

NO. _____

**BECK STEEL, INC., and
JOHN C. BECK
Plaintiffs,**

v.

**CITY OF LUBBOCK, TEXAS,
GLEN C. ROBERTSON, JAMES W.
LOOMIS, AND PAMELA MOON,
in their respective Official Capacities
as Mayor, City Manager, and Executive
Director of Finance for Injunctive Relief
Defendants.**

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IN THE DISTRICT COURT OF

LUBBOCK COUNTY, TEXAS

**_____ JUDICIAL DISTRICT
(JURY TRIAL REQUESTED)**

**PLAINTIFFS' ORIGINAL PETITION AND
REQUEST FOR PERMANENT INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

Beck Steel, Inc. ("Beck Steel") and John C. Beck ("Beck"), the Plaintiffs in this cause, and file this Original Petition and Request for Permanent Injunction against the City of Lubbock, Texas (the "City"), Glen C. Robertson, in his official capacity as Mayor for Injunctive Relief ("Mayor"), James W. Loomis, in his official capacity as City Manager for Injunctive Relief ("City Manager"), and Pamela Moon, in her official capacity as Executive Director of Finance for Injunctive Relief ("Executive Director"), Defendants, and in support thereof, would respectfully show the Court as follows:

I. Discovery Level

1. Discovery should be conducted in accordance with a tailored discovery control plan pursuant to Texas Rule of Civil Procedure 190.4.

II. Parties and Service

2. Plaintiff Beck Steel, Inc. (“Beck Steel”) is a taxpaying corporation authorized and licensed to do business in the state of Texas, with its principal place of business located in the City of Lubbock, Lubbock County, Texas. Beck Steel is also a discharge fee rate payer of drainage fees assessed by the City of Lubbock Storm Water Utility System (“Storm Water”).

3. Plaintiff John C. Beck (“Beck”) is an individual property taxpayer of the City of Lubbock, residing in the City of Lubbock, Lubbock County, Texas. Beck is also a discharge fee rate payer of drainage fees assessed by the Storm Water. Beck is a strong supporter of municipal fiscal responsibility and adherence to the ordinances and state statutes that govern the actions of the City of Lubbock and is opposed to the ongoing illegal actions of the City in its imposition of unreasonable and therefore illegal drainage charges upon the Storm Water fee payers in violation of the City’s ordinance and state law for the purpose of improperly transferring millions of dollars in drainage charge revenues each year to pay for matters not related to providing storm water drainage to real property located within the Storm Water service area.

4. Defendant, The City of Lubbock (“Lubbock”) is a municipal corporation located within Lubbock County, Texas. Pursuant to section 17.024 of the Civil Practice & Remedies Code, the City may be served by serving either Mayor Glen C. Robertson or City Secretary Rebecca Garza at 1625 13th Street, Lubbock, Texas 79457.

5. Defendant Glen C. Robertson (“Mayor”) is named solely in his official capacity as Mayor and Presiding Officer for the Lubbock City Council and is sued at this

time in his official capacity for Injunctive Relief. The Mayor may be served at 1625 13th Street, Lubbock, Texas 79457

6. Defendant James W. Loomis (“City Manager”) is named solely in his official capacity as City Manager of the City of Lubbock and is sued at this time in his official capacity for Injunctive Relief. The City Manager may be served at 1625 13th Street, Lubbock, Texas 79457

7. Defendant Pamela Moon (“Executive Director”) is named solely in her official capacity as Executive Director of Finance for the City of Lubbock and is sued at this time in her official capacity for Injunctive Relief. The Executive Director may be served at 1625 13th Street, Lubbock, Texas 79457.

III. Jurisdiction and Venue

8. This Court has jurisdiction over this action for Declaratory Relief pursuant to section 37.003 of the Civil Practice and Remedies Code. The Court has jurisdiction over the applications for injunction pursuant to section 65.011 of the Civil Practice and Remedies Code.

9. Venue is proper in Lubbock County, Texas, pursuant to section 15.002(a)(1) of the Civil Practice & Remedies Code because all of the events giving rise to the claim occurred in Lubbock County, Texas.

IV. Facts

10. The City of Lubbock (“the City”) is incorporated under Texas law and operates as a home-rule municipality pursuant to the provisions of the City of Lubbock City Charter.

11. The City initially established Storm Water in August 1993, and began assessing drainage fees during the 1993-94 fiscal year. Storm Water is a public utility of the City and was initially created pursuant to Subchapter C of Chapter 552 (previously Chapter 402) of the Texas Local Government Code (the "Code"); Article 11, Section 5 of the Texas Constitution; and the Home-Rule Charter of the City.

12. Pursuant to City Ordinance No. 2001-00041, approved by the City Council on May 24, 2001, the City issued Tax and Municipal Drainage Utility System Surplus Revenue Certificates of Obligation in the amount of \$35,000,000 on June 1, 2001 (the "2001 Certificates") for the purpose of paying contractual obligations to be incurred for drainage improvements in the City. The 2001 Certificates constituted direct obligations of the City payable from a combination of (i) the levy and collection of direct and continuing ad valorem tax on all taxable property within the City, and (ii) a pledge of surplus net revenues of the City's Municipal Drainage System (now Storm Water), as provided in the ordinance authorizing the 2001 Certificates.

