a) must be clearly described on the ballot so that a voter is able to discern the limits of the specific project or category of projects authorized by the proposition. If maintenance and operating costs of an otherwise authorized facility are to be paid from the sales and use tax, the ballot language must clearly state that fact.

(c) The authorizing municipality may submit the ballot proposition at:

(1) an election held under another provision of this subtitle, including the election at which the proposition to initially approve the adoption of a sales and use tax for the benefit of the corporation is submitted; or

(2) a separate election to be held on a uniform election date.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 504.153. PUBLIC HEARING PRECEDING ELECTION. Before an election may be held under Section 504.152, a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published in a newspaper with general circulation in the municipality in which the project is located. The notice should be published on a weekly basis until the date of the hearing.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.154. LIMITATION ON SUBSEQUENT ELECTION. If a majority of the voters voting on the issue do not approve a specific project or a specific category of projects at an election under Section 504.152, another election concerning the same project or category of projects may not be held before the first anniversary of the date of the most recent election disapproving the project or category of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.155. SUBSEQUENT APPROVAL OF ADDITIONAL PROJECTS. Prior approval of a specific project at an election or completion of a specific project approved at an election does not prevent an authorizing municipality from seeking voter approval of an additional project or category of projects under this subchapter to be funded from the same sales and use tax.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.156. APPLICABILITY OF CHAPTER TO ADDITIONAL PROJECT. A project undertaken under this subchapter is governed by this chapter, including the provisions of this chapter relating to the authorization and expiration of a sales and use tax.

## LOCAL GOVERNMENT CODE CHAPTER 504. TYPE A CORPORATIONS

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 504.171. AUTHORITY OF CERTAIN CORPORATIONS TO UNDERTAKE TYPE B PROJECTS. (a) This section applies only to a Type A corporation the creation of which was authorized by a municipality:

(1) that has also authorized the creation of a Type B corporation; and

(2) that has a population of 7,500 or less.

(b) Notwithstanding Section 504.152, if permitted by ordinance of the authorizing municipality, a Type A corporation to which this section applies may undertake any project that a Type B corporation, the creation of which was authorized by the same municipality, may undertake under Chapter 505.

(c) The governing body of an authorizing municipality may by ordinance revoke any authority granted to a Type A corporation under Subsection (b). A revocation under this subsection does not affect the authority of a corporation to complete a project already undertaken or the obligation to repay any debt incurred in connection with a project under Subsection (b).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1177 (H.B. 3302), Sec. 1, eff. June 17, 2011.

## **Odessa Development Corporation Housing Incentive Program Guidelines**

In accordance with Resolution No. ??????, which was passed by the ODC Board on (insert date), beginning on (insert date), the ODC will make funds in the amount of up to \$5,000,000 available for grants to be used toward the construction of housing within the City limits.

### **Requirements and Process for Application of Funds:**

1. Applicants for a grant must submit a completed application requesting funds to the ODC Compliance Committee, along with building plans and specifications for the proposed dwelling, prior to construction. Any approval given by ODC prior to construction is conditioned upon the post-construction inspection and appraisal process described herein. Each application will be evaluated on an individual basis. It is within the ODC's sole discretion to determine if a grant will be made and the amount of the grant, if any.
2. Applicants for a grant must construct a site built single family, a duplex, or apartment complex that complies with applicable City of Odessa Building Codes and ordinances, subject to exclusions of the program.
3. Any single-family home with a minimum of 3 bedroom/2 bath and a certified appraised value of \$275,000.00 or less may qualify for a grant according to Housing Benefit Matrix.
4. Multi-family construction will be evaluated separately on a sliding scale based on fair market rent rates.
5. Grants are payable from ODC after completion of construction and receipt of a certified appraisal and final inspection by city inspection officials.

### **Exclusions:**

1. No funding shall be considered if the project is eligible to receive funds from any other federal or state funding source or matching grants.
2. No funding for manufactured housing.
3. No funding will be given to any applicant seeking to construct his/her own dwelling. Unless the dwelling is an apartment complex and prior disclosure was provided to the

ODC for approval. This exclusion also applies to officers and directors of closely held businesses, when the business is the entity that submits the application for funds.

4. No funding shall be given for construction of buildings intended for occupancy by a business. This exclusion does not automatically apply to apartment complexes that will also house a business office or retail establishment as a part of the complex.
5. No application will be considered after construction is completed.

**Single-Family Housing Benefit Matrix Grant:**

1. If located in Odessa, the Single-Family Housing Benefit Matrix Grant shall be determined by the doubling the amount of property taxes generated for all Taxing Entities at the time of the grant application.
2. The minimum investment for a single-family home to qualify for a grant under the Housing Benefit Matrix is \$130,000.00.
3. If the project is located outside of city limits, the Housing Benefit Matrix Grant shall be calculated as if in the city limits and reduced up to 50%.
4. In city limits:  $\$200,000 \times 4.92\% = \$9,840.00$  (example only)  
Outside city limits:  $\$200,000 \times 2.46\% = \$4,920.00$  (example only)

**Multi-Family Housing Benefit Matrix Grant**

1. If located in Odessa, the Multi-Family Housing Benefit Matrix Grant shall be determined by a sliding scale of projected rental rates as a percentage of fair market rental rates.
2. If the project is located outside of city limits, the Housing Benefit Matrix Grant shall be calculated as if in the city limits and reduced up to 50%.
3. Rental rate = 75% of fair market rate, Benefit = 5% of investment  
Rental rate = 80% of fair market rate, Benefit = 4% of investment  
Rental rate = 85% of fair market rate, Benefit = 3% of investment

**ODC will evaluate each application submitted on the merits and will grant or deny funding in accordance with its purpose to achieve housing for the creation and/or retention of primary jobs within the City of Odessa, and Ector County. All decisions will be based upon current data available at time of application.**

## Application for Building Incentives

### Applicant Information

Applicant Name:

Contractor Name:

Years in Business:

Email Address:

Business Telephone #:

Cell Telephone

Current address:

City:

State:

Zip:

Applicant's construction dwelling type: Single Family

Duplex

Multi-family/  
Apartment

Other:

Location Site:

Address:

Estimated Start Date:

Estimated Completion Date:

Construction shall begin within 60 calendar days of ODC approval and shall be completed within 180 calendar days from construction, for a single-family residence. Construction time requirements for Duplexes or any other multi family dwelling structures will be determined by the Compliance Committee and the ODC Board on an individual basis. \_\_\_\_\_ initial. Extensions may be given on a case by case basis.

