



**MANOR CITY COUNCIL  
REGULAR MEETING  
AGENDA  
105 E. EGGLESTON STREET  
MANOR, TEXAS 78653  
MARCH 1, 2016 · 7:00 P.M.**

---

**CALL TO ORDER AND ANNOUNCE QUORUM PRESENT**

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

*Comments will be taken from the audience on non-agenda related topics for a length of time, not to exceed three minutes per person. Comments on specific agenda items must be made when the item comes before the Council. To address the City Council, please register on the speaker sign-in sheet at least five-minutes prior to the scheduled meeting time. NO ACTION MAY BE TAKEN BY THE CITY COUNCIL DURING PUBLIC COMMENTS.*

**CONSENT AGENDA**

1. Consideration, discussion, and possible action to approve the minutes for the February 17, 2016 City Council Regular Meeting.

**REGULAR AGENDA**

2. Consideration, discussion, and possible action to approve a disbursement of Hotel Occupancy Tax Funds to EZTASK for the purpose of website design enhancement to promote tourism.
3. Discussion, consideration, and possible action on a second reading of an ordinance to rezone lots 18-20, block 12 Town of Manor, locally known as 101 East Burton, from light commercial (C-1) zoning to downtown business district (DBD) zoning.
4. Consideration, discussion, and possible action on a licensing ordinance for gaming machines.
5. Consideration, discussion, and possible action to approve the resolution of no objection to a Housing Tax Credit Application for the Villages at Manor Apartments located within the Manor Commons Development on the Southeast side of FM 973 and US HWY 290 E. in Manor TX, Travis County.
6. Consideration, discussion, and possible action to approve the resolution of no objection to a Housing Tax Credit Application for the Pointe at Manor Apartments located within the Manor Commons Development on the Southeast side of FM 973 and US HWY 290 E. in Manor TX, Travis County.
7. Consideration, discussion, and possible action on a waiver from parking requirements, Ordinance 185(m) (iii), to allow for 42 parking spaces located at Manor Commons SW.
8. Consideration, discussion, and possible action on a budget amendment to purchase My Permit Now.
9. Consideration, discussion, and possible action to appoint a budget committee to participate in preparation of the amended budget.
10. Consideration, discussion, and possible action directing staff to secure estimates for site preparation for a proposed skate/bike ramp.
11. Consideration, discussion, and possible action on a draft for a municipal services plan for property to be annexed into the City.

## **PUBLIC HEARING**

12. Conduct a public hearing regarding the annexation of property being approximately 1.069 acres of land, located at 13500 N FM 973

## **EXECUTIVE SESSION**

*The City Council will now conduct a Closed Executive Session pursuant to the provisions of Chapter 551 Texas Government Code, in accordance with the authority contained in:*

*Section 551.074 Personnel Matters – City Manager evaluation*

## **OPEN SESSION**

*The City Council will now reconvene into Open Session pursuant to the provisions of Chapter 551 Texas Government Code and take action on item(s) discussed during Closed Executive Session:*

13. Take action as deemed appropriate in the City Council's discretion regarding the City Manager evaluation.

## **ADJOURNMENT**

*In addition to any executive session already listed above, the City Council for the City of Manor reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code for the following purposes:*

§551.071 Consultation with Attorney  
§551.072 Deliberations regarding Real Property  
§551.073 Deliberations regarding Gifts and Donations  
§551.074 Personnel Matters  
§551.076 Deliberations regarding Security Devices  
§551.087 Deliberations regarding Economic Development Negotiations

## **POSTING CERTIFICATION**

**I certify that this notice of the Manor City Council Meeting was posted on this 12<sup>th</sup> day of February, 2016 before 5:00 P.M., as required by law in accordance with Section 551.043 of the Texas Government Code.**

---

**Frances M. Aguilar – City Secretary**

## **NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:**

The City of Manor is committed to compliance with the Americans with Disabilities Act. Manor City Hall and the council chambers are wheelchair accessible and special marked parking is available. Persons with disabilities who plan to attend this meeting and who may need assistance are requested to contact Frances Aguilar, City Secretary at 512-272-5555. Provide a forty-eight hour notice when feasible.

## Item 2



**ezTask.com, Inc.**  
210-A Morton Street  
Richmond, TX 77469  
1-800-921-6764  
Fax: 281-239-7095

## Price Quote

### Proposal to:

Heath Ferguson  
City of Manor  
201 E. Parsons St.  
Manor, TX 78653

Date: 1/14/2016

Quote #: 05650116

### Prepared by:

Wendy Doherty  
(281) 239-3227  
wendyd@eztask.com

Products and Services	Subtotal
Website redesign & Titanium upgrade Requires 3 year contract	\$1,500
Titanium module bundle package (Document manager, Database module & Communications Suite)	\$0
<b>Total Costs (First Year)</b>	<b>\$1,500</b>

Some products increase the annual Web Hosting Fee (based on associated bandwidth, storage, and/or maintenance costs).

<b>Additional Web Hosting Fees</b>	<b>\$300</b>
------------------------------------	--------------

Thank you for choosing ezTask. We sincerely appreciate your business!

## Welcome to Titanium™.

From the makers of netStartEnterprise™ comes an easy-to-use Content Management System (CMS) like you've never seen before. This is truly intuitive web editing. This is Titanium™.



### Feature List

- WYSIWYG Editing
- Live Preview Editing
- SmartForms & Surveys
- Advanced User and User Group Permissions
- Authoring Rights by Page or Page Element
- Unlimited files, media, user accounts, and web pages
- Auto-Archiving and Tabbed File Organization
- Online Database Management
- Menu and Widget Sharing
- Utilizing the latest web technologies: HTML5 & CSS3

### Product Highlights

**Drag-and-Drop Page Building:** add, remove, arrange, and rearrange an unlimited number of widgets, modules, and layouts on each page - all by dragging and dropping.

**Responsive Design:** each web page is optimized for viewing on any screen size, from any device. Your website is mobile-ready from day one.

**Intuitive Editing:** enjoy managing your website from a beautiful user interface that just makes sense.

**Communication Suite:** publish articles, generate RSS feeds, and post social media updates in one step, all from within Titanium™.

**Advanced Document Management:** drag to upload multiple documents in one click and secure sensitive information with a password.

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF MANOR, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING A PARCEL OF LAND FROM LIGHT COMMERCIAL (C-1) TO DOWNTOWN BUSINESS DISTRICT (DBD); MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the owner of the property described hereinafter (the "Property") has requested that the Property be rezoned;

**Whereas**, after giving ten days written notice to the owners of land within three hundred feet of the Property, the Planning & Zoning Commission held a public hearing on the proposed rezoning and forwarded its recommendation on the rezoning to the City Council;

**Whereas**, after publishing notice of the public at least fifteen days prior to the date of such hearing, the City Council at a public hearing has reviewed the request and the circumstances of the Property and finds that a substantial change in circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS, THAT:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Amendment of Zoning Ordinance.** Ordinance No. 185, as amended, the City of Manor Zoning Ordinance (the "Zoning Ordinance" or "Code"), is hereby modified and amended by rezoning the Property as set forth in Section 3.

**Section 3. Rezoned Property.** The Zoning Ordinance is hereby amended by changing the zoning district for the land and parcel of property described in Exhibit "A" (the "Property"), from the current zoning district Light Commercial (C-1) to zoning district Downtown Business District (DBD). The Property is accordingly hereby rezoned to Downtown Business District (DBD).

**Section 4. Open Meetings.** That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

**PASSED AND APPROVED FIRST READING** on this the \_\_\_\_ day of \_\_\_\_\_ 201\_\_.

**PASSED AND APPROVED SECOND AND FINAL READING** on this the \_\_\_\_ day of \_\_\_\_\_ 201\_\_.

ATTEST:

**THE CITY OF MANOR, TEXAS**

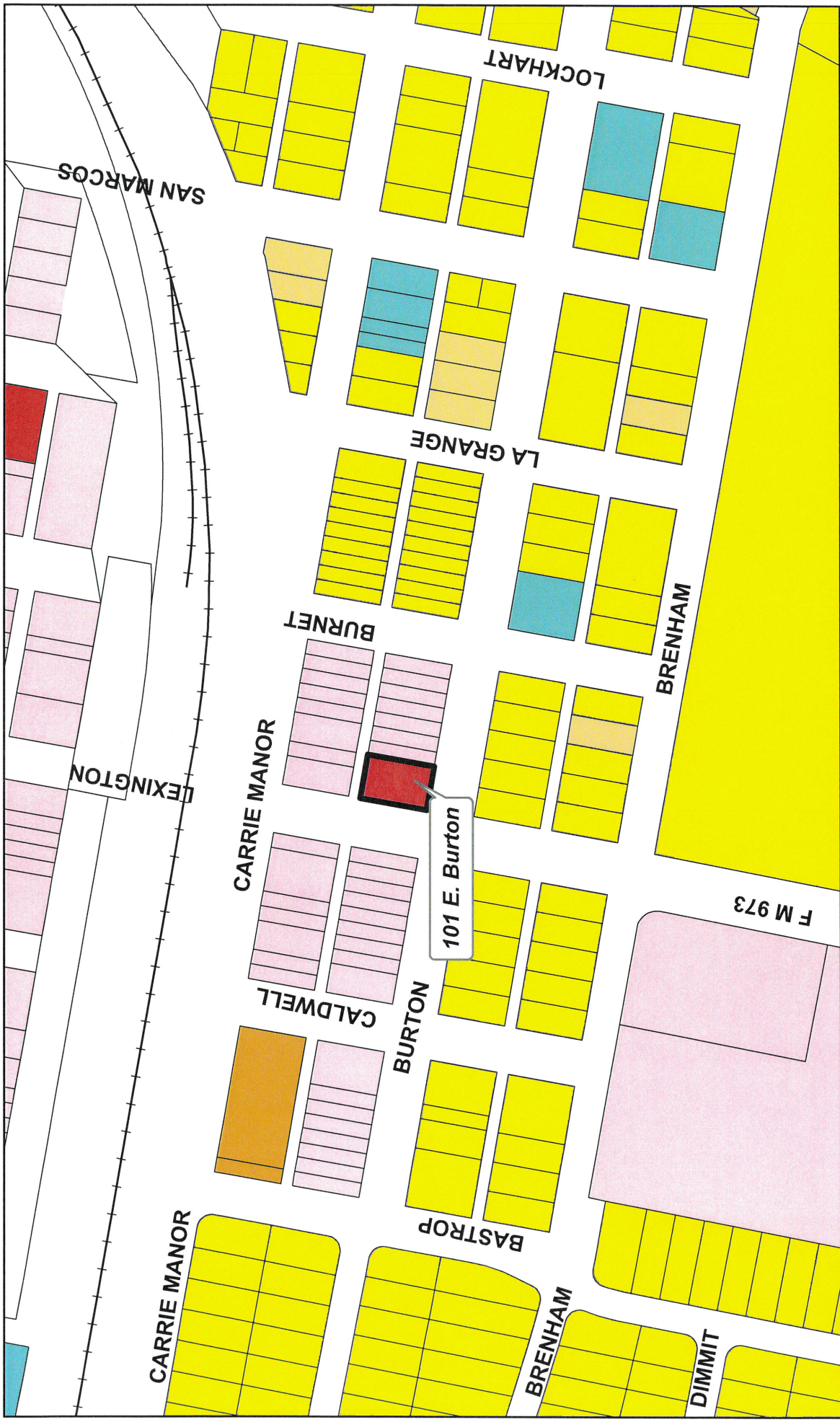
\_\_\_\_\_  
Frances Aguilar, City Secretary

\_\_\_\_\_  
Rita Jonse, Mayor

**EXHIBIT "A"**

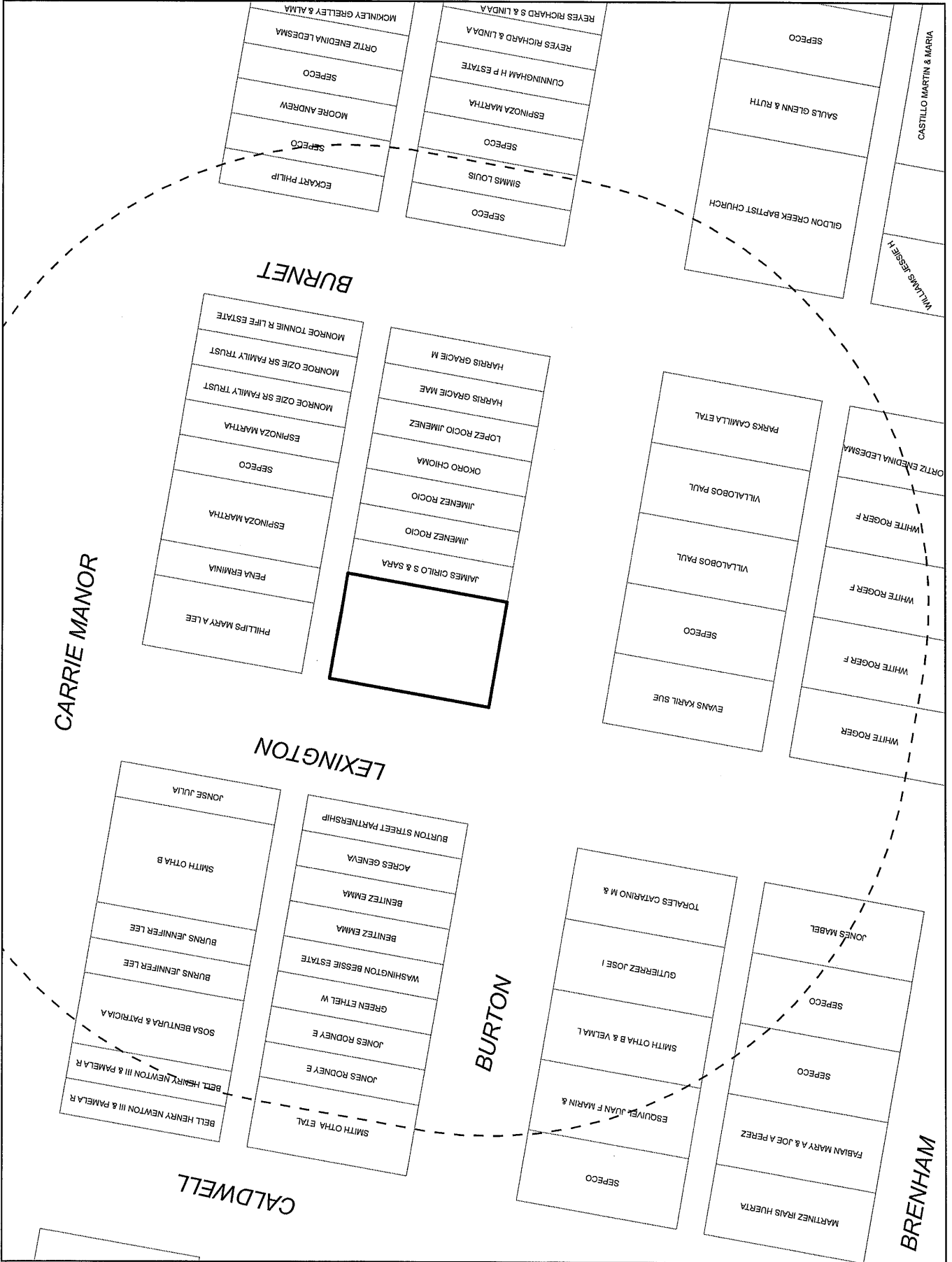
Property Address: 101 East Burton, Manor, Travis County, Texas  
Property Legal Description: Lots 18-20 Blk 12 Town of Manor





Zone		
A - Agricultural	M-1 - Manufactured Housing	
C-1 Light Commercial	M-2 - Manufactured Housing Park	
C-2 Heavy Commercial	NB - Neighborhood Business	
DBD - Downtown Business District	PUD - Planned Unit Development	
I - Institutional	R-1 - Single Family	
IN-1 - Light Industrial	R-2 - Single Family	
	R-4 - Multi Family	

# 101 East Burton Proposed Zoning: Downtown Business District



CASTILLO MARTIN & MARIA

WILLIAMS JESSE H

ORTIZ ENEDINA LEDESMA

WHITE ROGER F

WHITE ROGER F

WHITE ROGER F

WHITE ROGER

SEPECO

SAULS GLENN & RUTH

GILDON CREEK BAPTIST CHURCH

PARKS CAMILLA ETAL

VILLALOBOS PAUL

VILLALOBOS PAUL

SEPECO

EVANS KARIL SUE

TORALES CATARINO M &

GUTIERREZ JOSE I

SMITH OTHA B & VELMAL

ESQUIVEL JUAN F MARIN &

SEPECO

JONES MABEL

SEPECO

SEPECO

FABIAN MARY A & JOE A PEREZ

MARTINEZ IRAIS HUERTA

BURTON

BURNET

LEXINGTON

CALDWELL

BRENHAM

CARRIE MANOR



ECKHART PHILIP  
SEPECO  
MOORE ANDREW  
SEPECO  
ORTIZ ENEDINA LEDESMA  
MCKINLEY GREILEY & ALMA

SEPECO  
SIMMS LOUIS  
SEPECO  
ESPINOZA MARTHA  
CUNNINGHAM H P ESTATE  
REYES RICHARD & LINDA A  
REYES RICHARD S & LINDA A

PHILLIPS MARY A LEE  
PENA ERMENIA  
ESPINOZA MARTHA  
SEPECO  
ESPINOZA MARTHA  
MONROE OZIE SR FAMILY TRUST  
MONROE OZIE SR FAMILY TRUST  
MONROE TONNIE R LIFE ESTATE

JAMES CIRILO S & SARA  
JIMENEZ ROCIO  
JIMENEZ ROCIO  
OKORO CHIONMA  
LOPEZ ROCIO JIMENEZ  
HARRIS GRACIE MAE  
HARRIS GRACIE M

BELL HENRY NEWTON III & PAMELA R  
BELL HENRY NEWTON III & PAMELA R  
SOSA BENTURA & PATRICIA A  
BURNS JENNIFER LEE  
BURNS JENNIFER LEE  
SMITH OTHA B  
JONSE JULIA

SMITH OTHA ETAL  
JONES RODNEY E  
JONES RODNEY E  
GREEN ETHEL W  
WASHINGTON BESSIE ESTATE  
BENITEZ EMMA  
BENITEZ EMMA  
ACRES GENEVA  
BURTON STREET PARTNERSHIP



CITY OF  
**MANOR**EST.  1872

TEXAS

**Variance/Waiver Justification*****Variance/Waiver Justification:***

NOTE: The reviewing entity must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

I won't be able to live there if it's Commercial ONLY.