13. Pursuant to City Ordinance No. 2003-00086, approved by the City Council on July 24, 2003, the City issued Tax and Municipal Drainage Utility System Surplus Revenue Certificates of Obligation in the amount of \$41,035,000 on July 24, 2003 (the "2003 Certificates") for the purpose of paying contractual obligations to be incurred for drainage improvements in the City. The 2003 Certificates constituted direct obligations of the City payable from a combination of (i) the levy and collection of direct and continuing ad valorem tax on all taxable property within the City, and (ii) a pledge of surplus net revenues of the City's Municipal Drainage System (now Storm Water), as provided in the ordinance authorizing the 2001 Certificates.

14. On information and belief, on or before August 31, 2014, prior to the beginning of the City's current fiscal year 2014-15, the 2001 Certificates and the 2003 Certificates had been fully repaid by the City. The City does not currently have any outstanding Revenue Bonds, General Obligation Bonds, Certificates of Obligations, or other direct obligations of the City that have been authorized by ordinance and represented that such direct obligation is payable from a pledge of surplus net revenues of Storm Water.

15. On October 23, 2014 the City Council approved City Ordinance No. 2014-00124 entitled "AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO THE MUNICIPAL DRAINAGE UTILITY AND RELATED DEFINITIONS; ADOPTION OF STATE LAW; RELATED BILLING RULES AND PROCEDURES THEREFOR; APPEALS OF ASSESSMENT, BILLING, AND PAYMENT DISPUTES; DISCONTINUANCE OF SERVICE; REPEALING THE FORMULA AND SCHEDULE OF MUNICIPAL DRAINAGE CHARGES AS SET FORTH IN ORDINANCE NO. 2011-00080; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION (hereinafter the "Drainage Ordinance"). A copy of the Drainage Ordinance is attached hereto as Exhibit "A".

16. Section 22.07.002 of the Drainage Ordinance, entitled "Adoption of state law; creation of utility", states as follows:

"The provisions of Subchapter C of Chapter 552 of the Texas Local Government Code are hereby adopted by the City of Lubbock. The City of Lubbock shall have full authority to operate a municipal drainage utility system pursuant to Subchapter C, Chapter 552, Texas

Local Government Code; Article 11, Section 5, of the Texas Constitution; and the charter of the City of Lubbock, Texas. The drainage of the city is hereby declared to be a public utility.”

17. Section 22.07.001 of the Drainage Ordinance sets forth findings made by the City Council that the City will offer drainage service “on nondiscriminatory, reasonable, and equitable terms” and that the City “will establish a schedule of drainage charges against all non-exempt real property located in the proposed service area.”

18. Section 22.07.006 of the Drainage Ordinance is entitled “Schedule of drainage charges.” Subsection (1) of that section states:

“(1) Drainage charges shall be set in accordance with Texas Local Government Code, Section 552.047, and shall be based on classifications directly related to drainage on and from property. Revenue collected from the Stormwater Utility will be used solely to provide drainage to real property located within the service area (emphasis added).”

19. Subchapter C of Chapter 552 of the Code authorizes the City to impose a drainage charge on the users of the City’s drainage utility system. The Code clearly identifies the purpose and scope of such drainage charge in Section 552.044(4) of the Code, which states that “drainage charge” means: “(A) the *levy imposed to recover the cost of the service* (emphasis added) of the municipality in furnishing drainage for any benefitted property; and (B) if specifically provided by the governing body of the municipality by ordinance, *an amount made in contribution to funding of future drainage system construction* (emphasis added) by the municipality.”

20. As the foregoing language indicates, there are only two (2) statutorily permissible uses of drainage charges. One permissible use is to fund future drainage system construction; the other permissible use of such drainage charges is to recover “the cost of the service” in the City furnishing drainage to the benefitted properties. The Code

provides a detailed definition of what costs may be included in the scope of the term “cost of the service”. Section 552.044(2) states:

“(2) “Cost of service” (emphasis added) as applied to a drainage system service to any benefitted property means:

(A) the prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;

(B) the prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;

(C) the prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the benefitted property;

(D) the prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;

(E) the prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a drainage facility used in draining the benefitted property;

(F) the prorated cost of debt service (emphasis added) and reserve requirements of structures, equipment, and facilities provided by revenue bonds or other drainage revenue-pledge securities or obligations (emphasis added) issued by the municipality; and

(G) the administrative costs of a drainage utility system.”

21. As set forth in paragraph 18 above, Section 22.07.006 of the Drainage Ordinance states that drainage charges shall be set in accordance with Texas Local Government Code, Section 552.047 and will be used solely to provide drainage to real property located within the service area. Section 552.047 (a) of the Code also imposes limits/requirements on the drainage charge imposed by the City. It states, **“The governing body of the municipality may charge a lot or tract of benefitted property for drainage service on any basis other than the value of the property, but the basis must be directly related to drainage and the terms of the levy, and any classification**

of the benefitted properties in the municipality must be nondiscriminatory, equitable, and reasonable (emphasis added).” To the extent that the City attempts to levy and collect from its rate payers drainage charge amounts that are for purposes not authorized by the Drainage Ordinance or the Code, such amounts are not equitable and must be considered per se unreasonable.

22. Prior to September 1, 2014, the beginning of the City’s fiscal year 2014-15, the City did not have any debt service obligations for “revenue bonds or other drainage revenue-pledge securities or obligations”. As stated above, the City does not currently have any outstanding Revenue Bonds, General Obligation Bonds, Certificates of Obligations, or other direct obligations of the City that have been authorized by ordinance and represented that such direct obligation is payable from a pledge of surplus net revenues of Storm Water.