If time restraints or construction are not met by the applicant, funds will not be released to applicant.

Plans and specifications for the proposed dwelling must accompany application prior to construction. Incomplete applications will not be accepted.

### References

Business Entity/Name:

Address:

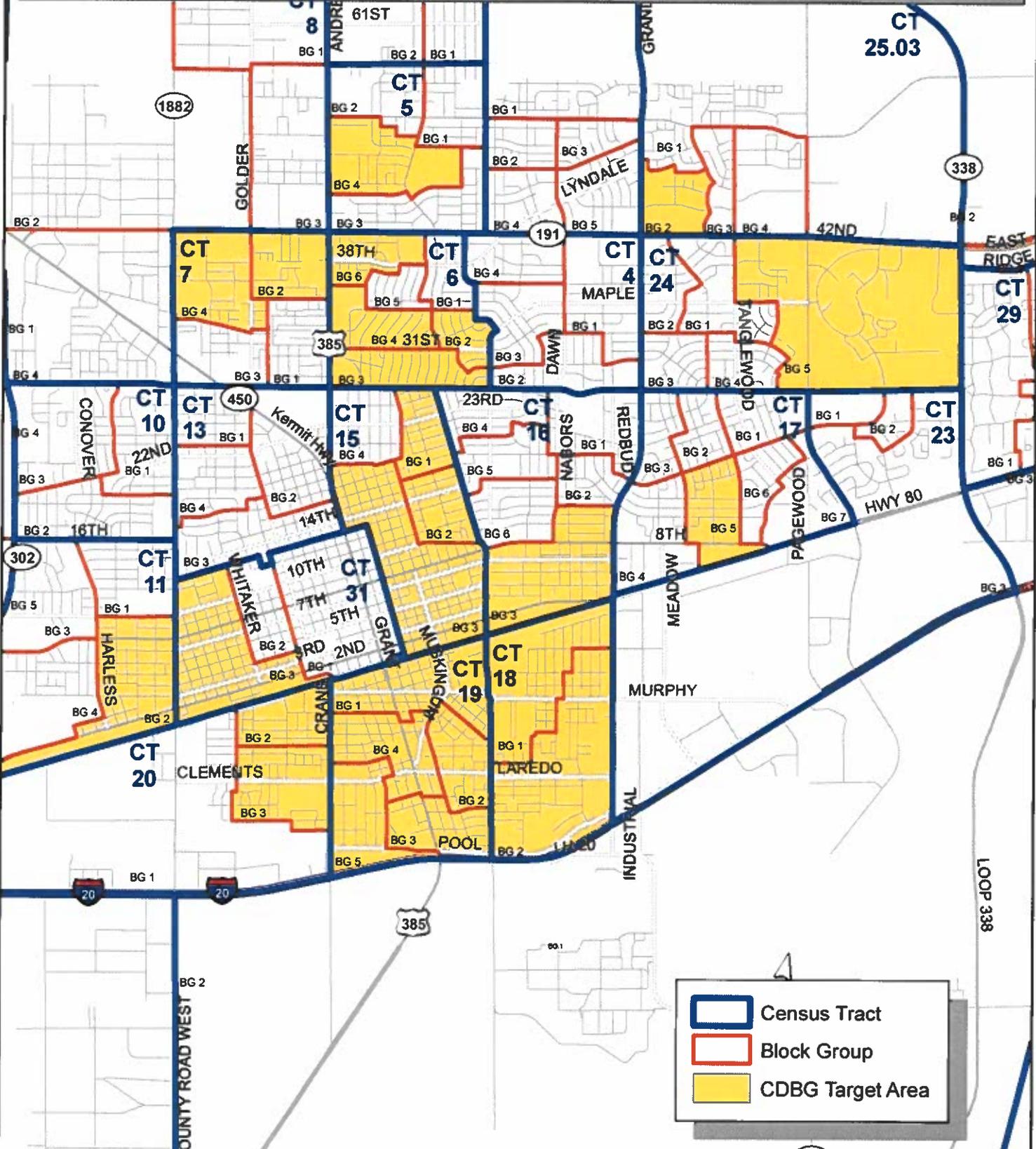
Contact Information  
(Phone/Email):

I authorize the verification of the information provided on this form. I have received a copy of this application and understand this application must be submitted prior to construction, with plans and specifications. \_\_\_\_\_ initial.

Signature of applicant:

Date:

# Census Tracts and Block Groups



(Example of how to designate areas where an infill and/or a geographic incentive could be paid)



**RESOLUTION NO. 2017R-122**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, APPROVING THE AMENDED BYLAWS OF THE ODESSA DEVELOPMENT CORPORATION; AND DECLARING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS:**

**Section 1.** That the Bylaws of the Odessa Development Corporation shall be amended as provided in the attached Exhibit "A".

**Section 2.** That this resolution shall be effective at the time of its adoption.

The foregoing resolution was approved and adopted on the 24<sup>th</sup> day of October, A.D., 2017, by the following vote:

Malcolm Hamilton	AYE
Dewey Bryant	AYE
Barbara Graff	AYE
Michael Gardner	AYE
Filiberto Gonzales	AYE

Approved the 24<sup>th</sup> day of October, A.D., 2017.

  
\_\_\_\_\_  
David R. Turner, Mayor

ATTEST:

  
\_\_\_\_\_  
Norma Aguilar-Grimald, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Larry Long, City Attorney



EXHIBIT "A"

BYLAWS OF  
ODESSA DEVELOPMENT  
CORPORATION

ARTICLE I  
PURPOSE AND POWERS

Section 1.1 **Purpose.** The Corporation is incorporated for the purposes set forth in Article IV of its Articles of Incorporation, the same to be accomplished on behalf of the City of Odessa, Texas (the "City") as its duly constituted authority and instrumentality in accordance with the Development Corporation Act, as amended, Chapters 501-507, Local Government Code, as amended, (the "Act"), and other applicable laws.

Section 1.2 **Powers.** (a) In the fulfillment of the corporate purpose, the Corporation shall be a Type A organization governed by the Act, and shall have all of the powers set forth and conferred in its Articles of Incorporation, in the Act, and in other applicable law, subject to the limitations prescribed therein and herein and to the provisions thereof and hereof.

