

AGREEMENT FOR LAWN MAINTENANCE SERVICES

THE STATE OF TEXAS § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BRAZORIA §

THIS AGREEMENT FOR LAWN MAINTENANCE SERVICES (the "Agreement") is made and entered into on this 20 day of February, 2014 by and between the CITY OF ALVIN, TEXAS, (the "City") a municipal corporation of the State of Texas, situated in Brazoria County, Texas and LTS Lawn Care, (the "Contractor").

WITNESSETH:

WHEREAS, on or about January 6, 2014, and January 13, 2014, the City advertised for bids for lawn maintenance services.

WHEREAS, the Contractor submitted the lowest responsive and most qualified bid for the job locations specified herein;

WHEREAS, on or about February 20, 2014, the City Council awarded a Lawn Maintenance Services bid to the Contractor; and

WHEREAS, this Agreement defines the rights and obligations of the parties;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein the City and the Contractor hereby agree as follows;

I.
DEFINITIONS

"City" is defined in the preamble hereof and includes its successors and assigns.

"Contractor" is defined in the preamble hereof and includes its successors and assigns.

II.
SCOPE OF SERVICES

The Contractor shall perform services necessary to provide a well-maintained and groomed area in those locations identified in the bid entitled City of Alvin, Texas Lawn Maintenance Services attached hereto as Exhibit "A" and incorporated herein by reference (the "Bid"). Such

services shall include, but not be limited to, the services specified in the Bid and shall be performed according to the schedule set forth in Exhibit "B". Notwithstanding the foregoing, the City reserves the right to delete locations from the scope of services at any time during this Agreement and reduce the payment to the Contractor in the amount of the per trip price for such location(s) multiplied by the number of trips remaining in the fiscal year. During the term of this Agreement, the City may issue a change order and add or delete to the mowing locations.

Contractor shall use professionally accepted mowers as determined by location. All curb lines, edges etc. shall be edged with every mowing. Weed-eating shall be done around all buildings, trees, shrubs, posts, tire stops, etc. with every mowing. Contractor shall take all necessary precautions to minimize and avoid damage to trees, glass windows, doors, vehicles, etc. The contractor shall be held accountable for any damages.

III. COMPENSATION

3.01 – Payment Terms.

Subject to the terms of this Agreement and in consideration for the services to be performed hereunder, the City agrees to pay and the Contractor agrees to accept during the term hereof the amount of **Twenty Two Thousand Seven Hundred Seventy Six and 46/100 Dollars (\$22,776.46)** for lawn maintenance services required hereunder for the remaining fiscal year 2013-2014.

In each fiscal year hereafter in which this Agreement is funded by the City Council, the annual amount of **Thirty-Two Thousand Two Hundred Twenty-Seven and 87/100 Dollars (\$32,227.87)** may be renewed by mutual agreement between contractor and the City at the same rate. The City shall pay the per trip charges shown in Exhibit "B", attached hereto and incorporated herein by reference, if the City requests more than stated number of mowing and trimming cycles at the locations listed in Exhibit "B".

To receive payment the Contractor shall submit monthly invoices to the City on or before the tenth (10th) day of each month for the services rendered in the preceding month specifying services rendered, dates of service and the amount(s) owed pursuant to this Agreement.

Payments shall be made in equal monthly installments or for exact moneys on or about thirty (30) days after receipt and approval of the invoice(s).

3.02 – Allocated Funds.