23. The term “drainage” is defined in Section 552.044(3) of the Code to mean “bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.”

24. For its fiscal year 2014-15 (“FY 2014-15”), the City adopted a budget for Storm Water that increased the projected revenue collections from drainage charges levied on residential and non-residential property in the Lubbock Storm Water service area by more than twenty-four percent (24%) from the previous fiscal year, seeking the collection of nearly \$24 million in drainage charges. A copy of the Storm Water portion

of the City's FY 2014-15 Budget is attached hereto as Exhibit "B". The Storm Water Budget identifies the City's intended uses of the drainage charge revenues, including transfers by the City of such funds.

25. Section 552.049 of the Code sets forth the requirements for segregation of the income generated by the City from drainage charge revenues and clearly states that the City may transfer drainage charge revenues to the City's general fund on if the drainage charges are solely for the cost of service. It states:

"SEGREGATION OF INCOME. The income of a drainage utility system must be segregated and completely identifiable in municipal accounts. If drainage charges are solely for the cost of service, the municipality may transfer the charges in whole or in part to the municipal general fund (emphasis added), except for any part collected outside municipal boundaries and except for any part pledged to retire any outstanding indebtedness or obligation incurred, or as a reserve for future construction, repair, or maintenance of the drainage system. If the governing body has levied, in the drainage charge, an amount in contribution to the funding of future system improvements, including replacement, new construction, or extension, that amount is not transferable to the general fund."

26. In the Storm Water Utility - Fund Overview section of the Budget, the City states that Storm Water Department level expenses are estimated to be \$2,946,813, approximately 12.3% of the total drainage charge revenues budgeted at \$23,950,523. The City also states that it intends to use drainage charge revenues to pay "Fund Level Expenses" that include but are not limited to the following: Debt Service - \$9,530,461; Transfer to Debt Service Fund - \$5,309,575, and Transfer to General Fund - \$292,850, a total of \$15,132,886. None of the \$15,132,886 in drainage charge revenues are being used to pay for the "prorated cost of debt service and reserve requirements of structures, equipment, and facilities provided by revenue bonds or other drainage revenue-pledge securities or obligations" permitted by Section 552.044(2) of the Code as a part of Storm

Water's "cost of service" because at the beginning of its FY 2014-15, the City did not have any debt service obligations for "revenue bonds or other drainage revenue-pledge securities or obligations". The budgeted transfers for debt service are clearly transfers of drainage charge revenues to pay general debt service obligations of the City which are not eligible to be considered a "cost of service" of Storm Water.

27. The City's FY 2014-15 Budget also identifies other transfers of drainage charge revenues for purposes not authorized by the Drainage Ordinance or the Code. The "Streets Overview" section of the City's FY 2014-15 Budget provides information for the City's Street Department, which is not a part of Storm Water. A copy of the Streets Overview is attached hereto as Exhibit "C".

28. Under the "Mission and Purpose" section of the Streets Overview, one of the bulleted items states the Streets Department provides "street maintenance on approximately 9 percent of paved streets with the street maintenance program, a program funded from the Storm Water Utility Fee [drainage charge]." Also, under the "Accomplishments of FY 2013-14" section, one of the bulleted items describes the street maintenance program as "Completed proactive maintenance of 8.8 percent of City streets through concrete and asphalt repairs, micro-surfacing, in-house removal and relay, and asphalt rejuvenation."

29. The budget information provided for the Streets Department in Exhibit "C" reflects that for FY 2013-14, the City used at least \$1,680,038 in drainage fee revenues to pay for Micro-surfacing, Asphalt Rejuvenator (Residential), and In-house remove and relay program. The FY 2014-15 Budget indicates the City will transfer \$2,091,000 from the Storm Water drainage charge funds to the City's general fund this

year to pay for the same Streets Department street maintenance activities, representing a 24.4% increase in Streets Department costs being funded with drainage charge revenues.

30. The City has published its Proposed Operating Budget for Fiscal Year 2015-16 ("FY 2015-2016 Budget"). The Storm Water Overview section of the FY 2015-16 Budget, a copy of which is attached hereto as Exhibit "D", forecasts that the City will transfer drainage charge revenues to pay "Fund Level Expenses" that include but are not limited to the following: Debt Service - \$8,961,130; Transfer to Debt Service Fund - \$5,303,870, and Transfer to General Fund - \$301,635, a total of \$14,566,635. Elsewhere, in the "Debt Service Fund Overview" section of the FY 2015-16 Budget, the City identifies the amount of general obligation debt service budgeted to Storm Water as \$14,286,538, a different amount. A copy of the Debt Service Fund Overview is attached hereto as Exhibit "E".

31. The City forecasts in the FY 2015-16 Budget that over the next six (6) years (FY 2015-16 through FY 2020-21) the City will transfer more than \$91.2 million in drainage charge revenues to the City's general fund to pay general debt service obligations of the City which are not eligible to be considered a "cost of service" of Storm Water. For that same six-year period, the City also forecasts transferring another \$1,951,100 from Storm Water drainage charge revenues to the General Fund for unspecified use by the City on matters no related to providing drainage to real property located within the Storm Water service area. This reflects the clear intent of the City to use more than \$93 million in Storm Water drainage charge revenues over the City's next six fiscal years for purposes not authorized by the Drainage Ordinance or the Code.