Our plan since property was purchased was to live there and have our own business as well.

**HARDSHIP:**

2. (a) The hardship for which the zoning change or variance/waiver is requested is unique to the property in that:

---

---

- (b) The hardship is not general to the area in which the property is located because:

---

---

**AREA CHARACTER:**

3. The zoning change or variance/waiver will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

---

NOTE: The reviewing entity cannot grant a zoning change or variance/waiver that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.



**REZONING****CONDITIONAL USE****SPECIAL USE PERMIT****VARIANCE/WAIVER****APPEAL OF ADMINISTRATIVE DECISION****PLANNED UNIT DEVELOPMENT****DEVELOPMENT AGREEMENT****COMPREHENSIVE PLAN AMENDMENT****(CHECK APPROPRIATE BOX):**

A variance/waiver/conditional use/special use request should be submitted at least four weeks prior to a meeting of the Planning and Zoning Commission or Board of Adjustment to provide for adequate time for staff review and analysis and posting and advertising as required for each application. The form must be completely filled out and all fees paid.

☐ **Zoning: FROM** \_\_\_\_\_ **District Zoning**

**TO:** \_\_\_\_\_ **District Zoning**

Fee: Zoning Request \$300.00 + \$30.00 per acre  
 Public Hearing Notice (paper) \$150.00  
 Property Owner notification \$5.00 per property owner

☐ **Conditional Use Permit:** \_\_\_\_\_

Fee: Conditional Use Permit \$250.00  
 Public Hearing Notice \$150.00 News paper notice  
 Property Owner notification \$5.00 per property owner

☐ **Special Use Permit:** \_\_\_\_\_

Fee: Special Use Request \$250.00+ 30.00 per acre  
 Public Hearing Notice (paper) \$150.00  
 Property Owner notification \$5.00 per property owner

☒ **Variance:** Waiver from Zoning Code, II.m.iii

Ordinance Number and Ordinance Section Number. Please complete variance or waiver justification sections.

Fee: Variance \$250.00 + \$30.00 per acre  
 Public Hearing Notice (paper) \$150.00  
 Property Owner notification \$5.00 per property owner



☐ **Appeal of Administrative Decision:**

Please attach a separate document identifying the decision and any information pertinent to your appeal.

Fee: \$400.00

☐ **Planned Unit Development:**

Fee: Planned Unit Development (Land Use Only) \$600.00 + \$40.00 per acre  
Amendment \$ ½ Original Fee

**Development Agreement Consultation**

Deposit \$6000.00  
Actual Costs \$ +/- billed costs for eng. and leg. Consultation

☐ **Comprehensive Plan Amendments:**

Fee: \$350.00

☐ **Other:** \_\_\_\_\_

**REQUIRED ITEMS FOR SUBMITTAL PACKAGE:**

The following items are required to be submitted to the City in order for the Variance/Waiver/Conditional Use/Special Use Request to be accepted for review.

- X   1. Completed and signed application/checklist.
2. a. Two sets of mailing labels to notify owners of property (as determined by the most recent tax roles from the County Appraisal District) any part of which is located within three hundred (300) feet of the perimeter of the land for which the variance is requested. These are to be the addresses of the property owners not the physical address of the property within 300 ft.
- b. A tax map or maps highlighting the subject property and showing the line extending three hundred (300) feet from the perimeter of the subject property.
3. Copy of current deed for subject property.



**Property Information:**

Manor Commons SW	5	A	0.918
<b>Subdivision Name</b>	<b>Lot(s) #</b>	<b>Block(s) #</b>	<b>Acreage</b>
<b>Current Zoning</b>	<u>C-2</u>		

Lot 5, Block "A", Manor Commons SW, Doc. #201500112, O.P.R.T.C.T., 0.918 acres.

**Legal Description**  
(may be provided separately)

**Applicant Information:**

**Please Note:** The signature of owner authorizes City of Manor staff to visit and inspect the property for which this application and checklist is being submitted. The signature also indicates that the applicant or his agent has reviewed the requirements of this checklist and all items on this checklist have been addressed and complied with. **Note: The agent is the official contact person for this project and the single point of contact. All correspondence and communication will be conducted with the agent. If no agent is listed, the owner will be considered the agent.**

(Check One):

     *I, the owner, will represent this application with the City of Manor.*

  X   *I, the owner, hereby authorize the person named below to act as my agent in representing this application with the City of Manor.*

<b>Owner's Name (printed)</b>	<b>Phone</b>	<b>Fax</b>
-------------------------------	--------------	------------

<b>Owner's Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
------------------------	-------------	--------------	------------

<b>Owner's Signature</b>	<b>Date</b>	<b>Email Address</b>
--------------------------	-------------	----------------------

By signing this application Owner affirms that the statements made in the complete application are true and correct to best of his/her knowledge and belief.

**Agent's Name:** Robert Czajka, E.I.T.

**Company:** Garrett-Ihnen Civil Engineers

**Mailing Address:** 12007 Techology Blvd, Suite 150, Austin, TX 78746

<u>(512)-454-2400</u>	<u>Street</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
<b>Phone</b>	<b>Fax</b>	<b>Email Address</b>		



## Variance/Waiver Justification

### ***Variance/Waiver Justification:***

NOTE: The reviewing entity must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

### **REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The maximum allowable parking is not enough to accommodate the proposed customer and employee traffic. Please see attached letter.

### **HARDSHIP:**

2. (a) The hardship for which the zoning change or variance/waiver is requested is unique to the property in that:

---

---

- (b) The hardship is not general to the area in which the property is located because:

---

---

### **AREA CHARACTER:**

3. The zoning change or variance/waiver will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The additional parking will not inhibit circulation to or from adjacent properties. The uses of the adjacent properties are identical to that for this property and contain high amounts of parking. The character of this area will therefore not be altered by the addition of these parking spaces.

NOTE: The reviewing entity cannot grant a zoning change or variance/waiver that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.





Application Number:\_\_\_\_\_ Date Submitted:\_\_\_\_\_

Fee Amount:\_\_\_\_\_ Check No.:\_\_\_\_\_ Application & Fee Received By:\_\_\_\_\_

Date Mailings Issued (15 days in advance of meeting dates):\_\_\_\_\_

Date ad placed in Austin Chronicle for public hearing on subject requests:\_\_\_\_\_

**Zoning District Categories:**

- A Agricultural (A) district zoning
- R-1 Single Family Residential – 1 (R-1) district zoning.
- R-2 Single Family Residential – 2 (R-2) district zoning.
- R-3 Multi-family Residential (R-3) district zoning
- R-4 Multi-family Special Needs (R-4) district zoning
- OS Open Space (OS) district zoning
- M-1 Manufactured Housing (M-1) district zoning
- M-2 Manufactured Housing Park (M-2) district zoning
- NB Neighborhood Business (NB) district zoning
- DB Downtown Business (DB) district zoning
- I Institutional (I) district zoning
- C-1 Light Commercial (C-1) district zoning
- C-2 Heavy Commercial (C-2) district zoning.
- C-3 Special Commercial (C-3) district zoning
- IN-1 Light Industrial ((I-1) district zoning
- IN-2 Heavy Industrial (I-2) district zoning
- PUD Planned Unit Development (PUD) district zoning



**ZONING/VARIANCE/BOARD OF ADJUSTMENT  
REQUEST INFORMATION**

The applicant must provide the following information to file for a zoning change or variance to requirements of the Zoning Ordinance:

1. Zoning/Variance Application must be completely filled out.
2. See application request for fees. Fees must be paid with application
3. The applicant must provide the city with the names and mailing addresses and one set of mailing labels for the property owners within three hundred feet of the subject property. The City of Manor sends out notices to property owners 15 days in advance of the Planning and Zoning Commission, Board of Adjustment and City Council Meetings. Names and addresses of property owners can be found at Travis County Appraisal District offices or on their website. Note: the physical address of the property may not be the mailing address.
4. Letter of intent (letter stating why you want to rezone the property in question or why you are requesting a variance to the requirements of the Zoning Ordinance). A variance request may not be made on the grounds of a financial hardship. Variances may be granted for unique hardship or practical difficulties on meeting the requirements of the Ordinance.