- (a) The City's duties to pay money to the Contractor for any purposes under this Agreement are limited in their entirety by the provisions of this Section 3.02.
- (b) The Contractor recognizes and understands that the City has appropriated and allocated the sum of **Twenty Two Thousand Seven Hundred Seventy-Six and 46/100 (\$22,776.46)**, to be used to discharge its duties to pay money under this Agreement (the "Original Allocation") during the remaining months of fiscal year 2013-2014. The parties recognize that the executive and legislative officers of the City, in the exercise of their sound discretion, may allocate supplemental sums of money for the purpose of this Agreement for succeeding fiscal years. Because the City's officers are not obligated to make any such supplemental allocations, the parties have agreed to certain procedures and remedies to be followed with respect thereto.
- (c) A supplemental allocation will only be deemed to be made when the City sends a written notice to the Contractor indicating that supplemental sums have been allocated for the purpose of this Agreement.
- (d) The aggregate of the Original Allocation and all supplemental allocations effected by notice to the Contractor, if any, shall be the Allocated Funds. The City shall never be obligated to pay any money by, through or under this Agreement in an aggregate amount which exceeds the Allocated Funds.
- (e) Suspension of performance and receipt of payment of sums owed by the City for services rendered shall be the Contractor's exclusive remedies in the event that the City fails or refuses to make supplemental allocations. No such failure or refusal shall constitute a default or breach of this Agreement by the City, and the Contractor waives any claim (other than its claim for payment of sums owed for services rendered) it may have now or in the future for financial losses or other damages which may be occasioned by any such failure or refusal.

IV.

TERM AND RENEWAL OPTION

4.01 – Term.

The term of this Agreement shall commence on **March 1, 2014** and shall end on **September 30, 2014**. However, upon mutual consent of the parties, this agreement may be extended for one (1) year extensions for a maximum of four (4) extensions. Each extension is subject to the provisions in Section 3.02 of this Agreement, unless terminated earlier in accordance with the terms of this Agreement.

V.
TERMINATION

5.01 – With Cause.

The City may terminate this Agreement upon default of the Contractor. A default shall be deemed to have occurred if the Contractor fails to perform or observe any of the terms or conditions of this Agreement required to be performed or observed by it. Should such a default occur, the City shall have the right to terminate the Contractor's duties under this Agreement as of the (10th) day following the receipt of a written notice to the Contractor from the City describing such default and intended termination, provided that:

- (i) such termination shall be ineffective if within the ten (10) day period the Contractor cures the default; and
- (ii) such termination may be stayed, at the sole option of the City pending cure of the default if action to cure begins during the ten (10) day period and is successfully complete within a reasonable time thereafter.

5.02 – Without Cause.

This Agreement may be terminated by the City without cause upon ninety (90) days advance written notice to the Contractor.

VI.
INSURANCE

6.01 - Insurance

A. Coverage and Amounts.

The Contractor shall provide and maintain insurance in full force and effect at all times during the term of this Agreement. Such insurance is described as follows:

- (1) **Risk and Limits of Liability.** The insurance at a minimum must include the following coverages and limits of liability;

COVERAGE

LIMITS OF LIABILITY

Worker's Compensation

Statutory

Employer's Liability

\$1,000,000 per occurrence

Commercial General Liability
Including Blanket Contractual
Liability

Bodily Injury and Property Damage
Limits of \$1,000,000 each Occurrence
and \$2,000,000 Aggregate

Automobile Liability

Bodily Injury and Property Damage
Combined Single Limit \$1,000,000
Each Occurrence

- (2) **Form of Policies.** The insurance may be in one or more policies of insurance, the form of which must be approved by the Parks and Recreation Director.
- (3) **Issuers of Policies.** The issuer of any policy must have the certificate of authority to transact insurance business in the State of Texas. Each issuer must be responsible and reputable and must have financial capability consistent with the risks covered. Each issuer shall be subject to approval by the Parks and Recreation Director as to conformance with these requirements.
- (4) **Insured parties.** Each policy must name the Contractor and the city (and the officers, agents and employees of the City) as insured parties.
- (5) **Deductibles.** A policy may contain deductible amounts. Notwithstanding the deductible amounts, the Contractor shall assume and bear any claims or losses to the extent of such deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees.
- (6) **Cancellation.** Each policy must expressly state that it may not be canceled unless thirty (30) days advance notice of cancellation is given in writing to the Parks and Recreation Director.

- (7) **Subrogation.** Each policy must contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents or employees.
- (8) **Liability for Premium.** If any of the policies referred to above does not have a flat premium rate and such premium has not been paid in full, such policy must have a rider or other appropriate certificate or waiver sufficient to establish that the issuer is entitled to look only to the Contractor for any further premium payment and has right to recover any premiums from the City.

B. Delivery of Policies. The original of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them; together with written proof that the premiums have been paid, shall be deposited by the Contractor with the Parks and Recreation Director prior to the beginning of the term of this Agreement.