32. The “Streets Overview” section of the City’s FY 2015-16 Budget indicates in the “Mission and Purpose” section that the Streets Department will “Provide street maintenance on approximately 9 percent of paved streets. Notably, this bullet item has deleted the reference to funding being from “the Storm Water Utility Fee”; however on information and belief, the City intends to use drainage charge revenues to continue funding this street maintenance program. The “Accomplishments for FY 2014-15 section claims the Streets Department “Completed proactive maintenance and repair of 8 percent of City streets through concrete and asphalt repairs, micro-surfacing, in-house removal and relay, and asphalt rejuvenation.” The Amended FY 2014-15 Budget information listed therein indicates that a total of \$1,497,219 is now budgeted for these activities in the City’s fiscal year ending August 31, 2014 and forecasts the City will spend a total of \$2,195,730 for these street maintenance activities in the FY 2015-16 Budget. A copy of the Streets Overview is attached hereto as Exhibit “F”.

33. Plaintiffs have been and continue to be Storm Water drainage charge rate payers at all times material to this action. As such, the Plaintiffs have legal rights under the Drainage Ordinance and the Code to only be charged an equitable and reasonable drainage charge by the City for the drainage being provided to their real property that is located within the service area of Storm Water. To the extent that the City’s budgets and the actions taken by the City’s representatives in furtherance of such budgets seek to collect drainage charge fees from the Plaintiffs to pay general debt service obligations of the City which are not eligible to be considered a “cost of service” of Storm Water and to fund a street maintenance program of the Streets Department, such drainage charges are inequitable and per se unreasonable and thus constitute unauthorized and illegal actions

of the City and ultra vires actions of the City representatives, including the Mayor, City Manager, and Executive Director, in implementing such unauthorized and illegal actions of the City. The Plaintiffs have a right to a determination of the construction and validity of the City's Storm Water drainage charges under the Drainage Ordinance and the Code. Additionally, the Plaintiffs have common-law standing to complain that the actions of the City in levying drainage charge amounts to pay for matters not authorized by the Drainage Ordinance or the Code are illegal and should be enjoined.

V. Request for Declaratory Relief

34. Plaintiffs adopt and incorporate by reference the allegations contained in paragraphs 1 through 33 as if fully copied and set forth herein.

35. Plaintiffs request a declaration that the use of Storm Water drainage charge revenues for any purposes other than those specifically authorized by the Code and the Drainage Ordinance are illegal and void. The Attorney General of Texas, in a recent written opinion, Tex. Att'y Gen. Op. No. GA-1080 (2014), addressed the purpose of the drainage charge authorized by Section 552.047(a) of the Code and stated "the purpose of the charge is to recover the cost of the service of the municipality in furnishing drainage for any benefited property, and certain other costs. The Act allows the municipality to charge on any basis provided the charge (1) is not based on the value of property and (2) the basis is directly related to drainage." *Id.* at 3. Accordingly, Plaintiffs seek a declaration the City lacks authority to assess and collect a drainage charge amount to pay general debt service obligations of the City which are not eligible to be considered a "cost of service" of Storm Water and are not otherwise directly related

to drainage and that any portion of a drainage charge levied and collected by Storm Water for such purposes is inequitable, unreasonable, illegal and void.

36. Plaintiffs' further request that this Court declare that the assessment and collection of drainage charges by Storm Water and transfer of such drainage charge revenues to the City's general fund to fund a street maintenance program of the Streets Department does not constitute a "cost of service" of Storm Water and is not otherwise directly related to drainage, that such amounts should not be included in Storm Water's budget nor be included in the amounts to be levied and collected, and that any portion of a drainage charge levied and collected by Storm Water for such purpose is inequitable, unreasonable, illegal and void.

37. Plaintiffs' also request a declaration from this Court that the drainage charges collected by Storm Water are not solely for the cost of service and therefore such revenues must be kept segregated as required by Section 552.049 of the Code and the City is prohibited from transferring the drainage charge revenues in whole or in part to the City's general fund.

VI. Request for Permanent Injunction

38. Plaintiffs adopt and incorporate by reference the allegations contained in paragraphs 1 through 37 as if fully copied and set forth herein.

39. Texas Civil Practice & Remedies Code §37.011 provides that on a proper showing, and upon equitable grounds, the Court may issue a permanent injunction.

40. Plaintiffs have plead proper causes of action against the Defendants. For the reasons explained in paragraphs 10 - 37 of this Petition, the City should not be permitted to continue to levy and collect millions of dollars each fiscal year in illegal

drainage charges from Storm Water fee payers in violation of the City's Drainage Ordinance and state law for the purpose of improperly transferring millions of dollars in drainage charge revenues each year to pay for matters not related to providing storm water drainage to real property located within the Storm Water service area.

41. The City's FY 2014-15 Budget states that in FY 2014-15, the City will levy and collect more than \$16.5 million in drainage charge revenues that will be used by the City to pay for costs unrelated to storm water drainage that are not authorized by the Drainage Ordinance or the Code. Additionally, the City's FY 2015-16 Budget forecasts that over the next six fiscal years (FY 2015-16 through FY 2020-21) the City will assess and collect at least another \$93 million in Storm Water drainage charge revenues for purposes not authorized by the Drainage Ordinance or the Code.