(ALL OF THE ABOVE INFORMATION MUST BE SUBMITTED TO THE DIRECTOR OF DEVELOPMENT SERVICES AT LEAST 4 WEEKS BEFORE THE FIRST AVAILABLE PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENT OR CITY COUNCIL MEETING. THE PLANNING AND ZONING COMMISSION MEET ON THE SECOND WEDNESDAY OF EACH MONTH).

IF ALL OF THE ABOVE INFORMATION IS NOT COMPLETELY AND TIMELY SUBMITTED TO THE DIRECTOR OR DEVELOPMENT SERVICES OR CITY SECRETARY THE SCHEDULING OF THE ITEM MAY BE DELAYED.

5. The City places an ad in the Manor Messenger for a Public Hearing on subject requests.
6. Signs must be placed on the property, by the person making the request, notifying the public of the dates and times of the Planning & Zoning Commission, Board of Adjustment or City Council meetings. This must be done for all meetings. Signs must be placed on the property at least 15 days prior to the meeting dates.

\*\*\*\*\*

The Planning and Zoning Commission makes recommendations on zoning requests to the City Council. The recommendations are made available to the City Council at their next regularly scheduled meeting. The City Council will make the final ruling for a zoning change.

The Board of Adjustment will make a final ruling for a variance request. Variance rulings are may not be appealed to the City Council. They may be appealed through District Court

\*\*\*\*\*

January 29, 2016

Ms. Pauline M. Gray, P.E.  
City of Austin  
Austin, Texas 78767

**RE: Wendy's Manor  
11923 US Hwy 290 E  
Administrative Waiver Request**

Dear Ms. Gray:

Via this letter, I am respectfully requesting a waiver for the following item:

- Maximum parking. The maximum number of parking spaces for a commercial or industrial use area shall not exceed 150% of the parking required pursuant to Chart 4:

**Chart 4\***

Use	Number of Parking Spaces
Residential dwellings, single to multi-family, And manufactured homes	Two spaces minimum for each living unit, and one-half (1/2) space for each additional bedroom above two.
Warehouses, manufacturing plants and other similar commercial establishments not catering to the general public.	One space per 1,000 square feet of gross floor area
Hotels, Motels and similar transient accommodations	One space per bedroom and one space for each two employees
Rest homes, Hospitals, Nursing Homes, Convalescent Homes, sanitariums, and similar uses.	One space for each two employees, and One space for each four patient beds
Bars, Cafes, Restaurants, Taverns, Nightclubs, and similar uses.	One space for every four seats provided for customer services
Food Sales, Food and Beverage Sales, Convenience Stores, Truck stops and similar uses.	One space for each 200 square feet of gross floor area
Banks, Offices, financial lending institutions, gasoline stations, personal service shops, retail establishments, shopping centers and similar uses catering to the general public.	One space for each 250 square feet of gross floor area

*(Zoning Code, II.m.iii)*

This site plan proposes the construction of a higher amount of parking spaces than is allowed per the above regulation. Our proposed building includes 75 seats. This translates to a minimum requirement of 19 parking spaces for our building. The maximum allowed parking according to Chart 4 above, then, is 29 spaces. Our site proposes the construction of 42 spaces.

The construction of parking spaces beyond that which is allowed is necessary in the case of this site plan because franchisees of Wendy's restaurants generally prefer a minimum of 35 parking spaces in order to accommodate anticipated employee and customer vehicles. The maximum allowable 29 parking spaces would not be enough to accommodate the needs of the anticipated tenant due to this fact. Additionally, other localities have less stringent requirements for this use. To exemplify this, the City of Austin has a minimum requirement of one space for every 75 square feet for land containing restaurants. Under these requirements, the proposed building

would be required to construct a minimum of 41 spaces. Therefore, our proposed parking configuration would be acceptable in other localities.

This waiver requests that it be allowed to construct more parking spaces than permitted by the maximum parking requirements in place for this use.

Your consideration to this matter is greatly appreciated. Please feel free to contact me if you have any questions or comments.

Sincerely,

Robert Czajka, E.I.T.  
Project Engineer

Sec. 1. Parties and Purpose

1.1. The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the State of Texas organized and operating under the Texas Regional Planning Act of 1965, Chapter 391 of the Local Government Code, as amended, and is a signatory Agent for Licensor.

1.2. The City of Manor, Texas ("Licensee") is a Texas home-rule city.

1.3. The South Central Planning and Development Commission (Licensor) ("SCPDC") is a regional planning commission and Political Subdivision of the State of Louisiana, domiciled in Terrebonne Parish. The district was established in 1973 and created by law in 1978 under state act 472. The statute allows its member governmental entities to come together through SCPDC to provide long range planning, act as a state and federal liaison, provide guidance and study to current issues affecting government, and provide services to business and citizens.

1.4. SCPDC has created MyPermitNow, MyProjectNow, MyAddressNow, Inspection Anywhere and MyGovernmentOnline software (the "SCPDC Software") and this contract is entered into among Licensee, and SCPDC under chapter 791 of the Government Code to license Contractor to use the SCPDC Software under certain terms and conditions. CAPCOG has been granted a limited power of attorney by SCPDC to execute this contract on SCPDC's behalf.

This INTERLOCAL CONTRACT USE AGREEMENT (this "Agreement") is entered into by and between Licensor and Licensee, and describes the terms and conditions pursuant to which Licensor shall license to Licensee the use of, and provide support for, certain Software (as defined below).

In consideration of the mutual promises and upon the terms and conditions set forth below, the parties agree as follows:

2. DEFINITIONS

2.1 "CONFIDENTIAL INFORMATION" means this Agreement, including all of its terms, and all its Schedules, any addenda hereto signed by both parties, all Software listings, Documentation, information, data, drawings, benchmark tests, specifications, trade secrets, object code and machine-readable copies of the Software, source code relating to the Software, and any other proprietary information supplied to Licensee by SCPDC, or by Licensee to SCPDC and clearly marked as "confidential information", including all items defined as "confidential information" in any other agreement between Licensee and SCPDC whether executed prior to or after the date of this Agreement.

2.2 "DOCUMENTATION" means any on-line help files, instruction manuals, operating instructions, user manuals, and specifications provided by SCPDC which describe the use of the Software and which either accompany the Software or are provided to Licensee at any time.

- 2.3 "EFFECTIVE DATE" means the later of the dates on which Licensee and SCPDC have signed this Agreement.
- 2.4 "EQUIPMENT" means the computer system, including peripheral equipment and operating system software, specified in Schedule B.
- 2.5 "MAJOR AND MINOR UPDATES" shall mean updates, if any, to the SCPDC Software. Major Updates involve additions of substantial functionality while Minor Updates do not. Major Updates are designated by a change in the number to the left of the decimal point of the number appearing after the product name while Minor Updates are designated by a change in such number to the right of the decimal point. Example, My Permit Now version X.0 (major update) and My Permit Now version 0.Y (minor update). SCPDC is the sole determiner of the availability and designation of an update as a Major or Minor Update. Where used herein "Updates" shall mean Major or Minor Updates interchangeably.
- 2.6 "SITE" means each physical location, or each Internet link accessible by end-users through Licensee's Web Site, at which Licensee and its customers are entitled to Use the Software.
- 2.7 "SOFTWARE" means the computer software programs specified in Schedule A and otherwise provided for Licensee use pursuant to this Agreement.
- 2.8 "USE" means loading, utilization, storage or display of the Software by Licensee for its own internal information processing, and utilization by end users accessing Licensee's Web Site through the Internet.
- 2.9 "PERMIT" shall mean any type of permit, including but not limited to, new construction permit, building permit, structure renovation permit, mechanical permit, plumbing permit, gas permit, electrical permit, and sign permit. Multiple permits listed under one number shall not be considered a single permit when calculating funds owed SCPDC pursuant to the terms of the Cooperative Endeavor Use Agreement.
- 2.10 "License Fee(s)" shall mean all payment due pursuant to this Agreement, including the permit volume package amount and the payments due for the elected add on modules as detailed in Schedule A.