ARTICLE II  
BOARD OF DIRECTORS

Section 2.1 **Powers, Number and Term of Office.**

a. The property and affairs of the Corporation shall be managed and controlled by a Board of Directors (the "Board") and, subject to the restrictions imposed by law, by the Articles of Incorporation, and by these bylaws, the Board shall exercise all of the powers of the Corporation.

b. The Board shall consist of five (5) directors. Except for the first Board, the term of all directors shall be two (2) years and the term shall start on June 1 of the year of appointment or as soon thereafter as possible. (Except as provided in subsection (i).) Board members shall continue to hold office until their replacement has been appointed. A person appointed after the expiration of a term shall hold office for the remainder of the term or until their successor is appointed. A person may be appointed for three successive terms; but after such period, such person cannot be reappointed for one term.

c. Each Councilmember shall nominate one person for director. In order to provide for staggered terms, the Councilmembers for District One (1) and Two (2) shall each nominate one director for a first term of two and one-half (2 ½) years, January 1, 1998, to May 31, 2000, the Councilmembers for District Three (3), Four (4) and Five (5) shall each nominate one person for a first term of one and one-half (1 ½) years, January 1, 1998, to May 31, 1999. The appointment of all directors shall require the approval of the City Council that is in place after the date for the general municipal election in May (Except as provided in subsection (j).)

d. Any director may be removed from office by the Council at will.

e. Any director is automatically removed from office if that director is absent in excess of fifty (50) percent of all Regular Meetings and Budget Workshop Meetings during a twelve-month period. The Council will be free to appoint a person immediately to fill the vacated position.

EXHIBIT "A"

f. Each director shall have one of the following qualifications: (i) serve, or have served, as chief executive officer of a company; or (ii) serve, or have served, in a position of executive management of a company; or (iii) serve, or have served, in a professional capacity; or (iv) have experience equivalent to any of the above qualifications. The Council should consider the individual's experience, accomplishments and educational background in appointing members to the Board to ensure that the interests and concerns of all segments of the community are considered.

g. The Council in the appointment of directors shall be subject to nepotism laws. No Councilmember can appoint a person who is related to either the Mayor or any of the Councilmembers within the prohibited degrees of relationship.

h. The persons appointed director shall also be subject to the following qualifications: (i) be a resident of the City of Odessa, or be a resident of Ector County, or be approved unanimously by the Council; and (ii) be a person of upstanding moral values; and (iii) be a person committed to making Odessa a better place, through economic development and the creation or retention of new jobs.

i. Beginning in the year 2016, the current terms of all Members for the Board of Directors shall be extended until December 31, 2016, or 2017, whichever is applicable. All future terms shall commence on January 1 or as soon thereafter as the appointment can be made. Board members shall continue to hold office until their replacement has been appointed. A person appointed after the expiration of a term shall hold office for the remainder of the term or until their successor is appointed. A person may be appointed for three successive terms; but after such period, such person cannot be reappointed for one term.

j. A City Council place number shall be designated for each of the five Directors; and when it is time to appoint a new Director, the Council member assigned that position shall nominate a person for that position. The appointment of all Directors shall require the approval of the City Council that is in place after the date of the general election in November.

Section 2.2 **Meetings of Directors.** The directors may hold their meetings at such place or places in the City as the Board may from time to time determine; provided, however, in the absence of any such determination by the Board, the meetings shall be held at the principal office of the Corporation as specified in Article V of these bylaws.

Section 2.3 **Notice of Meetings.**

a. The regularly scheduled monthly meetings ("Regular Meetings") of the Board shall be held without the necessity of notice to the directors except for posting as required by the Open Meetings Act.

b. The Budget Workshop Meeting(s) shall be held each year and shall be scheduled at least one (1) month in advance starting by July of each year, without the necessity of notice to the directors except for posting as required by the Open Meetings Act.

c. Special Meetings of the Board shall be held whenever called by the president, by the secretary, by a majority of the directors, by the Mayor of the City, or by a majority of the Council. The secretary shall give notice to each director of each Special Meeting in person or by mail, telephone or e-mail, at least seventy-two (72) hours before the meeting and by posting in compliance with the Open Meetings Law. Unless otherwise indicated in the notice thereof, any

## EXHIBIT "A"

and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a Special Meeting. At any meeting at which every director shall be present, even though without any notice, any matter pertaining to the purpose of the Corporation may be considered and acted upon consistent with applicable law.

d. Whenever any notice is required to be given to the Board, said notice shall be deemed to be sufficient if given by depositing the same in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any Regular or Special Meeting of the board need be specified in the notice or waiver of notice of such meeting to the Director, unless required by the Board. A waiver of notice in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Section 2.4 **Open Meetings Act.** All meetings and deliberations of the Board shall be called, convened, held, and conducted, and notice shall be given to the public, in accordance with the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 2.5 **Quorum.** A majority of the directors shall constitute a quorum for the conduct of the official business of the Corporation. The act of a majority of the directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board and of the Corporation, unless the act of a greater number is required by law or by these bylaws.

Section 2.6 **Conduct of Business.**

a. At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the Board.

b. At all meetings of the Board, the president shall preside, and in the absence of the president, the vice president shall exercise the powers of the president.

c. The secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 2.7 **Committees of the Board.** The Board may designate two or more directors to constitute an official committee of the Board to exercise such authority of the Board as may be specified in the resolution. It is provided, however, that all final, official actions of the Corporation may be exercised only by the Board. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation.

Section 2.8 **Other Committees.** The Board shall appoint a compliance committee and may appoint certain other committees, all in an advisory capacity to the Board. The following committees are specifically described as well as specific rules applicable to such committees.

## EXHIBIT "A"

a. Compliance Committee - This committee shall be responsible for reviewing the qualifications of all applicants as well as their proposals and also reviewing all agreements between the corporation and any beneficiary to make sure of compliance with its bylaws, except as otherwise hereafter provided. Policies should be in place to provide for the compliance committee to make recommendations to the ODC Board regarding eligibility, required number of jobs, payroll, investment, economic development incentives, economic impact on the community, financial ability of the applicant and feasibility of applicant's business plan. There should be written policies or guidelines in place to give direction to the Economic Development Department of the Chamber of Commerce ("EDD") and to provide procedures for processing applications. The policies shall be prepared by the committee and submitted to the Board for final approval. The policies shall be reviewed by the committee on an annual basis. A majority of the committee members shall have experience in commercial banking, lending, accounting, insurance or law. This committee shall be comprised of people who would be willing to volunteer their time in an advisory capacity to the Board. Applicants for Downtown Odessa, Inc. façade and infrastructure grants that have received a recommendation from the Downtown Odessa, Inc. Design Committee shall not be required to obtain a recommendation from the Compliance Committee.