42. The continued levy and collection of inequitable, unreasonable, and illegal drainage charges by the City constitute irreparable harm to the Plaintiffs. On April 7, 2015, Plaintiffs' sent a letter to the Mayor and other City Council Members, questioning legal permissibility of the uses of the Storm Water drainage charge revenues for unauthorized uses not related to drainage in violation of the Drainage Ordinance and the Code and requesting that the City, at a minimum, obtain a written legal opinion letter from the Lubbock City Attorney on the permissible uses of drainage charges and whether uses of the drainage charge funds for the purposes complained of in this action constituted permissible uses of such revenues under the provisions of the Code. A copy of the April 7, 2014 letter is attached hereto as Exhibit "G". Neither the Mayor, nor any other City Council Member, nor any other representative of the City, provided any type

of replay or response to the Plaintiffs; not even an acknowledgement of receipt of the letter.

43. On June 26, 2015 an attorney for the Plaintiffs met with the City Attorney to discuss the concerns raised by Plaintiffs in their April 7, 2015 correspondence regarding the apparent impermissible uses of drainage charge revenues by the City. A month later, the City Attorney sent correspondence to the Plaintiffs' attorney, contending that it was the City's position "that its storm water utility and the use of funds are in compliance with the law, and are within the broad authority of a home-rule municipality." No other legal basis or analysis was provided on behalf of the City to attempt to validate the City's use of drainage charge revenues to pay general debt service obligations of the City which are not eligible to be considered a "cost of service" of Storm Water and to fund a street maintenance program of the Streets Department. A copy of the City Attorney's July 27, 2015 correspondence is attached as Exhibit "H".

44. It is well-established that a home-rule city may not adopt an ordinance or charter provision that is "inconsistent with the Constitution of this State or [with] the general laws enacted by the Legislature of this State." TEX. CONST. art. XI, § 5. A charter provision or ordinance that conflicts with a state statute is unenforceable. *See In re Sanchez*, 81 S.W.2d 489, 491 (Tex. 1993). The Drainage Ordinance clearly states that state law, Subchapter C of Chapter 552 of the Code, is adopted by the City to create Storm Water, the City's municipal utility drainage system. To the extent that a provision of the City's charter is in conflict with or exceeds the clearly defined limits of the Code, such charter provision is void and cannot be enforced or relied upon by the City to

transfer drainage charge funds from Storm Water to the City's general fund for purposes not authorized by the Drainage Ordinance or the Code.

45. The assessment, collection and transfer of drainage charge revenues to the City's general fund for purposes not authorized by the Drainage Ordinance or the Code are illegal and wrongful. The actions of the Mayor, as the Presiding Officer of the City Council, the City Manager, and the Executive Director in furtherance of such illegal acts by the City constitute ultra vires actions by these City officials. Plaintiffs' request that, after trial, this Court permanently enjoin the Defendants from performing any acts in furtherance of the illegal assessment and collection of drainage charges for the purpose of transferring such funds to the City's general fund for purposes not authorized by the Drainage Ordinance or the Code.

VII. Attorneys' Fees

46. Plaintiffs adopt and incorporate by reference the allegations contained in paragraphs 1 through 45 as if fully copied and set forth herein.

47. Plaintiffs request their attorneys' fees pursuant to the Texas Civil Practice and Remedies Code §37.009 and the Texas Uniform Declaratory Judgments Act.

VIII. Jury Demand

48. Plaintiffs hereby demand a trial by jury pursuant to Texas Rules of Civil Procedure 216. The required fee has been paid.

IX. Prayer

WHEREFORE, PREMISES CONSIDERED, Beck Steel and Beck respectfully pray that upon notice and hearing hereof, they have and recover:

a. Final Judgment declaring that the City lacks authority to assess and collect a drainage charge amount to pay general debt service obligations of the City which are not eligible to be considered a “cost of service” of Storm Water and are not otherwise directly related to drainage and that any portion of a drainage charge levied and collected by Storm Water for such purposes is inequitable, unreasonable, illegal and void;

b. Final Judgment declaring that the assessment and collection of drainage charges by Storm Water and transfer of such drainage charge revenues to the City’s general fund to fund a street maintenance program of the Streets Department does not constitute a “cost of service” of Storm Water and is not otherwise directly related to drainage, that such amounts should not be included in Storm Water’s budget nor be included in the amounts to be levied and collected, and that any portion of a drainage charge levied and collected by Storm Water for such purpose is inequitable, unreasonable, illegal and void;

c. Final Judgment declaring that the drainage charges collected by Storm Water are not solely for the cost of service and therefore such revenues must be kept segregated, as required by Section 552.049 of the Code, and the City is prohibited from transferring the drainage charge revenues in whole or in part to the City’s general fund;

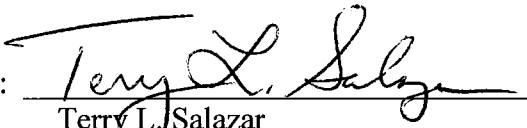
d. A permanent injunction be issued, on final trial of this cause, enjoining Defendants from performing any acts in furtherance of the illegal assessment and collection of drainage charges for the purpose of transferring such funds to the

City's general fund for purposes not authorized by the Drainage Ordinance or the Code;

- e. Costs of suit and reasonable and necessary attorneys' fees; and
- f. Such other and further relief, either special or general, whether in law or in equity, to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