Failure on the part of the Contractor to furnish a new policy or certified copy thereof before the expiration date of any such policy, or failure to obtain a new policy before the date fixed for the cancellation of an existing date of any existing policy, so that the insurance referred to shall be continuously in effect, shall constitute a default on the part of the Contractor entailing the City, at its option, to terminate its duties and the Contractor rights under this Agreement upon at least three (3) days notice in writing to the Contractor.

VII. MISCELLANEOUS

7.01 - Independent Contractor.

The relationship of the Contractor to the City shall be that of an independent contractor. Nothing herein contained shall be construed as constituting the Contractor an employee, agent, servant, or department of the City. The City shall not be liable for the acts or omissions of the Contractor, its officers, members, agents or employees. All persons employed by the contractor must be legally approved to work in the United States.

7.02 - Subcontractors.

The contractor shall not subcontract any part of its performance under this Agreement without approval of the Parks and Recreation Director which approval shall not be unreasonable withheld. If such approval is given, any subcontractor and all employees of the subcontractor shall be treated by the City, in connection with this Agreement only, as if they were employees of the Contractor. . All persons employed by the contractor must be legally approved to work in the United States.

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7.03 - Administration of Agreement.

Except as otherwise provided herein, this Agreement shall be administered by the Parks and Recreation Director or his designee and all correspondence and questions from the Contractor shall be directed to the Parks and Recreation Director or his designee, as applicable.

7.04 - Parties in Interest.

This Agreement shall not bestow any rights upon any third party, but rather, shall bind and benefit the City and the Contractor only.

7.05 - Non-waiver.

Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights of remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the rights to insist on and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure or performance.

7.06 - Applicable Laws.

This Agreement is subject to and shall be constructed in accordance with the laws of the State of Texas, the City Charter and Ordinances of the City of Alvin, the laws of the federal government of the United States of America and all rules and regulations of any regulatory body or officer having Jurisdiction over the Contractors services required by this Agreement. This Agreement is performable in Brazoria County, Texas.

7.07 - Licenses and Permits.

The Contractor shall obtain and pay for all licenses, permits and certificates required by any statute, ordinance, rule, or regulation of any regulatory body having jurisdiction over the performance of the Contractor's services required hereunder.

7.08 - Notices.

All notices required or permitted hereunder shall be in writing and shall be deemed received when actually received or if earlier, on the third (3rd) day following deposit in the United States Postal Services post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the other party at the address set forth below or at such other addresses as the receiving party may have therefore prescribed by the notice to the sending party:

Parks and Recreation Director
City of Alvin
216 W. Sealy Street
Alvin, Texas 77511
Phone No: 281-388-4290

(Contractor Info)
LTS Lawn Care – Attn: Larry Dietrich

Phone No: _____

7.09 - Captions.

The captions at the beginning of the articles, sections, and subsections of this Agreement are guides and labels to assist in locating and reading such articles, sections, and subsections and, therefore, will be given no effect in construing this Agreement and shall not be restricted of or be used to interpret the subject matter of any article, section subsection or part of this Agreement.

7.10 - Acceptance and Approvals.

Any acceptance or approval by the City, or its agents or employees shall not constitute nor be deemed to be a release of the responsibility and liability of the contractor, its employees, agents, subcontractors or suppliers for the accuracy, competency and completeness of any documents prepared or services performed pursuant to the terms and conditions of this Agreement, not shall acceptance or approval be deemed to be an assumption of such responsibility or liability by the City, or its agents and employees for any defect, error or omissions in any documents prepared or services performed by the Contractor, its employees, agents, subcontractors or suppliers pursuant to this Agreement.

7.11 - Inspections and Audits.

At mutually agreeable times, the City shall have the right to examine, review, copy and audit all books, records and billing documents which are directly related to performance to payment under this Agreement provided, however that records and documents that reflect Contractors profit shall not be available for inspection. The Contractor shall maintain such books, records, and billing documents for one (1) year after cessation of its other duties under this Agreement.

7.12 - Remedies.