### 3. LICENSE, DELIVERABLES AND COPIES

#### 3.1 LICENSE GRANT.

(a) Subject to the terms of this Agreement, Licensor grants to Licensee a nonexclusive, nontransferable, royalty-bearing user license during the term of this Agreement to use the Licensor's Software, through Internet access only, internally on one or more servers controlled by or on behalf of Licensee solely for purposes of using the Licensor's products known as My Permit Now, MyProjectNow, MyAddressNow, MyGovernmentOnline, Inspection Anywhere. The scope of the foregoing license encompasses Licensee's internal use of Licensor's Software in connection with providing services to Licensee's customers, allowing customers of Licensee access to Licensee's portal for the purpose of researching permit requirements and submitting permit requests to the Licensee, but excludes any sublicensing of Licensor's Software, uploading or otherwise transferring, or providing direct access to, the Licensor's Software to any third party without Licensor's prior written consent, including access by any third party to the Licensor's Software on a stand-alone basis. License granted hereunder includes the use of Documentation in connection with Use of the Software.



(b) OWNERSHIP. SCPDC and its licensors solely own all right, title and interest in and to the SCPDC's Software, and reserve all rights therein not expressly granted under this Agreement. This license transfers to Licensee neither title nor any proprietary or intellectual property rights to the Software, Documentation, or any copyrights, patents, or trademarks, embodied or used in connection therewith, except for the rights expressly granted herein.

(i) Without limiting the generality of the foregoing, except as expressly stated in paragraph (a), Licensee may not directly or through any third party (a) transfer or sublicense, in whole or part, any copies of the SCPDC Software to any third party; (b) modify, decompile, reverse engineer, or otherwise attempt to access the source code of the SCPDC Software; or (c) copy the SCPDC Software, except such copies of the records as necessary for reasonable and customary back-up and disaster recovery purposes. Licensee will not delete or alter the copyright, trademark or other proprietary rights notices of SCPDC and its licensors included with the SCPDC Software as delivered to Licensee, and will reproduce such notices on all copies of the SCPDC Software. If derivative works of the SCPDC Software are prepared by or on behalf of Licensee based on suggestions or requests by Licensee, SCPDC will solely own such modifications.

(ii) The Licensee may not develop products that interface or are intended for use with the SCPDC Software ("Add-On Products") without SCPDC's express written permission.

(c) Notwithstanding the inclusion of Licensee's customer in the class of allowed users, SCPDC's affirmative obligations will be limited to the entity named above. To the extent authorized by law, Licensee hereby shall indemnify and hold harmless SCPDC from and against all losses, costs, liabilities and expenses arising out of or relating to any breach by Licensee of this agreement, use of the software, or as a result of the carelessness, negligence or improper conduct of Licensee, its agents, employees or representatives.

3.2 DELIVERABLES. SCPDC shall issue to Licensee, as soon as practicable, a web address from where the Licensee can select "jurisdiction login." The login account shall be comprised of a unique username (for instance [john.doe@scpdc.org](mailto:john.doe@scpdc.org)) and password for each user of the system in the employ and under control of Licensee.

3.3 COPIES. Whenever Licensee is permitted to copy or reproduce all or any part of the Documentation, all titles, trademark symbols, copyright symbols and legends, and other proprietary markings must be reproduced.

4. LICENSE RESTRICTIONS. Licensee agrees that it will not itself, or through any parent, subsidiary, affiliate, agent or other third party: (a) sell, lease, license or sub-license the Software or the Documentation; (b) decompile, disassemble, or reverse engineer Software, in whole or in part; (c) write or develop any derivative software or any other software program based upon the Software or any Confidential Information; (d) use the Software to provide services on a 'service bureau' basis; or (e) provide, disclose, divulge or make available to, or permit use of the Software by any unauthorized third party without SCPDC's prior written consent.

## 5. LICENSE FEE

5.1 LICENSE FEE. In consideration of the license granted pursuant to Section 2.1. Licensee agrees to pay SCPDC the License Fee specified in Schedule A. Licensee shall pay SCPDC a fee based on Licensee's use of the SCPDC Software, determined according to the terms set forth in

Schedule A. It is expressly agreed that the Licensee will not house transactions that are the basis of fees paid to SCPDC in another system with the intention of avoiding the responsibility of paying fees to SCPDC for the term of this agreement. Should SCPDC determine that Licensee violates this provision, SCPDC, at its expense and on reasonable notice, may cause such Licensee's records to be audited during regular business hours at Licensee's facilities. If an audit reveals underpayment of fees due under this Agreement, all such amounts will be promptly paid with interest at the lower of the prevailing U.S. dollar prime rate accruing from the original due date or the maximum interest rate allowed under Chapter 2251 of the Texas Government Code. If any such underpayment exceeds 5% of the fees due for the period audited, Licensee will also pay SCPDC's reasonable costs of conducting the audit.

5.2 TAXES. Licensee agrees to pay or reimburse SCPDC for all federal, state, parish, or local sales, use, personal property, payroll, excise or other taxes, fees, or duties arising out of this Agreement or the transactions contemplated by this Agreement (other than taxes on the net income of SCPDC).

5.3 NO OFFSET. Fees and expenses due from Licensee under this Agreement may not be withheld or offset by Licensee against other amounts owed by SCPDC for any reason.

6. MAINTENANCE AND SUPPORT. Licensee agrees to pay Maintenance Fees according to Schedule C as attached hereto for each Site as specified in Schedule A. For so long as Licensee is current in the payment of all maintenance fees, with respect to each site, Licensee will be entitled to Maintenance and Support for each site as set forth in Schedule C attached hereto. Failure to pay maintenance fees with respect to any Site shall be deemed a material breach of this Agreement and in such event SCPDC shall have the right to terminate the rights granted hereunder with respect to such site for the term of this Agreement, after giving licensee notice of the default and 30 days to cure.

## 7. LIMITED WARRANTY AND LIMITATION OF LIABILITY

7.1 LIMITED WARRANTY. SCPDC warrants for the term of the contract from the Effective Date (the "Warranty Period") the Software will perform in substantial accordance with the Documentation under normal use. If during the Warranty Period the Software does not perform as warranted (a "Non-Conformance"), SCPDC shall undertake to correct such Non-Conformance, or if correction is reasonably not possible, replace such Software free of charge. If neither of the foregoing is commercially practicable, SCPDC shall terminate this Agreement and refund to Licensee the License Fee. **THE FOREGOING ARE LICENSEE'S SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY.** The warranty set forth above is made to and for the benefit of Licensee only. The warranty will apply only if:

(a) the Software has been properly used at all times and in accordance with the instructions for Use; and

(b) no modification, alteration or addition has been made to the Software by persons under the control of Licensee (except pursuant to the authorized Use of the Software specified in Schedule A) except as authorized in writing by SCPDC; and

(c) Licensee has not requested modifications, alterations or additions to the Software that cause it to deviate from the Documentation;

(d) SCPDC warrants that it possesses all of the right, title, interest and authority to enter into this agreement with Licensee. SCPDC also warrants that no lawsuit or claim concerning the

Software is currently pending. Any pre-production versions of the Software distributed to Licensee are delivered "as-is," without any express or implied warranties. No employee, agent, representative or affiliate of SCPDC has authority to bind SCPDC to any oral representations or warranty concerning the Software. Any written representation or warranty not expressly contained in this Agreement will not be enforceable.

7.2 **DISCLAIMER.** EXCEPT AS SET FORTH ABOVE, SCPDC MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO LICENSEE UNDER THIS AGREEMENT, INCLUDING MAINTENANCE AND SUPPORT. SCPDC SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND SAID OTHER MATERIALS AND SERVICES, AND WITH RESPECT TO THE FOREGOING. IN ADDITION, SCPDC DISCLAIMS ANY WARRANTY WITH RESPECT TO, AND WILL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR, THE OPERATION OF THE SOFTWARE IF PROGRAMS ARE MADE THROUGH THE USE OF SOFTWARE OR NON-SCPDC SOFTWARE THAT CHANGE, OR ARE ABLE TO CHANGE, THE DATA MODEL OF THE SOFTWARE.

7.3 **LIMITATION OF LIABILITY.** IN NO EVENT WILL SCPDC BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE SOFTWARE OR SERVICES PERFORMED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF SCPDC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, SCPDC WILL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN DELIVERY OR FURNISHING THE SOFTWARE OR SAID SERVICES. SCPDC'S LIABILITY UNDER THIS AGREEMENT FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, RESTITUTION, WILL NOT, IN ANY EVENT, EXCEED THE LICENSE FEE PAID BY LICENSEE TO SCPDC UNDER THIS AGREEMENT.

7.4 **ALLOCATION OF RISK.** The provisions of this Section 7 allocate risks under this Agreement between Licensee and SCPDC. SCPDC's pricing reflects this allocation of risks and limitation thereof in accordance with the provisions of this Agreement and not liability.

7.5 **CLAIMS.** No action arising out of any breach or claimed breach of this Agreement or transactions contemplated by this Agreement may be brought by either party more than one (1) year after the cause of action has accrued. For purposes of this Agreement, a cause of action will be deemed to have accrued when a party knew or reasonably should have known of the breach or claimed breach.

7.6 **LIMITATION.** The foregoing obligations shall not apply to the extent the infringement arises as a result of modifications to the Software made by any party other than SCPDC or SCPDC's authorized representative.