**QUILLING, SELANDER, LOWNDS,
WINSLETT & MOSER, P.C.**
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By: 
Terry L. Salazar
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Attorneys For Plaintiffs

First Reading
September 4, 2014
Item No. 3.7

Second Reading
October 23, 2014
Item No. 6.18

ORDINANCE NO. 2014-00124

AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO THE MUNICIPAL DRAINAGE UTILITY AND RELATED DEFINITIONS; ADOPTION OF STATE LAW; RELATED BILLING RULES AND PROCEDURES THEREFOR; APPEALS OF ASSESSMENT, BILLING, AND PAYMENT DISPUTES; DISCONTINUANCE OF SERVICE; REPEALING THE FORMULA AND SCHEDULE OF MUNICIPAL DRAINING CHARGES AS SET FORTH IN ORDINANCE NO. 2011-00080; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock, Texas finds and determines that it is in the best interest of the health, safety, and welfare of the citizens of the City of Lubbock to make the following amendments to Chapter 22 of the Code of Ordinances of the City of Lubbock; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Section 22.07.001 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

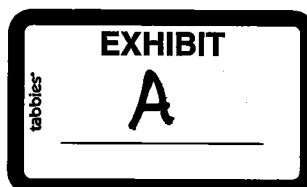
Sec. 22.07.001 Findings

The city council of the City of Lubbock has found and does find that:

(1) The City of Lubbock will provide drainage to protect the public health and safety in the service area from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff for all real property in the proposed service area on payment of drainage charges, except real property exempted under Sections 552.053 or 580.003 of the Texas Local Government Code; and

(2) The City of Lubbock will offer drainage service on nondiscriminatory, reasonable and equitable terms.

(3) The City of Lubbock shall prescribe an Impervious Area basis on which the municipal drainage utility system is funded, and fees in support of the system may be assessed, levied and collected. As it relates to this charge, Impervious Area is defined as a surface which has become compacted or covered with a layer of material to the extent that it is resistant to infiltration by water. Impervious Area includes, but is not limited to, compacted soils, graveled surfaces subject to motorized vehicular traffic, walkways, buildings, parking lots, pavement, and ingress/egress driveways. Impervious Area shall not include sidewalks located in the public right-of-way. For purposes of this definition a "walkway" is a pedestrian way in the interior of a lot or tract that is not located in the public right-of-way.



(4) The City of Lubbock shall establish a schedule of drainage charges against all non-exempt real property located in the proposed service area, based on classification of the property as Residential or Non-Residential.

For the purposes of this Article, the following terms are defined:

(a) Residential Property is a tract of real property, upon which is located as the primary structure, a one-family dwelling unit or a two-family dwelling unit, as those terms are defined in Section 40.01.003(58) and (59), including all impervious surfaces located on said real property.

(b) Non-Residential Property is a contiguous tract of real property under common ownership, and not Residential Property, except property exempt pursuant to Sections 552.053 or 580.003 of the Texas Local Government Code.

(5) As it relates to the requirements of Section 552.053 of the Texas Local Government Code, charges shall initiate:

(a) for Residential Property, at such time the City of Lubbock building official has completed all required inspections and approved the property for release; or

(b) for Non-Residential Property, at such time an original "Certificate of Occupancy" has been issued by the City of Lubbock pursuant to Article 28.06 of the Code of Ordinances.

SECTION 2. THAT Section 22.07.002 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Section 22.07.002 Adoption of state law; creation of utility

The provisions of Subchapter C of Chapter 552 of the Texas Local Government Code are hereby adopted by the City of Lubbock. The City of Lubbock shall have full authority to operate a municipal drainage utility system pursuant to Subchapter C, Chapter 552, Texas Local Government Code; Article 11, Section 5, of the Texas Constitution; and the charter of the City of Lubbock, Texas. The drainage of the city is hereby declared to be a public utility.

SECTION 3. THAT Section 22.07.005 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Sec. 22.07.005 Billing; delinquent charges; discontinuation of other service

(1) All billings, credits, exemptions and other procedures, including penalties for delinquent payments, shall be as specified in Chapter 552, Subchapter C, Texas Local Government Code.

(2) Penalties and procedures for collection as are used for other utility billings by the City of Lubbock, where not in conflict with Chapter 552, Subchapter C, Texas Local Government Code, are hereby adopted for use as rules of the municipal drainage utility.

(3) Pursuant to Texas Local Government Code, Section 552.050, failure by a user of the municipal utilities within the service area to pay the charges when due shall subject such user to discontinuance of any utility services provided by the municipality.

SECTION 4. THAT Section 22.07.006 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Sec. 22.07.006 Schedule of drainage charges

(1) Drainage charges shall be set in accordance with Texas Local Government Code, Section 552.047, and shall be based on classifications directly related to drainage on and from the property. Revenue collected from the Stormwater Utility will be used solely to provide drainage to real property located within the service area.

(2) Drainage charges shall be in accordance with a schedule of charges adopted by resolution of the city council following a public hearing, as required by Section 552.045 of the Texas Local Government Code. Said resolution shall be placed on file at the office of the city secretary following passage, and made available upon request to the public. Such charges may be changed, adjusted, or readjusted by city council resolution, as may be required, and a current copy of such drainage charges shall be kept available at the office of the city secretary.