b. Budget, Finance and Audit Committee - This committee, if appointed, would have the responsibility of working with the Board in the formation and promotion of the annual budget of the corporation. This committee would also monitor all budget expenditures and investments of the corporation.

c. Committee for Business Retention and Expansion - This committee, if appointed, would work with the directors of the corporation to keep them informed of all development and activities concerning business retention and expansion.

d. Committee for New Business Attraction and Recruitment - This committee, if appointed, would work with the corporation's Board and keep them informed of all developments and activities concerning business attraction and recruitment.

e. It is important that all committee members be actively involved in the affairs of their committee and that their attendance at committee meetings be excellent. They should also be available for special meetings if necessary and receptive to any other form of communication. The following rules shall apply to all committees:

- (i) If a member misses more than three consecutive called meetings without an excuse, , the Board may dismiss that member by appointing a new member for that position.
- (ii) The City Secretary shall draw lots for all of the existing committee members so that one-half shall draw two-year terms and one-half shall draw one-year terms. After such initial term, all members shall serve two-year terms.
- (iii) Committee members are restricted to no more than three consecutive terms. Time served prior to the initial term described above shall not be considered in the application of this restriction.
- (iv) The chairmen shall be appointed by the committees for a one-year term. The existing chairmen shall continue to serve for the first one-year term.

## EXHIBIT "A"

- (v) Committee members shall continue to serve until their successor is appointed unless they resign or unless removed by the Board. A person appointed to continue a term shall serve until that term is completed and is eligible for reappointment. Time served in a partial term shall not be counted when interpreting the two-term restriction.
- (vi) A term is assigned to each committee member for the purpose of determining when the appointment should be reconsidered and not to confer any official status to the committee member. All committee members are at-will and their services are advisory to the ODC Board.
- (vii) Ten members shall be appointed by the ODC Board to the Compliance Committee and a quorum shall be four. Eight members shall be appointed by the ODC Board to the Budget, Finance and Audit Committee and a quorum shall be four. Any other standing committee, shall consist of at least five appointed members and a quorum shall consist of one-half of its members.
- (viii) The Compliance Committee shall also include three non-voting ex-officio members that shall include one representative from the Black Chamber of Commerce, Odessa Chamber of Commerce and Odessa Hispanic Chamber of Commerce, as appointed by each entity.

Section 2.9 **Compensation of Directors.** Directors shall not receive any salary or compensation for their services as directors. However, they shall be reimbursed for their actual expenses incurred in the performance of their duties hereunder as prescribed in Article IV, Section 8.

## ARTICLE III OFFICERS

### Section 3.1 **Titles and Term of Office.**

a. The officers of the Corporation shall be a president, a vice president, a secretary and a treasurer, and such other officers as the Board may from time to time elect or appoint. One person may hold more than one office, except that the president shall not hold the office of secretary. Terms of office shall be for one (1) year to commence as soon as possible each year after the director appointments are made by the City Council. Any officer may be reelected or reappointed by the Board.

b. All officers shall be subject to removal from office at any time by a vote of a majority of the entire Board.

c. A vacancy in the office of any officer shall be filled by a vote of a majority of the directors.

Section 3.2 **Powers and Duties of the President.** The president shall be the chief executive officer of the Corporation, and, subject to the paramount authority of the Board, the president shall be in general charge of the properties and affairs of the Corporation, shall preside at all meetings of the Board, and may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments in the name of the Corporation.

## EXHIBIT "A"

Section 3.3 **Vice President.** The vice president shall have such powers and duties as may be prescribed by the Board and shall exercise the powers of the president during that officer's absence or inability to act. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or inability to act of the president at the time such action was taken.

Section 3.4 **Treasurer.** The treasurer shall have the responsibility to see to the handling, custody, and security of all funds and securities of the Corporation in accordance with these bylaws. When necessary or proper, the treasurer may endorse and sign, on behalf of the corporation, for collection or issuance, checks, notes and other obligations in or drawn upon such bank or banks or depositories as shall be designated by the Board consistent with these bylaws. The treasurer shall see to the entry in the books of the Corporation full and accurate accounts of all monies received and paid out on account of the corporation. The treasurer shall, at the expense of the Corporation, give such bond for the faithful discharge of his or her duties in such form and amount as the Board or Council may require.

Section 3.5 **Secretary.** The secretary shall keep the minutes of all meetings of the Board in books provided for that purpose, shall give and serve all notices, may sign with the president in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation, shall have charge of the corporate books, records, documents and instruments, except the books of account and financial records and securities, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to public inspection upon application at the office of the Corporation during business hours, and shall in general perform all duties incident to the office of secretary subject to the control of the Board.

Section 3.6 **Appointment.** The president, each vice president, and the secretary shall be named from among the members of the board. The treasurer and any assistant secretaries may, at the option of the Board, be persons other than members of the Board, but they may be employees of the City.

Section 3.7 **Compensation.** Officers who are members of the Board shall not receive any salary or compensation for their services, except that they shall be reimbursed for their actual expenses incurred in the performance of their duties hereunder as prescribed in Article IV, Section 8. Other officers may be compensated as directed by the Board.

## ARTICLE IV FUNCTIONAL CORPORATED DUTIES AND REQUIREMENTS

### Section 4.1 **General Development Plan.**

a. The Board shall research, develop, prepare, and submit to the City Council for its approval, an economic development plan for the City, which shall include proposed methods and the expected costs of implementation. The plan shall include both short-term and long-term goals for the economic development of the city, proposed methods for the elimination of unemployment and underemployment, and the promotion of employment, through the expansion and development of a sound industrial and manufacturing base for and within the City.

b. The Board shall review and update the plan each year prior to submission of the annual budget required by other provisions of these bylaws.

## EXHIBIT "A"

Section 4.2 **Annual Corporate Budget.** At least 60 days prior to the commencement of each fiscal year of the Corporation, the Board shall adopt a proposed budget of expected revenues and proposed expenditures for the next ensuing fiscal year. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the Council. The budget shall not be effective until the same has been approved by the Council.