7.7 EXCLUSIVE REMEDY. The foregoing states the entire liability of SCPDC and Licensee's exclusive remedy with respect to infringement of any patent, copyright, trade secret or other proprietary right.

7.8 To the extent authorized by law, Licensee shall indemnify and hold SCPDC harmless from and against any costs, losses, liabilities and expenses arising out of third party claims related to any breach by Licensee of this agreement, use of the software, or as a result of the carelessness, negligence or improper conduct of Licensee, its agents, employees or representatives.

## 8. CONFIDENTIALITY

8.1 CONFIDENTIAL INFORMATION. (a) Each party acknowledges that the Confidential Information constitutes valuable trade secrets and each party agrees that it shall use Confidential Information solely in accordance with the provisions of this Agreement and will not disclose, or permit to be disclosed, the same, directly or indirectly, to any third party without the other party's prior written consent. Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. Furthermore, it is understood that the terms of this Agreement reflect consideration received by Licensee in return for being an early user of the Software. However, neither party bears any responsibility for safeguarding information that (i) is publicly available, subject to a public records request pursuant to revised Statute 44:1 et seq., (ii) already in the other party's possession and not subject to a confidentiality obligation, (iii) obtained by the other party from third parties without restrictions on disclosure, (iv) independently developed by the other party without reference to Confidential Information, or (v) required to be disclosed by order of a court or other governmental entity. Nothing herein will prevent routine discussions by the parties that normally take place in a "user group" context.

(b) SCPDC acknowledges that Licensee is a political subdivision subject to the Texas Open Meetings Act (Chapter 551, Texas Government Code, as amended) ("TOMA") and the Texas Public Information Act (Chapter 552, Texas Government Code, as amended) ("TPIA"), which generally require that information and documents created for by or for and maintained by the Licensee be disclosed in response to written requests for such information or documents. The Licensee's disclosure of Confidential Information as required by the TOMA or the TPIA, or as required by subpoena or court order, shall not be deemed a violation of this Agreement.

8.2 INJUNCTIVE RELIEF. In the event of actual or threatened breach of the provisions of Section 9.4, the non-breaching party will have no adequate remedy at law and will be entitled to immediate and injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages.

## 9. TERM AND TERMINATION

9.1 TERM. This Agreement will take effect on the Effective Date and will remain in force for a period of two (2) years thereafter. The contract will automatically renew for 12-months periods following the end of the initial term unless terminated in accordance with this Agreement.

9.2 TERMINATION. This Agreement is terminated by:

(a) By Licensee.

i. Should there be discovered a serious defect or flaw in the SCPDC software that prevents the Licensee from using the system to support

Licensee's operations in issuance of permits, Licensee shall notify SCPDC of the issue. SCPDC will have 45 days to resolve the issue. If the issue cannot be resolved within the time period, the contract will terminate on the 1st of the following month.

- ii. In the event the City does not appropriate or otherwise receive funds sufficient to satisfy the financial obligations under this Agreement, the City may unilaterally terminate this Agreement effective on the final day of the fiscal year through which the City had funding. The City will make every effort to give the SCPDC at least forty-five (45) days writing notice prior to a termination for lack of appropriations.

(b) By SCPDC. Upon written notice to Licensee if any of the following events ("Termination Events") occur, provided that no such termination will entitle Licensee to a refund of any portion of the License Fee or maintenance fees: (i) Licensee fails to pay any undisputed amount due to SCPDC within thirty (30) days after SCPDC gives the Licensee written notice of such non-payment; (ii) Licensee is in material breach of any non-monetary term, condition or provision of Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after SCPDC gives Licensee written notice of such breach; or (iii) Licensee becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes; or (iv) SCPDC elects to refund Licensee's fees.

**9.3 EFFECT OF TERMINATION.** If any Termination Event occurs, termination will become effective immediately or on the date set forth in the written notice of termination. Termination of this Agreement will not affect the provisions regarding Licensee's or SCPDC's treatment of Confidential Information, provisions relating to the payment of amounts due, provisions requiring SCPDC to return Licensee's Information, or provisions limiting or disclaiming SCPDC's liability, which provisions will survive termination of this Agreement. Within fourteen (14) days after the date of termination or discontinuance of this Agreement for any reason whatsoever, Licensee shall return any copies of the SCPDC Software, derivative works and all copies thereof, in whole or in part, all related Documentation and all copies thereof, and any other Confidential Information in its possession. Upon termination of this Agreement, Licensee shall cause the SCPDC Software to be removed from all computer units, including desktops and laptops, in the Licensee's office and from the computer units of third party contractors performing work for Licensee. Licensee shall furnish SCPDC with a certificate signed by an executive officer of Licensee verifying that the same has been done.

**9.4** In the event of the termination or nonrenewal of this agreement, SPCDC warrants that the information stored by SPCDC as a result of Licensee use of the MyPermitNow will be available to Licensee ("Licensee's Information"). SCPDC will return Licensee's Information to Licensee in a format acceptable to Licensee within 30 days of termination or expiration of this agreement.

**10. NON-ASSIGNMENT.** Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Licensee, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of SCPDC, which consent will not be unreasonably withheld or delayed. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

**11. NOTICES.** Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by first class registered mail, or air mail, as appropriate, (c) sent by overnight air courier, or (d) by facsimile, in each case properly posted to the appropriate address set forth below. Either party may change

its address for notice by notice to the other party given in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after deposited the mail as set forth above, one (1) day after delivery to an overnight air courier service, or one (1) day after the moment of transmission by facsimile.

To: South Central Planning and  
District Commission

To: City of Manor  
Development Services

Address: 5058 West Main St.  
Houma, LA 70360

Address: PO Box 387  
105 E Eggleston  
Manor, TX 78653

## 12. MISCELLANEOUS

12.1 VIRUSES AND DISABLING DEVICES. Neither SCPDC Software nor any enhancements, modifications, upgrades, updates, revisions or releases thereof shall contain (i) any mechanism such as a "trap door", "time bomb", or "logic bomb", software protection routine or other similar device, that would enable SCPDC to disable the Software or make the Software inaccessible to Licensee after the Software is installed; or (ii) to the best of SCPDC's knowledge, any computer "virus", "worm" or similar programming routine.

12.2 FORCE MAJEURE. Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquakes, fire and explosions, but the inability to meet financial obligations is expressly excluded.

12.3 WAIVER. Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed and will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action. Except as expressly stated in this Agreement, no exercise or enforcement by either party of any right or remedy under this Agreement will preclude the enforcement by such party of any other right or remedy under this Agreement or that such party is entitled by law to enforce.

12.4 SEVERABILITY. If any term, condition, or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

12.5 STANDARD TERMS OF LICENSEE. No terms, provisions or conditions of any purchase order, acknowledgment or other business form that Licensee may use in connection with the acquisition or licensing of the Software use will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of SCPDC to object to such terms, provisions or conditions.

12.6 AMENDMENTS TO THIS AGREEMENT. This Agreement may not be amended, except by a writing signed by both parties.



12.7 SCPDC'S PRIOR CONSENT. Unless expressly provided otherwise in this Agreement, any prior consent of SCPDC that is required before Licensee may take an action may be granted or withheld in SCPDC's sole and absolute discretion.

12.8 EXPORT OF SOFTWARE. Licensee may not export or re-export the SCPDC Software without the prior written consent of SCPDC and without the appropriate United States and foreign government licenses.

12.9 PUBLIC ANNOUNCEMENTS. Licensee acknowledges that SCPDC may desire to use its name in press releases, product brochures and financial reports indicating that Licensee is a Licensee of SCPDC, and Licensee agrees that SCPDC may use its name in such a manner. Licensee reserves the right to review any use of its name and to withhold permission, which permission will not reasonably be withheld.

12.10 DISPUTE RESOLUTION. The parties have entered into this Agreement voluntarily and in good faith. As a result, if any dispute, claim or controversy ("dispute") arises between them, unless otherwise provided in this Agreement, they agree that they will first attempt to resolve the dispute by entering into mediation with a mediator selected from the Panel Members of LAMA.

12.11 HEADINGS. Section and Schedule headings are for ease of reference only and do not form part of this Agreement.

12.12 ENTIRE AGREEMENT. This Agreement (including the Schedules and any addenda hereto signed by both parties) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter, except as provided in Section 8.1 with respect to the definition of "Confidential Information."

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF MANOR, TEXAS

SOUTH CENTRAL PLANNING AND  
DEVELOPMENT COMMISSION THROUGH ITS  
AGENT, CAPCOG

By:

By:

\_\_\_\_\_  
Thomas Bolt, City Manager

\_\_\_\_\_  
Betty Voights, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

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

## SCHEDULE A

### INTERLOCAL CONTRACT

#### South Central Planning and Development Commission and Jurisdiction Government

#### SOFTWARE AND LICENSE FEE

##### A. SOFTWARE USE

Licensee use of SCPDC's My Permit Now System, Standard configuration, including the following modules: Permit Management, Plan Review, Inspections, Alerts and functionality that is incorporated into My Permit Now System and not identified as a separate chargeable option. Inspection Anywhere System, Standard Configuration.