SECTION 5. THAT Section 22.07.007 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Sec. 22.07.007 Disputes; Appeals

(1) All disputes in connection with this Article shall be brought initially, and within six (6) months from the date it is claimed that said dispute arose, to the city engineer or his designee for resolution, which decision shall be rendered within thirty (30) days after having received written notice of the dispute from the landowner. Matters which may be disputed and appealed include, but are not limited to, the following:

(a) ordinary billing and payment disputes;

(b) assessment of a stormwater utility fee to exempt property, or property outside the City's jurisdictional area;

(c) incorrect determination of a certain property's contribution of stormwater into the stormwater system;

(d) duplicate assessment of a stormwater utility fee on utility accounts.

(2) Any appeal of the city engineer's decision shall be brought within fifteen (15) days of the date of the city engineer's decision to the Water Board of Appeals for an

informal hearing and dispute resolution procedure used in other utility disputes by the City of Lubbock. The Water Board of Appeals shall render a written decision on such appeal within thirty (30) days after having received a written notice of appeal from the landowner. A decision of the Water Board of Appeals shall be final.

SECTION 6. THAT the formula and schedule of municipal drainage charges as set forth in Exhibit "I" to Ordinance No. 2011-O0080 is repealed in its entirety.

SECTION 7. THAT, unless otherwise provided herein, a violation of any provision of this Ordinance shall be deemed a misdemeanor punishable as provided by Section 1.01.004 of the Code of Ordinances of the City of Lubbock.

SECTION 8. THAT should any paragraph, section, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 9. THAT the City Secretary of the City of Lubbock is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

SECTION 10. THAT this Ordinance shall become effective, except as may otherwise be provided herein, from and after its publication as provided by law.

AND IT IS SO ORDERED.


Passed by the City Council on first reading this 4th day of September, 2014.

Passed by the City Council on second reading this 23rd day of October, 2014.



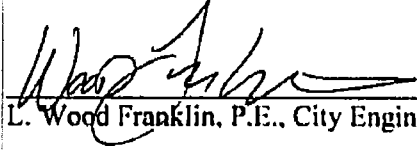
GLEN C. ROBERTSON, Mayor

ATTEST:



Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



L. Wood Franklin, P.E., City Engineer



Michael G. Keenum, P.E., Stormwater Engineer

APPROVED AS TO FORM:



Mitchell Satterwhite, First Assistant City Attorney

Ord. Stormwater Ord Amendment
8.25.14

Storm Water Overview

Mission and Purpose

To protect public health and safety through storm water management by working to reduce the risk of flooding, improve the overall drainage system, and preserve the water quality in playa lakes, ground water, and tributaries to the Brazos River. To accomplish this mission, the Storm Water Department provides the following services:

- Design and construct storm drainage systems that reduce the risk of flooding.
- Review and approve drainage plans and storm water pollution prevention plans ensuring proper planning, reducing the risk of flooding, and ensuring compliance with City codes and ordinances.
- Maintain storm sewers, storm water property, and easements.
- Perform routine street sweeping as part of the Municipal Separate Storm Sewer Systems (MS4) permit requirements.
- Perform routine inspections of construction sites and industrial facilities to ensure compliance with the City's MS4 permit.

Overview

The City's storm water run-off is primarily conveyed through the City's street system that discharges into more than 141 playa lakes. The subsurface drainage, via storm sewer pipes with curb inlets, conveys water to two small intermittent streams (Blackwater Draw and Yellowhouse Draw) which both converge at the upper reaches of the North Fork of the Brazos River.

The City's municipal separate storm sewer system (MS4) is made up of approximately 1,156 miles of paved and unpaved streets, 559 linear miles of paved and unpaved alleys, 1,239 storm sewer inlets, 93 miles of subsurface storm sewer pipe, six detention basins, 141 playa lakes, and one pump station. Maintenance of all of the storm sewers, including street cleaning is funded through storm water fees.

A primary focus of the Storm Water Utility is the Northwest Lubbock Drainage Improvements Project. The project will add six additional playa lakes to a new drainage system to help reduce the risk of flooding in the northwest region of Lubbock. Another major focus is on continued compliance with both the City's MS4 Permit and the comprehensive Storm Water Ordinance.

The Storm Water Utility also focused on implementing a new rate structure that went into effect in FY 2014-15. As a result of the Storm Water Rate Ad Hoc Committee's recommendation to City Council, the decision has been made to move towards a more equitable rate structure based on impervious surface area.

Goals and Objectives

- Review drainage plans from the development community in a timely manner.
- Comply with the MS4 permit by maintaining partnerships with Texas Tech University, Texas Department of Transportation, contractors, and citizens.
- Evaluate and monitor the drainage system within the City for potential problems and effective solutions.
- Increase awareness and public education about illicit discharge and general storm water matters and enforce guidelines of the Storm Water Ordinance.

Accomplishments for FY 2013-14

- Completed Phase 1 construction of the Northwest Lubbock Drainage Project.
- Completed cut and fill work on Playa Lake 37 at McAlister Park.
- Completed video inspection project for storm sewers within the City.
- Completed work to launch new rate structure for storm water utility fees.
- Removed 21 tons of material from storm sewer inlets in accordance with the MS4 permit.
- Completed maintenance of 8.8 percent of City streets, including concrete and asphalt repairs, micro-surfacing, in-house remove and relay program, and the asphalt rejuvenator program.