### Section 4.3 **Books, Records, Audits.**

a. The Corporation shall keep and properly maintain, in accordance with generally accepted accounting principles, complete books, records, accounts, and financial statements pertaining to its corporate funds, activities, and affairs.

b. At the direction of the Council, the books, records, accounts, and financial statements of the Corporation may be maintained for the Corporation by the accountants, staff and personnel of the City. In such event, the Corporation shall pay to the City reasonable compensation for such services.

c. The Corporation, or the City if the option described in subsection (b) is selected, shall cause its books, records, accounts, and financial statements to be audited at least once each fiscal year by an outside, independent, auditing and accounting firm selected by the Corporation and approved by the Council. Such audit shall be at the expense of the Corporation.

### Section 4.4 **Deposit and Investment of Corporate Funds.**

a. All proceeds from the issuance of bonds, notes, or other debt instruments ("Obligations") issued by the Corporation shall be deposited and invested as provided in the resolution, order, indenture, or other documents authorizing or relating to their issuance.

b. All other monies of the corporation shall be deposited, secured and/or invested in the manner provided for the deposit, security, and/or investment of the public funds of a City. The Board shall designate the accounts and depositories to be created and designated for such purposes, and the methods of withdrawal of funds therefrom for use by and for the purposes of the Corporation upon the signature of its treasurer and such other persons as the Board shall designate. The accounts, reconciliation, and investment of such funds and accounts shall be performed by the Department of Finance of the City. The Corporation shall pay reasonable compensation for such services to the City.

### Section 4.5 **Expenditures of Corporate Money.**

a. The monies of the Corporation, including sales and use taxes collected pursuant to the Act, monies derived from the repayment of loans, rents received from the lease or use of property, the proceeds from the investment of funds of the Corporation, the proceeds from the sale of property, and the proceeds derived from the sale of Obligations, may be expended by the Corporation for any of the purposes authorized by the Act, subject to the following limitations:

- (i) Expenditures from the proceeds of Obligations shall be identified and described in the orders, resolutions, indentures, or other agreements submitted to and approved by the City Council prior to the sale and delivery of the Obligations to the purchasers thereof required by Section 6 of this Article;

## EXHIBIT "A"

- (ii) Expenditures that may be made from a fund created with the proceeds of Obligations, and expenditures of monies derived from sources other than the proceeds of Obligations may be used for the purposes of financing or otherwise providing one or more "Projects," as defined in the Act. The specific expenditures shall be described in a resolution or order of the Board and shall be made only after the approval thereof by the City Council. However, with the approval of general guidelines by the City Council and the Board, micro loans may be approved by a separate Board or Committee.
- (iii) All other proposed expenditures shall be made in accordance with and shall be set forth in the annual budget required by Section 2 of this Article.

Section 4.6 **Issuance for Obligations.** No Obligations, including refunding Obligations, shall be sold and delivered by the Corporation unless the Council shall approve such Obligations by action taken no more than 60 days prior to the date of sale of the Obligations.

Section 4.7 **Contracts.** All economic development funds expended for the purpose of encouraging economic development shall satisfy the following requirements:

- a. Must be predominantly for the public purpose of the development and diversification of the economy of the City of Odessa.
- b. There must be sufficient assurance, by contractual or statutory obligations, and through continuing supervision by the City of Odessa or others that the public purpose will be accomplished.
- c. There must be sufficient protection for the handling of the public money.
- d. There must be adequate consideration received for the payment of economic development funds.
- e. The purposes to be accomplished in each contract must be identified and must further identify by written provisions the amount of funds to be expended, the benefits to be received, such as new jobs or new investment in the City of Odessa, and must further specify the required period of time for providing the benefits.
- f. In the event that the specific purposes of the contract are not accomplished, the contract shall include provisions to require reimbursement of the economic development fund by the company.

Section 4.8 **Reimbursement of Expenses.** Any expenses of officers, directors or employees shall be reimbursed pursuant to the policies of the City of Odessa and there may be no public expenditure or reimbursement with public funds for alcohol.

Section 4.9 **Standards of Conduct.** Directors shall not:

- a. Accept or solicit a benefit that might reasonably tend to influence the director in the discharge of the director's official duties.
- b. Use the director's official position to secure special privileges or exemptions for the directors or others.

## EXHIBIT "A"

c. Disclose information that could adversely affect the property or affairs of the City or Board, or directly or indirectly, use any information understood to be confidential which was gained by reason of the director's position or employment for the director's own personal gain or benefit or for the private interest of others.

d. Transact any business on behalf of the Board or City in the director's official capacity with any business entity in which the director is an officer, agent or member, or in which the director has a family direct interest, as defined by the nepotism law of the state, or a direct financial interest. In the event that such a circumstance should arise then the director shall make known the director's interest to the Board and the City Council and abstain from all further actions on that item. No economic development funds shall be used for any contract in which such a conflict of interest exist without the approval of the City Council.

### ARTICLE V MISCELLANEOUS PROVISIONS

Section 5.1 **Principal Office.** (a) The principal office and the registered office of the corporation shall be the registered office of the Corporation specified in the Articles of Incorporation.

Section 5.2 **Fiscal Year.** The fiscal year of the Corporation shall be the same as the fiscal year of the City.

Section 5.3 **Seal.** The seal of the Corporation shall be as determined by the Board.

Section 5.4 **Resignations.** Any director or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the president or secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5.5 **Approval or Advice and Consent of the Council.** To the extent that these bylaws refer to any approval by the City or refer to advice and consent by the Council, such advice and consent shall be evidenced by a certified copy of a resolution, order or motion duly adopted by the Council.

Section 5.6 **Services of City Staff and Officers.** Subject to the authority of the City Manager under the Charter of the city, the Corporation shall have the right to utilize the services of the City Attorney, the City Secretary, and the staff and employees of the Finance Department of the city, provided (i) that the Corporation shall pay reasonable compensation to the City for such services, and (ii) the performance of such services does not materially interfere with the other duties of such personnel of the City.

Section 5.7 **Indemnification of Directors, Officers and Employees.**

a. As provided in the Act and in the Articles of Incorporation, the Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), a governmental unit and its actions are governmental functions.

b. The Corporation shall indemnify each and every member of the Board, its officers, and its employees, and each member of the Council and each employee of the City, to the fullest

EXHIBIT "A"

extent permitted by law, against any and all liability or expense, including attorneys fees, incurred by any of such persons by reason of any actions or omissions that may rise out of the functions and activities of the Corporation.

ARTICLE VI  
EFFECTIVE DATE, AMENDMENTS

Section 6.1 **Effective Date**. These bylaws shall become effective upon the occurrence of the following events:

- a. The approval of these bylaws by the City Council; and
- b. The approval of these bylaws by the Board.