##### B. LICENSE FEE

###### 1. MyPermitNow and Inspection Anywhere:

The following package prices are offered though the initial term of the contract. Please fill in below which permit volume package most reasonably fits your anticipated annual permit volume.

			MONTHLY RATE		
Permit Volume	Overage Rate	Permits	Planning & Zoning	Code Enforcement	Addressing / GIS Integration
0 - 100	\$10.00	\$56.25	\$50.00	\$50.00	\$230.00
101 - 500	\$10.00	\$260.42	\$156.25	\$50.00	\$230.00
501 - 1000	\$10.00	\$500.00	\$300.00	\$75.00	\$230.00
1001 - 2000	\$10.00	\$958.33	\$575.00	\$143.75	\$230.00
2001 - 4000	\$10.00	\$1,833.33	\$1,100.00	\$275.00	\$230.00
4001 - 6000	\$10.00	\$2,500.00	\$1,500.00	\$375.00	\$230.00
6001 - 8000	\$10.00	\$3,166.67	\$1,900.00	\$475.00	\$230.00
8001 - 10000	\$10.00	\$3,750.00	\$2,250.00	\$562.50	\$230.00
10001 - 12000	\$10.00	\$4,250.00	\$2,550.00	\$637.50	\$230.00
12001 - 14000	\$10.00	\$4,666.67	\$2,800.00	\$700.00	\$230.00
14001 - 16000	\$10.00	\$5,000.00	\$3,000.00	\$750.00	\$230.00
16001 - 18000	\$10.00	\$5,250.00	\$3,150.00	\$787.50	\$230.00
18001 - 30000	No Overage	\$5,416.67	\$3,250.00	\$812.50	\$230.00

**ANNUAL PERMIT VOLUME OVER 30,000 A YEAR MAY REQUIRE A CUSTOM QUOTE.**

The Jurisdiction has agreed to the 101-500 Permit Volume package. It is understood this will be billed on a levelized billing system of \$260.42 monthly. If anytime during a calendar year the total volume of permits exceeds the packages permit volume, Licensee shall pay, in addition to its package Rate Per Permit fee, the Overage Rate shown in the Schedule above. Permit volume packages may be adjusted annually. At the end of a permit volume year if the jurisdiction's permit volume exceeds 20% of the max permit volume number of their currently subscribed package the jurisdiction shall automatically subscribe to the package that the total new permit volume count places them in.

Add on modules of a standard configuration of Planning & Zoning, Solution Center, Addressing / GIS Integration may be activated by request during the term of this agreement for the monthly rates defined in the rate chart in Schedule A that corresponds to the jurisdictions selected permit package. In the event the jurisdiction makes a change to the original permit package chosen, the monthly rate shall change to correspond with the rate chart as shown in Schedule A.

**Other Fees:**

On-Site Visits: Reimbursement of lodging, transportation and meals.

Integration for online credit card or ACH transactions: Existing Credit Card Vendor: \$100.00 one-time fee; New Credit Card Vendor: \$500.00 one-time fee.

Historic Data Imports: Imports requiring 20 hours of staff time or less free of charge. Imports requiring more than 20 hours of analyst time is subject to a custom quote.

Additional Modules:

Reoccurring Septic Permits, Fire Marshal, and Public Works Modules available by custom quote.

SCPDC will invoice Licensee at the beginning of each month. The invoices shall be payable within 30 days of the date of the invoice.

## **SCHEDULE B**

### **COOPERATIVE ENDEAVOR USE AGREEMENT South Central Planning and Development Commission and Jurisdiction**

#### **EQUIPMENT SITE, USER NAME, AND PERSONAL ACCESS PASSWORD**

B.1 The following is the Equipment on which Licensees may use the software:

Restricted to computers used by Licensee's personnel in order to accomplish Personnel's job duties via the Internet for access to SCPDC Software, each user having a specially assigned user name and a personal access password.

B.2. At the execution of this Agreement, SCPDC shall provide a USER CREATION form to the Licensee to be used for Personnel account creation requests. Upon completion of the forms the licensee will return the forms to SCPDC or its AGENT and accounts shall be created in the system with information provided on the forms. Users can change the provided password on the form in the software after their first login. The personal user name and personal access password will be maintained in camera and not distributed to the public, subject to Licensee's obligation to comply with the Texas Open Meetings Act (TOMA) and the Texas Public Information Act (TPIA) as described in Section 8.1(b). Additional personal user names and personal access passwords may be provided upon a written request to SCPDC with the user creation form providing the user name and confirmation that the user is an employee of Licensee is supplied to SCPDC, which will become an addendum to this schedule, such request will not be unreasonably withheld.

**SCHEDULE C**  
**COOPERATIVE ENDEAVOR USE AGREEMENT**  
**South Central Planning and Development Commission and Jurisdiction**

**MAINTENANCE AND SUPPORT**

**DEFINITIONS**

1.1 "SUPPORT CALL (TIER 1)" means a reported problem in the SCPDC Software which is not affecting the Software's ability to perform substantially in accordance with the user documentation.

1.2 "SUPPORT CALL (TIER 2)" means a reported problem in the SCPDC Software, not considered as a Level I support problem as defined in 1.1 above, which causes serious disruption of a function, however the system is still serving Licensee.

1.3 "SUPPORT CALL (TIER 3)" means a reported problem in the SCPDC Software which causes the system to be down and not serving as designed, or has a significant revenue impact, with no obvious work-around.

1.4 "RESPONSE TIME" means the elapsed time between the receipt of a service call and the time when SCPDC begins the Maintenance and Support, including a verbal or written confirmation to the Licensee thereof.

1.5 "RESPONSE CENTER AND CONTACT PROCEDURE" shall mean:

Address	Hours of Operation
5058 West Main Street	8:00 a.m. to 4:30 p.m.
Houma, LA 70360	

**Contact Information**

Tel: 1 866 957 3764  
Ryan Hutchinson,  
Information Technology Administrator

E-mail: [support@scpdc.org](mailto:support@scpdc.org)

2. **TERM AND TERMINATION.** SCPDC's provision of Maintenance and Support to Licensee will commence on the Effective Date and will continue for an initial term of two (2) years. Maintenance and Support will automatically renew at the end of the initial term and any subsequent term for a renewal term of one (1) year unless Licensee has provided SCPDC with a written termination notice of its intention not to renew the Maintenance and Support at least ninety (90) days prior to the termination expiration of the then-current term. Termination of Maintenance and Support upon failure to renew will not affect the license of the Software.

3. **MAINTENANCE AND SUPPORT SERVICES.** Maintenance and Support will be provided only with respect to use of the versions of the Software that are being supported by SCPDC. SCPDC will provide multi-site backup of permit issuance data for permits supported by MyPermitNow system. SCPDC will provide 24-hour emergency service support, after hours cell numbers are accessed through the IVR menu, for Licensee's staff and Licensee's customers by SCPDC's technical support personnel. SCPDC will offer to Licensee new versions of MyPermitNow Software as they become available. Upon Licensee's request SCPDC will

attempt, so long as practicable, to convert Licensee's current permit data for use with SCPDC Software. Upon Licensee's request SCPDC will, as long as practicable, will perform regularly scheduled exports of Licensee's permit and inspection data to Licensee's database. Within SCPDC's capabilities, SCPDC will perform customization of SCPDC Software based on Licensee's specific jurisdiction. Whenever possible, SCPDC will provide features in the SCPDC Software allowing Licensee to create and search variances and define relationships between variances and permits. SCPDC will provide remote support for the storage of photos, building/permits documents, inspection reports, plan review files and associated miscellaneous records. Within the capabilities of the SCPDC Software, and upon Licensee's request, SCPDC will provide Licensee with customized reports. The client will be expressly forbidden from creating add-ons or feature changes to that version or disclose the source code to any third party.

3.1 LEVELS OF MAINTENANCE AND SUPPORT. Maintenance and Support is available at the following Response Times: (i) Support Call (Tier 3): response time three (3) hours, patch or work-around next day, fixed or documented in next major product release (ii) Support Call (Tier 2): response time six (6) hours, patch or work-around within five days, fixed or documented in next major product release; (iii) Support Call (Tier 1): one (1) business day, problem documented and input for consideration in next major product release.

3.2 BASIC MAINTENANCE. Basic Maintenance means that SCPDC will provide during SCPDC's standard hours of service: (i) Updates and Minor Updates, when and if available, and related on-line Documentation, and (ii) telephone assistance with respect to the use of Software, including (a) clarification of functions and features of the Software; (b) clarification of the Documentation; (c) guidance in the use of the Software; and (d) error verification, analysis and correction to the extent possible by telephone. SCPDC's standard hours of service are Monday through Friday, 8:00 a.m. to 4:30 p.m., CST except for holidays as observed by SCPDC.