The rights and remedies contained in this Agreement shall not exclusive, but shall be cumulative of all rights and remedies now or hereafter existing, whether statutory, at law, or in equity; provided however, that none of the parties shall terminate this Agreement exempt in accordance with the provisions hereof.

7.13 - Ambiguities.

In the event of any ambiguity in any of the terms of this Agreement, it shall not be constructed for or against any party hereto on the basis that such party did or did not author the same.

7.14 - Survival.

The provisions set forth in Section 7.11 herein shall survive the termination, cancellation, or expiration of this Agreement.

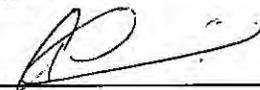
7.15 - Entire Agreement.

This Agreement contains all the agreement of the parties relating to the subject matter hereto and is the full and final expression of the agreement between parties.

IN WITNESS WHEREOF, the parties have made and executed this Agreement in multiple copies, each of which shall be an original, as of this 11 day of February, 2014.

CONTRACTOR:

LTS Lawn Care

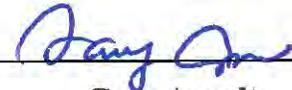
BY: 

Name: A.L. DIETRICH

Title: OWNER

CITY:

CITY OF ALVIN, TEXAS

BY: 

Gary Appelt,
Mayor

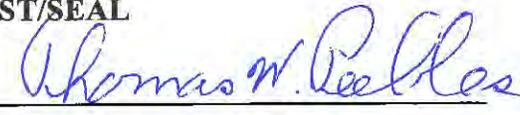
ATTEST/SEAL

BY: 

Name: KAREN DIETRICH

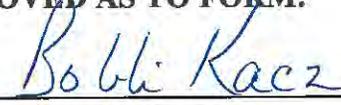
Title: _____

ATTEST/SEAL

BY: 

Thomas W. Peebles
City Clerk

APPROVED AS TO FORM:

BY: 

Bobbi Kacz
City Attorney



CITY OF ALVIN

216 West Sealy St • Alvin, Texas 77511 •

(281) 388-4200 •

CITY HALL

FAX (281) 388-4294

“Exhibit A”

CITY PARKS

2013-2014 PROPOSAL

	<u>Per Trip Price</u>	<u>Total Price</u>
1. Pearson Park, 2200 Westpark Dr.	\$ <u>271.15</u> x 39 =	\$ <u>10574.85</u>
2. Morgan Park, 1500 W. South St.	\$ <u>116.21</u> x 39 =	\$ <u>4532.19</u>
3. Hugh Adams Park, 3502 Mustang Rd.	\$ <u>77.47</u> x 39 =	\$ <u>3021.33</u>
4. Marina Park, Hwy. 6 behind bowling alley	\$ <u>77.47</u> x 26 =	\$ <u>2014.22</u>
5. Talmadge Park, Talmadge St. @ 6 th St.	\$ <u>77.47</u> x 39 =	\$ <u>3021.33</u>
6. Hike and Bike Trail, Adoue St. to South St.	\$ <u>232.41</u> x 39 =	\$ <u>9063.95</u>
	TOTAL	= \$ <u>32227.87</u>

***Under normal circumstances, the City of Alvin shall expect the above listed Parks be mowed bi-weekly from September thru February and weekly from March thru August. The City of Alvin shall also expect the above listed parks be “made ready” for heavier public use prior to all evenings, weekends and/or holidays, moreover, the contractor shall make all efforts to mow/trim prior these expected heavier usage times.**

LTS LAURE CARE
LARRY DIETRICH
281-433-2590

ADDENDUM NO. 1

**TO THE
CITY OF ALVIN
LANDSCAPE MAINTENANCE
SERVICES AGREEMENT**

THIS Addendum No. 1 to the City of Alvin Landscape Maintenance Services Agreement ("Addendum No. 1") is made on this the 7th day of August, 2014, by and between the City of Alvin, Texas, a home-rule city of the State of Texas (the "City") and LTS Lawn Care ("LTS").