Section 6.2 **Amendments to Articles of Incorporation and Bylaws**. The Articles of Incorporation of the Corporation and these bylaws may be amended only in the manner provided in the Articles of Incorporation and the Act.

Approved: 12/9/1997  
 Amended: 9/8/1998  
 Amended: 5/11/1999  
 Amended: 4/13/2004  
 Amended: 1/25/2011  
 Amended: 2/23/2016  
 Amended: 10/24/2017

By: City of Odessa  
Approved: \_\_\_\_\_, 2017

\_\_\_\_\_  
David R. Turner, Mayor

ATTEST:

\_\_\_\_\_  
Norma Aguilar-Grimaldo, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry Long, City Attorney

By: Odessa Development Corporation  
Approved: \_\_\_\_\_, 2017

\_\_\_\_\_  
Charles Carlson, President

ATTEST:

\_\_\_\_\_  
Norma Aguilar-Grimaldo, Secretary

**RESOLUTION NO. ODC-2019R-01**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ODESSA DEVELOPMENT CORPORATION EXPRESSING ITS SUPPORT OF THE CREATION OF A WORKFORCE HOUSING COALITION; EXPRESSING ITS INTENT TO FUND UP TO \$5,000,000, WITH APPROPRIATE COMPLIANCE COMMITTEE REVIEW AND CITY COUNCIL APPROVAL, FOR FOLLOW-UP PROJECTS AND COSTS RELATED TO THE IMPLEMENTATION OF A WORKFORCE HOUSING COALITION; AND DECLARING AN EFFECTIVE DATE.

**WHEREAS**, based on a recent housing study, the City of Odessa is in need of a well-funded and capable organization with active involvement to help address the ongoing housing crisis in Odessa; and

**WHEREAS**, a workforce housing coalition has been proposed to address said ongoing housing crisis in Odessa; and

**WHEREAS**, Section 501.101 of the Local Government Code authorizes the Odessa Development Corporation to fund a project primarily for the creation or retention of primary jobs; and

**WHEREAS**, the Odessa Development Corporation recognizes the importance of and is committed to providing assistance to the City of Odessa for the creation and/or retention of primary jobs; and

**WHEREAS**, the Odessa Development Corporation supports the creation of a workforce housing coalition; and

**WHEREAS**, the Odessa Development Corporation intends to support the funding of said workforce housing coalition up to \$5,000,000, if and when created; and

**WHEREAS**, the Compliance Committee for the Odessa Development Corporation has reviewed and made a positive recommendation for the funding of a workforce housing coalition, if and when created; and

**WHEREAS**, funding for such projects will not be specifically committed except on the basis of an approved contract for an eligible project;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ODESSA DEVELOPMENT CORPORATION:**

**Section 1.** That the Odessa Development Corporation hereby proclaims full support for and encourages the creation of a workforce housing coalition.

**Section 2.** That it is the intent of the Odessa Development Corporation to provide funding of up to \$5,000,000 (five-million dollars and 00/100 cents), subject to appropriate Compliance Committee review and City Council approval. for follow-up projects and costs related to the implementation of a workforce housing coalition.

**Section 3.** That this resolution shall be effective at the time of its adoption.

The foregoing resolution was approved and adopted on the 14<sup>th</sup> day of March, A.D., 2019, by the following vote:

Gene Collins	NAY
Melanie Hollmann	AYE
Betsy Triplett-Hurt	AYE
Ted Tuminowski	NAY
Tim Edgmon	AYE

Approved the 14<sup>th</sup> day of March, A.D., 2019.

\_\_\_\_\_  
Betsy Triplett-Hurt, President

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Atasi Bhavsar, Sr. Assistant City Attorney as  
Attorney for ODC Board

\_\_\_\_\_  
Norma Aguilar-Grimaldo, City Secretary as  
Assistant Secretary for ODC Board

**ODESSA DEVELOPMENT CORPORATION  
CITY OF ODESSA, TEXAS  
March 14, 2019**

A regular meeting of the Odessa Development Corporation (ODC) was held on March 14, 2019 at 2:00 p.m., in the Council Chambers, fifth floor, City Hall, 411 W. 8<sup>th</sup> St., Odessa, Texas.

Members present: Betsy Triplett-Hurt, Tim Edgmon, Ted Tuminowski, Melanie Hollmann and Gene Collins.

Others present:

City Staff: Natasha Brooks, Senior Assistant City Attorney; Cindy Muncy, Interim City Manager; Michael Marrero, City Manager; Celia Senoret, Deputy City Secretary;  
ODC Contractors: Tracy Jones, Economic Development; Bridget Myers, CVA; James Beauchamp, MOTRAN; Tyler Patton, UTPB-SBDC; Bryan Bierwith, UTPB-SBDC; Chris Cole, ODC Compliance Committee Chair; and  
Others: interested citizens.

A quorum being present, Mrs. Triplett-Hurt called the meeting to order and the following proceedings were held:

Mr. Collins gave the invocation.

**February 14, 2019 minutes and special meeting March 5, 2019.** Motion was made by Mr. Edgmon and seconded by Mr. Collins to approve the minutes. The motion was approved by unanimous vote.

**Contractors report: Economic Development: Odessa Chamber, CVA Advertising and Marketing, UTPB-America's SBDC, MOTRAN, and City Administrative support.**

Mrs. Jones reported that they were still waiting for the applicants get back on the distribution center. Solar project donated \$25,000 for the Education Foundation. They completed 27 visits to local industries. They attended the Permian Basin Coalition in Monahan and participated in the TBC Legislation Conference in Austin.

Ms. Myers reported on the podcast TV ad series. They were working on scheduling Dr. Greg Williams and Dr. Sandra Woodley for March 19 and April 1. For the TV news segment – Spirit of Odessa: five TV segments were produced and were airing in the CBS7 and KMID newscasts. On the trade publications, they were currently producing a display ad for Texas Real Estate publication, and a half page article ad for the April edition. On the social media for February, overall social media results were positive with increased social followers across all platforms collectively. They continued the page likes campaigns on Facebook, resulting in 62 new page likes. They were continuing to boost organic posts on Facebook and LinkedIn, and Twitter followers reached 900 this month. The digital campaign targeting medical manufacturing professionals continue to be strong with a click-thru-rate, double the industry standard.

Mr. Patton reported on SBDC for February, there were two new businesses, three seminars, 34 participants, 258 counseling sessions, and 285 counseling hours.