3.3 ON-SITE ASSISTANCE. At SCPDC's discretion, SCPDC can decide to provide Maintenance and Support at the Licensee Site. In such event Licensee will reimburse SCPDC for all related traveling expenses and costs for board and lodging.

3.4 CAUSES WHICH ARE NOT ATTRIBUTABLE TO SCPDC. Maintenance and Support will not include services requested as a result of, or with respect to causes which are not attributable to SCPDC Software. These services will be billed to Licensee at SCPDC's then-current rates. Causes which are not attributable to SCPDC include but are not limited to:

3.5.1 Accident. Unusual physical, electrical or electromagnetic stress; neglect; misuse; failure or fluctuation of electric power, air conditioning or humidity control; failure of rotation media not furnished by SCPDC; excessive heating; fire and smoke damage; operation of the Software with other media and hardware, software or telecommunication interfaces not meeting or not maintained in accordance with the manufacturer's specifications; or causes other than ordinary use;

3.5.2 Improper use of the Software that deviates from any operating procedures established by SCPDC in the applicable Documentation;

3.5.3 Modification, alteration or addition or attempted modification, alteration or addition of the Software undertaken by persons other than SCPDC or SCPDC's authorized representatives;

3.5.4 Software programs made by Licensee or other parties.

4. RESPONSIBILITIES OF LICENSEE. SCPDC's provision of Maintenance and Support to Licensee is subject to the following:

4.1 Licensee shall provide SCPDC with access to Licensee's personnel and Equipment during normal business hours. This access must include the ability to dial-in to the Equipment on which the Software is operating and to obtain the level of access necessary to support the Software.

4.2 Licensee shall provide supervision, control and management of the Use of the Software. In addition, Licensee shall implement procedures for the protection of information and the implementation of backup facilities in the event of errors or malfunction of the Software or Equipment.

4.3 Licensee shall document and promptly report all errors or malfunctions of the Software to SCPDC. Licensee shall take all steps necessary to carry out procedures for the rectification of errors or malfunctions within a reasonable time after such procedures have been received from SCPDC.

4.4 Licensee shall maintain a current backup copy of all records and transactions using the SCPDC Software.

4.5 Licensee shall properly train its personnel in the Use and application of the Software and the Equipment on which it is used.

5. MAINTENANCE FEE. For Jurisdiction the maintenance fees are waived and the license fees cover all costs for maintenance and support for the terms of this Agreement.

6. ASSIGNMENT OF DUTIES. SCPDC may assign its duties of Maintenance and Support to a third party, provided that SCPDC will remain responsible for the actions of such third party. Any such assignment is subject to Licensee's consent, which consent shall not be unreasonably withheld or delayed.

7. Project Abandonment – Should SCPDC abandon development and support of My Permit Now system and can no longer fulfill its contractual obligations pursuant to this Agreement, the last stable source code release of My Permit Now Software will be licensed to Licensee under an open source license agreement such as for instance GNU. The specific open source license agreement would be chosen by SCPDC at such time.

8. Licensee data - SCPDC agrees to provide all hosted client data to the client electronically at any time in either the existing database format or CSV format by request. Upon Licensee request, these transfers can be automated to take place on a regular schedule. SCPDC will not be held liable if technical issues disrupt the automatic scheduling of a data transfer. SCPDC will take all reasonable care to safeguard and protect the Licensee's data. Licensee expressly agrees to maintain on its site and under its care a current copy of Licensee's permitting data.

9. Role of Agent – The Agent has no obligations or liabilities to the Licensee implied or written in the interlocal contract. The agent's responsibilities and obligations are to SCPDC only and defined specifically in a separate agreement between SCPDC and the AGENT, hereinafter referred to as "CAPCOG". The SCPDC and CAPCOG agreement may provide additional services to the licensee which could include but not limited to onsite representation, support issue mediation and marketing material distribution.



Accepted:

CITY OF MANOR, TEXAS

\_\_\_\_\_  
By: Thomas Bolt, City Manager

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

\_\_\_\_\_  
Witness

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

South Central Planning and Development Commission,  
Through its agent, CAPCOG

\_\_\_\_\_  
By: Betty Voights, Executive Director

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

## Item 11

### **MUNICIPAL SERVICES PLAN FOR PROPERTY TO BE ANNEXED INTO THE CITY OF MANOR**

**WHEREAS**, the City of Manor, Texas (the “City”) intends to institute annexation proceedings for tracts of land described more fully hereinafter (referred to herein as the “subject property”);

**WHEREAS**, *Section 43.056, Loc. Gov't. Code*, requires a service plan be adopted with the annexation ordinance;

**WHEREAS**, the subject property is not included in the municipal annexation plan and is exempt from the requirements thereof;

**WHEREAS**, infrastructure provided for herein and that existing are sufficient to service the subject property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City;

**WHEREAS**, the owner(s) of the subject property agree they will benefit from the City’s development restrictions and zoning requirements, as well as other municipal services provided by the City, which are good and valuable consideration for this service plan; and

**WHEREAS**, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapt. 43, Loc. Gov't. Code*, to annex the subject property into the City;

**NOW, THEREFORE**, the following services will be provided for the subject property on the effective date of annexation:

(1) **General Municipal Services.** Pursuant to the requests of the owner and this Plan, the following services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by agreement between the City and the ESD’s present personnel and equipment of the ESD fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present contract personnel and equipment of the ESD.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities.

G. Maintenance of other City facilities, buildings and service.

H. Land use regulation as follows:

On the effective date of annexation, the regulatory and zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned “R-1” with the intent to rezone the subject property upon request of the landowner or staff. The Planning & Zoning Commission and the City Council will consider rezoning the subject property at future times in response to requests submitted by the landowner(s) or authorized city staff.

(2) **Scheduled Municipal Services.** Due to the size and vacancy of the subject property, the plans and schedule for the development of the subject property, the following municipal services will be provided on a schedule and at increasing levels of service as provided in this Plan:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of water service, water service will be provided to the subject property, or applicable portions thereof, by the utility holding a water certificate of convenience and necessity (“CCN”) for the subject property or portions thereof (the “CCN holder”) and, as applicable, the utility providing wholesale or retail water service to said CCN holder. Absent a water CCN, by the utility in whose jurisdiction the subject property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City’s water utility system, the subject property owner shall construct the internal water lines and pay the costs of line extension and construction of such facilities necessary to provide water service to the subject property as required in City ordinances. Upon acceptance of the water lines within the subject property and any off-site improvements, water service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City; subject to all the ordinances, regulations and policies of the City in effect from time to time. The system will be accepted and maintained by the

City in accordance with its usual acceptance and maintenance policies. New water line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances of the City in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a water well that is in use on the effective date of the annexation and is in compliance with applicable rules and regulations shall be permitted and such use may continue until the subject property owner requests and is able to connect to the City's water utility system.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines as provided by statutes of the State of Texas.

(ii) (a) In accordance with the applicable rules and regulations for the provision of wastewater service, wastewater service will be provided to the subject property, or applicable portions thereof, by the utility holding a wastewater CCN for the subject property, or portions thereof as applicable, or absent a wastewater CCN, by the utility in whose jurisdiction the subject property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of wastewater service. If connected to the City's wastewater utility system, the subject property owner shall construct the internal wastewater lines and pay the costs of line extension and construction of facilities necessary to provide wastewater service to the subject property as required by City ordinances. Upon acceptance of the wastewater lines within the subject property and any off-site improvements, wastewater service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The wastewater system will be accepted and maintained by the City in accordance with its usual policies. Requests for new wastewater line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a septic system that is in use on the effective date of the annexation and is in compliance with all applicable rules and regulations shall be permitted and such use may continue until the subject property owner requests and is able to connect to the City's wastewater utility system.

C. Maintenance of streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on existing public streets within the subject property and other streets that are hereafter constructed and finally accepted by the City. The maintenance of the streets and roads will be limited as follows:

(A) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.; and

(B) Routine maintenance as presently performed by the City.

(ii) The City will maintain existing public streets within the subject property, and following installation and acceptance of new roadways by the City as provided by city ordinance, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain such newly constructed public streets, roadways and rights-of-way within the boundaries of the subject property, as follows:

(A) As provided in C(i)(A)&(B) above;

(B) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(C) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(D) Installation and maintenance of street lighting in accordance with established policies of the City;

(iii) The outer boundaries of the subject property abut existing roadways. The property owner agrees that no improvements are required on such roadways to service the property.

(3) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the subject property or redevelopment, the landowner will be responsible for the development costs the same as a developer in a similarly situated area under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the subject property the same as similarly situated properties.

(4) **Term.** If not previously expired, this service plan expires at the end of ten (10) years.

(5) **Property Description.** The legal description of the subject property is as set forth in the Annexation Ordinance and exhibits attached to the Annexation Ordinance to which this Service Plan is attached.