WHEREAS, on February 20, 2014, the City approved and entered into a Landscape Maintenance Services Agreement with LTS Lawn Care for lawn services of selected City parks (the "Agreement"); and

WHEREAS, the Agreement provided for a term ending on September 30, 2014; and

WHEREAS, Section 4.0 of the Agreement states that upon mutual consent of the parties and approval of the governing body, this Agreement may be renewed for one (1) year additional terms, for a total of four (4) years, and each renewal term shall be attached to the Agreement as an Addendum; and

WHEREAS, the City and LTS Lawn Care agree to extend the term of the Agreement for an additional year ending September 30, 2015.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the City and LTS Lawn Care hereby agree as follows:

I.

This renewal term is subject to all the provisions contained within the original Agreement, including the provisions in Section 3.02 unless terminated earlier in accordance with the terms of the original Agreement.

II.

Except as amended herein, all other terms and conditions of the Agreement, as amended, shall remain in full force and effect. To the extent of a conflict or inconsistency between or among the provisions of the Agreement, and Addendum No. 1, the provisions of Addendum No. 1 shall control. Addendum No. 1 may only be amended, modified or supplemented by written agreement and signed by all parties.

IN WITNESS WHEREOF, the parties have made and executed Addendum No. 1 to the Landscape Maintenance Lawn Services Agreement in multiple copies, each of which shall be an original, as of the date set forth in the preamble hereof.

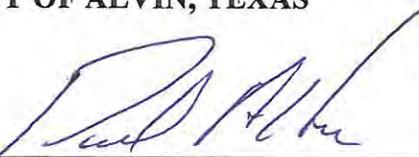
LTS LAWN CARE

By: 
Larry Dietrich, President

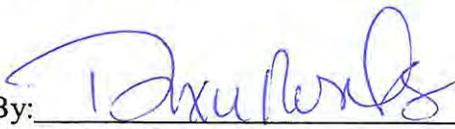
ATTEST/SEAL

By: 
Name:
Title:

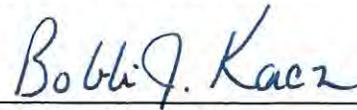
CITY OF ALVIN, TEXAS

By: 
Paul Horn, Mayor

ATTEST/SEAL

By: 
Dixie Roberts, City Clerk

APPROVED AS TO FORM:

By: 
Bobbi J. Kacz, City Attorney

ADDENDUM NO. 2
TO THE
CITY OF ALVIN
AGREEMENT FOR
LAWN MAINTENANCE SERVICES

THIS Addendum No. 2 to the City of Alvin Agreement For Lawn Maintenance Services ("Addendum No. 2") is made on this the 3 day of September, 2015, by and between the City of Alvin, Texas, a home-rule city of the State of Texas (the "City") and LTS Lawncare ("LTS").

WHEREAS, on February 20, 2014, the City approved and entered into an Agreement For Lawn Maintenance Services with LTS Lawncare for lawn services of selected City parks (the "Agreement"); and

WHEREAS, the Agreement provided for a term ending on September 30, 2014; and

WHEREAS, the City and LTS Lawncare entered into Addendum No. 1 on or about August 7, 2014 agreeing to extend the term of the Agreement for an additional year ending September 30, 2015; and

WHEREAS, Section 4.01 of the Agreement states that upon mutual consent of the parties and approval of the governing body, this Agreement may be renewed for one (1) year extensions, for a maximum of four (4) years of renewal terms, and each renewal term shall be attached to the Agreement as an Addendum; and

WHEREAS, LTS Lawncare has provided lawn services for a one (1) year renewal term and now requests the second one (1) year term to provide lawn services of selected City parks; and

WHEREAS, the City and LTS Lawncare agree to extend the term of the Agreement for an additional year ending September 30, 2016.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the City and LTS Lawncare hereby agree as follows:

I.

This renewal term is subject to all the provisions contained within the original Agreement, including the provisions in Section 3.02 unless terminated earlier in accordance with the terms of the original Agreement.

II.

Except as amended herein, all other terms and conditions of the Agreement, as amended, shall remain in full force and effect. To the extent of a conflict or inconsistency between or among the provisions of the Agreement, and Addendum No. 2, the provisions of Addendum No. 2 shall control. Addendum No. 2 may only be amended, modified or supplemented by written agreement and signed by all parties.