Mr. Bierwith reported that the Challenge was moving very fast. Last month, the judges reviewed all the plans, he received the scores, and the final top eight contestants will proceed to the final round. The top eight were: the Ability Space, B.A.DA. Logistics, Hour

Great Escape, The Human Bean, Infinite Coolers, Links Indoor Golf, Star Tech Group and Streetbound Food Truck Finder. The pitch presentation, in front of the judges was Tuesday March 19, 2019. The judges will score the pitches. The award ceremony will be March 26, 2019. Mr. Tuminowski wanted to know if the judging would be open for the public. Mr. Bierwith considered the possibility but it would not. He stated to give privacy to the judges.

Mr. Beauchamp reported on MOTRAN. He had the Permian Basin Kick Off last week. The meeting was for the Permian Basin great plan. The Commission will adopt the plan. There would be two public meetings to discuss proposed improvements on Interstate 20. (Ector County and Midland County) The meeting in Odessa will be Tuesday March 26, at Odessa College. The project was a \$1.5 million. He reported on Texas Legislative Outlook, and the Senate Bills passed by Governor Perry. It related to the study of the extension of Interstate-27 from its Southern Terminus to I-20, I-10, and Port of Laredo.

Mrs. Muncy reported on the financial statement for January. Total assets were \$52 million, liabilities almost \$3.5 that was a remaining balance of the two parking garages. No changes on the reserved. Total reserved was \$20,769,177, unreserved was \$16,497,649. On revenue and expenditure statement the sales tax for January was \$1.2 million, February \$1.3 million, and for March \$1.2 million. Some corrections needed to be made for the expenditure on UTPB.

**Resolution No. ODC 2019R-01-Expressing its intent to fund up to \$5,000,000. With appropriate compliance committee review and city council approval, for follow-up projects and costs related to the implementation of a Workforce Housing Coalition.** Mr. Cole presented that the proposal coalition started back on their sales tax workshop and housing issues. They wanted to help, although did not have any idea on what and how, but needed to do something. Mr. Collins asked to have an update on the process of how the Compliance got involved, and what organizations made a submission to the Compliance Committee. Mr. Cole responded that there was not a submission by any specific organization. A discussion from sales tax meeting and from that the Committee itself made the recommendation. Mr. Tuminowski questioned the committee making the recommendation without consulting the board. Mr. Cole did not have an answer, but something needed to happen. The Compliance Committee for months had discussions with Legal Department, chairperson, and City Manager. Those discussions provided the recommendation. Ms. Hollmann asked if most prospects go to Compliance before it goes to the board. Mr. Collins asked which organization made the request. Ms. Hollmann replied that this was a little different. Mrs. Triplett-Hurt said to continue from the March 5 meeting, they would bring a presentation request from the Compliance Committee to the board, otherwise wait until April. Mr. Collins was concerned on how and who will spend the \$5 million. Mr. Cole answered that it was for money to be set aside, trying to get other players, build a frame work, and be approved by the board and compliance just like other projects. Mr. Cole added that if they were going to make changes in the City of Odessa, it was going to call for them to do some unprecedented things. He mentioned that some organizations were interested like Grow Odessa and PSP. David Boutin, President of Grow Odessa, stated that the beauty of this was the way that the organization was set up on how the money can be spent. He added that the committee who was charged with the responsibility of reviewing all the criteria submitted, would make a recommendation to ODC. ODC would consider its approval. The commitment was a solution. He was interested because of the housing issues. Grow Odessa has a similar vision, which was economic development: grow the jobs and capital investment. Mr. Collins replied that another organization should not be

in control of the housing issue. The City of Odessa has decade of experience with HUD, and Community Development. The City should oversee the project. Mr. Collins did not want to start another nonprofit organization, but to use the expertise of City employees to take charge. Ms. Hollmann pointed out that the resolution did not ask ODC to spend any money. Council will be involved. Mr. Tuminowski added that they all know housing was a huge issue and many want to help, but emphasized that they do not have a plan or direction. Mrs. Muncy handed out a draft resolution. Motion was made by Ms. Hollmann and seconded by Mr. Edgmon to approve the resolution. Discussion by Mr. Tuminowski and Mr. Collins. The motion was approved by the following vote:

Melanie Hollmann	AYE
Tim Edgmon	AYE
Betsy Triplett-Hurt	AYE
Ted Tuminowski	NAY
Gene Collins	NAY

Resolution passed by a 3-2 vote.

Mr. Marrero did not see any objection by City Council moving forward with the resolution. In addition, the short staff at the City could make it difficult to undertake the project by themselves. Nevertheless, he and his office were willing to help any way they can. Mr. Edgmon agreed with Mr. Collins and Mr. Tuminowski concerns with the resolution, but ODC was looking to commit to the issue.

The meeting adjourned at 3:11 p.m.

ATTEST:

  
Celia Senoret  
Deputy City Secretary

APPROVED:

  
Betsy Triplett-Hurt  
President



CITY COUNCIL MINUTES  
CITY OF ODESSA, TEXAS

APRIL 9, 2019

On April 9, 2019, a regular meeting of the Odessa City Council was held at 6:00 p.m., City Hall, Council Chambers, 5<sup>th</sup> floor, 411 W. 8<sup>th</sup> St., Odessa, Texas.

City Council present: Mayor David R. Turner; Council members: Malcolm Hamilton, District One; Dewey Bryant, District Two; Detra White, District Three; Mari Willis, District Five; and Peggy Dean, At-Large.

Council member absent: Tom Sprawls, District Four.

Others present: Michael Marrero, City Manager; Norma Aguilar-Grimaldo, City Secretary; Phillip Urrutia, Assistant City Manager; Cindy Muncy, Interim Assistant City Manager; Gary Landers, Interim City Attorney; other members of City staff; and members of the news media.

A quorum being present, Mayor Turner called the meeting to order and the following proceedings were held:

The invocation was given by James McCrary, First Baptist Church, and followed by the Pledge of Allegiance to the United States and Texas flags.

**CONSENT AGENDA ITEMS**

- A. City Council minutes, March 26, 2019;
- B. City Council Workshop minutes, April 2, 2019;
- C. City Council Work Session minutes, April 9, 2019;
- D. **Ordinance No. 2019-12 - Request by Gladieux Trading & Marketing Co. LP, owner, and LCA, agent, for original zoning of Light Industrial (LI) on an approximately 4.7 acre tract in Section 32, Block 42, T-2-S, T&P RR Co. Survey, Ector County, Texas (southwest of the intersection of Maurice Rd. and South County Road West);**
- E. **Ordinance No. 2019-13 – Amendments of the City of Odessa Zoning Ordinance;**
- F. Install a traffic signal on Billy Hext Road and Eastridge Road;
- G. Abandon 34<sup>th</sup> Street right-of-way;
- H. Halff Associates professional services agreement to update the Park, Recreation, Open Space and Urban Landscapes Master Plan for \$194,500.