IN WITNESS WHEREOF, the parties have made and executed Addendum No. 2 to the Agreement for Lawn Maintenance Services in multiple copies, each of which shall be an original, as of the date set forth in the preamble hereof.

LTS LAWCARE

CITY OF ALVIN, TEXAS

By: 
Larry Dietrich, President

By: 
Sereniah Breland, City Manager

ATTEST/SEAL

ATTEST/SEAL

By: 
Name: Karen Dietrich
Title: V. PRESIDENT

By: 
Dixie Roberts, City Clerk

APPROVED AS TO FORM:

By: 
Bobbi J. Kacz, City Attorney

ADDENDUM NO 3
TO THE
CITY OF ALVIN
AGREEMENT FOR
LAWN MAINTENANCE SERVICES

THIS Addendum No 3 to the City of Alvin Agreement For Lawn Maintenance Services ("Addendum No 3") is made on this the 4 day of August, 2016, by and between the City of Alvin, Texas, a home-rule city of the State of Texas (the "City") and LTS Lawn Care ("LTS")

WHEREAS, on February 20 2014, the City approved and entered into an Agreement For Lawn Maintenance Services with LTS Lawn Care for lawn services of select City parks (the 'Agreement'), and

WHEREAS, the Agreement provided for a term ending on September 30, 2014, and

WHEREAS, the City and LTS Lawn Care entered into Addendum No 1 on or about August 7, 2014 agreeing to extend the term of the Agreement for an additional year ending September 30, 2015 and

WHEREAS, the City and LTS Lawn Care entered into Addendum No 2 on or about September 3, 2015 agreeing to extend the term of the Agreement for an additional year ending September 30, 2016, and

WHEREAS, Section 4 0 of the Agreement states that upon mutual consent of the parties and approval of the governing body, this Agreement may be renewed for one (1) year additional terms, for a total of four (4) years of renewal services, and each renewal term shall be attached to the Agreement as an Addendum, and

WHEREAS, LTS Lawn Care has now provided two renewal terms and now requests the third renewal term to provide lawn services of select City parks, and

WHEREAS, the City and LTS Lawn Care agree to extend the term of the Agreement for an additional year ending September 30, 2017

WITNESSETH:

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the City and LTS Lawn Care hereby agree as follows

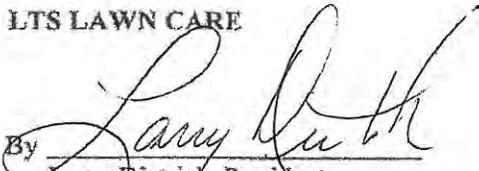
This renewal term is subject to all the provisions contained within the original Agreement, including the provisions in Section 3.02 unless terminated earlier in accordance with the terms of the original Agreement

II

Except as amended herein, all other terms and conditions of the Agreement, as amended, shall remain in full force and effect. To the extent of a conflict or inconsistency between or among the provisions of the Agreement, and Addendum No. 3, the provisions of Addendum No. 3 shall control. Addendum No. 3 may only be amended, modified or supplemented by written agreement and signed by all parties.

IN WITNESS WHEREOF, the parties have made and executed Addendum No. 3 to the Agreement For Lawn Maintenance Services in multiple copies, each of which shall be an original, as of the date set forth in the preamble hereof.

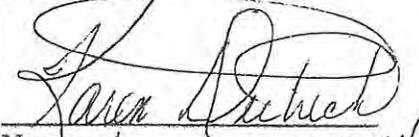
LTS LAWN CARE

By 
Larry Dietrich, President

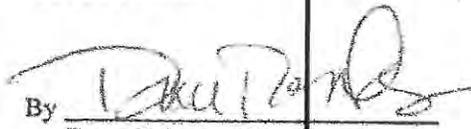
CITY OF ALVIN, TEXAS

By 
Serenab Breland, City Manager

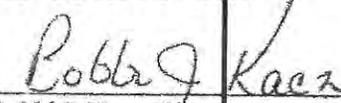
ATTEST/SEAL

By 
Name: KAREN DIETRICH
Title: EX SEC.

ATTEST/SEAL

By 
Dixie Roberts, City Clerk

APPROVED AS TO FORM

By 
Bobbi J Kacz, City Attorney