Motion was made by Council member Dean and seconded by Council member Hamilton to remove Item G. The motion was approved by the following vote:

Aye: Turner, Hamilton, Bryant, White, Willis, and Dean  
Nay: None

Motion was made by Council member Willis and seconded by Council member White to approve consent agenda items A-F and H. The motion was approved by the following vote:

Aye: Turner, Hamilton, Bryant, White, Willis, and Dean  
Nay: None

**Ordinance No. 2019-14 - Authorize the abandonment of 34<sup>th</sup> Street right of way.** Mayor Turner stated that Council member Bryant abstained. Mr. Hmayakyan stated that the abandonment of 34<sup>th</sup> Street right of way was 0.52 acres. The City would retain the general easements. The City would receive \$15,400 for the abandonment.

Motion was made by Council member Willis and seconded by Council member Hamilton to approve the ordinance on second and final approval. The motion was approved by the following vote:

Aye: Turner, Hamilton, White, Willis, and Dean  
Nay: None  
Abstain: Bryant

## OTHER COUNCIL ACTION

### PUBLIC HEARING

**Open a public hearing to consider approval of the request of DFA LLC (Robert Russell), owner, Landgraf, Crutcher & Assoc., agent, for original zoning of Light Industrial (LI) on an approximately 4.25 acre tract in Section 25, Block 42, T-2-S, T&P Ry. Co. Survey, Ector County, Texas (northeast corner of the intersection of Reed Ave. and Pearl Ave.)** Randy Brinlee, Director of Planning, reviewed the location. The zoning purpose was for light industrial development. There was no negative impact on the zoning. The Planning and Zoning Commission recommended for approval. No one came forward and the public hearing was closed.

Motion was made by Council member Hamilton and seconded by Council member Bryant to approve the ordinance on first approval. The motion was approved by the following vote:

Aye: Turner, Hamilton, Bryant, White, Willis, and Dean  
Nay: None

### RESOLUTION

**Resolution No. 2019R-29 - Award of proposal for the roadway reconstruction of the University Boulevard Improvements for \$13,966,063.** Hal Feldman, Traffic Engineer, stated that two proposals were received. The reconstruction would be from Andrews Hwy to Grandview on University. He requested that \$2.9 million be transferred from the General Fund to cover the cost of the project. He recommended awarding the project to Reece Albert in the amount of \$13,966,063. He explained that the project was started four years ago and the bid was more than the estimated cost. The construction would begin in September and had 420 working days for completion.

Motion was made by Council member Bryant and seconded by Council member Hamilton to approve the bid award as recommended. The motion was approved by the following vote:

Aye: Turner, Hamilton, Bryant, White, Willis, and Dean  
Nay: None

**Approve the Odessa Development Corporation's (ODC) resolution of support of \$5 million for implementing reasonably priced workforce housing.** Mrs. Muncy reported that the ODC earmarked \$5 million toward the housing issue. Mr. Landers stated that changes to the resolution would be made as directed by Council. Council member Bryant appreciated the work on addressing the needs of the housing issue. He recommended that the ODC set aside and maintain the regular sales tax expenditure process but not approve the coalition request. Mr. Landers stated that the Council could vote on a verbal motion expressing the City Council's position on this item without the need for a revised or written Resolution. The motion could also include the requirement that as any of the set aside money was requested to be spent, that it would have to follow the regular sales tax approval process through Compliance Committee, ODC Board and then to City Council for final approval and the Council expressed agreement.

Marcia Cleaver, 417 Washington Lane, stated that there was a focus on new industry and there was an urgent need for housing. The housing was a foundation of happy and healthy families. The municipal government was responsible for safety, health, vision and expand affordable housing in our city. Mike Gardner, 513 St. Mary's Circle, believed as a Council member the City was to provide infrastructure, water, sewer, police and fire services. He stated that the tax funds might not be suited for special interest groups. He asked to enable the builders to provide the tools to build homes. Betsy Triplett-Hurt, ODC President, thanked the Council and ODC would seek out projects to bring housing.

Motion was made by Council member Dean to approve setting aside up to \$5 million as requested by ODC with the requirement that all expenditures of those funds would follow the regular sales tax approval process through Compliance Committee, ODC and the final City Council approval and seconded by Council member Hamilton.

Council member Dean appreciated the comments. She emphasized that the ODC funds were not property tax but sales tax dollars. The funds had limited uses under the requirements. Council member Hamilton requested that uniformity be set. He thanked the ODC board.

The motion was approved by the following vote:

Aye: Turner, Hamilton, Bryant, White, Willis, and Dean  
Nay: None

#### MISCELLANEOUS

**Appointment of Boards: Board of Survey, Citizens Golf Advisory Committee, Downtown Odessa, Parks and Recreation Advisory Board, Planning and Zoning Commission, Traffic Advisory Committee; and Zoning Board of Adjustment.** Motion was made by Council member Hamilton and seconded by Council member Willis to approve the following board appointments:

Jesus Yanez reappointed to the Board of Survey  
Brad Robinson appointed to the Citizens Golf Advisory Committee  
John Herriage appointed to the Downtown Odessa  
Peggy Dean reappointed to the Downtown Odessa  
Malcolm Hamilton reappointed to the Downtown Odessa  
Steve Tercero reappointed to the Planning and Zoning Commission  
Israel Galvan reappointed to the Traffic Advisory Committee  
Geraldo Arzate reappointed to the Zoning board of Adjustment

The motion was approved by the following vote:

Aye: Turner, Hamilton, Bryant, White, Willis, and Dean  
Nay: None

**Citizen's comments on non-agenda items.** Mike Gardner, 513 St. Mary's Circle, was opposed to the temporary housing on drill sites. He has four drill sites behind his backyard. If Council was considering the option, he asked that signs be placed on the sites informing the citizens. The area would become blighted and was not a fix to the problem.

There was no other business, the meeting adjourned at 6:27 p.m.

ATTEST:

  
Norma Aguilar-Grimaldo, TRMC, CMC  
City Secretary

APPROVED:

  
David R. Turner  
Mayor