Objectives for FY 2014-15

- Begin Phase 2 of construction on the Northwest Lubbock Drainage Improvements Project to tie into Maxey Park Lake.
- Begin development of Storm Water Master Plan.
- Begin FEMA Restudy for Systems B, C, and D that have been positively impacted by construction completion of the Northwest Drainage Project to include the Arnett-Benson neighborhood.
- Increase street maintenance on City streets.
- Continue repair and replacement of storm sewer inlets.
- Continue implementation of the residential street sweeping program.
- Continue the inlet cleaning program in accordance with the MS4 permit.

Financial Condition

Adjusting for accounts payable, other current liabilities, and restricted cash at September 30, 2013, Storm Water has \$2,653,288 in net assets. The amount of net assets on September 30, 2014, is expected to be \$2,592,254. The Storm Water fund is required, by policy, to have 15% of revenue set aside as a reserve. The fund is forecast to be below policy level net assets at September 30, 2014.



Storm Water Overview

Current Assets at September 30, 2013	\$ 2,671,001
Less: Accounts Payable and Accrued Liabilities	<u>(2,579,248)</u>
Net Current Assets	91,753

Cashflow Calculations

Current Assets Less Current Liabilities	91,753
Less: Negative Unrestricted	(304,538)
Add: Restricted Cash reserved for Debt Service	<u>2,866,073</u>
Total Available Cash at September 30, 2013	<u>\$ 2,653,288</u>

FY 2013-14 Budget Forecast:

Operating Revenues	\$ 19,225,026
Non-Operating Revenues	25,000
Less: Expenses	<u>(19,311,060)</u>
Forecast Addition to Net Current Assets	<u>(61,034)</u>

Total Available Cash by September 30, 2014 2,592,254

Estimated September 30, 2014

Target Net Assets Policy	15.00%
Target Net Assets by Policy	<u>\$ 2,883,754</u>
Available for Appropriation at September 30, 2014	<u>\$ (291,500)</u>

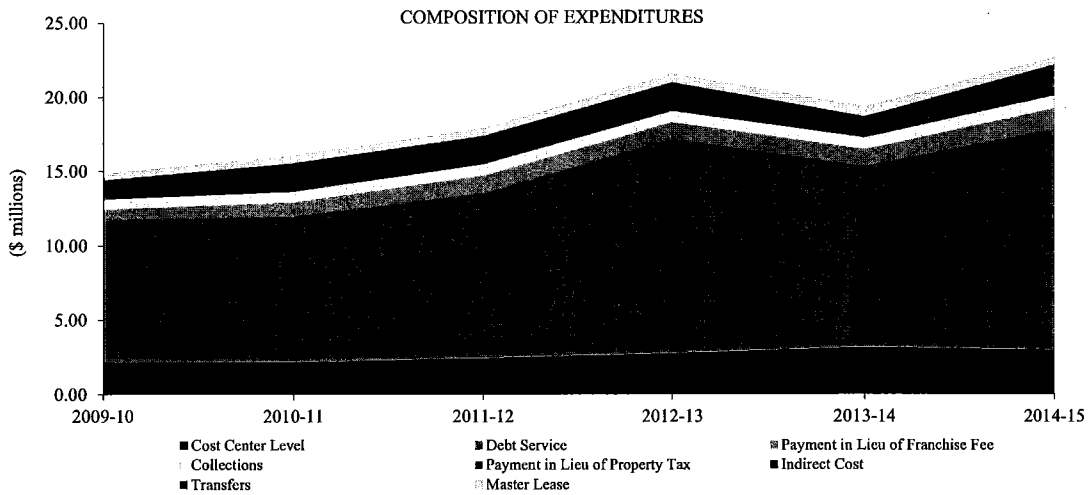
Revenue Overview

- A new tiered rate structure has been developed for Storm Water that is based upon impervious surface area rather than number of water meters.
- Total revenues increased \$4,686,577, or 24.3 percent, for FY 2014-15.

Expense Overview

- Budgeted expenditures increased \$3,347,995, or 17.4 percent, for FY 2014-15.
- Compensation and benefits increased \$194,160, or 9.8 percent, due to an approved cost-of-living adjustment in the prior year and the current year compensation study.
- The transfer to the Debt Service Fund increased \$2,641,336, or 99.0 percent, due to General Fund funding a portion of the street maintenance debt service in FY 2013-14.
- The indirect cost allocation increased \$103,628, or 81.5 percent.
- The transfer in lieu of property tax to the General Fund increased \$168,322, or 25.2 percent.
- The cost of business transfer to the General Fund increased \$276,694, or 24.2 percent, due to an increase in revenues.
- The transfer to Lubbock Power and Light increased \$43,338, or 5.6 percent, for billing and collection costs.

Enterprise Fund - Storm Water Utility



	Actual FY 2010-11	Actual FY 2011-12	Actual FY 2012-13	Amended FY 2013-14	Budget FY 2014-15	% Change from Amended
STAFFING						
Stormwater Utility	10	10	11	12	13	1
Street Cleaning	15	15	15	15	15	-
Storm Sewer Maintenance	9	10	10	10	10	-
TOTAL STAFFING	34	35	36	37	38	1

	Actual FY 2010-11	Actual FY 2011-12	Actual FY 2012-13	Amended FY 2013-14	Budget FY 2014-15	% Change from Amended
PERFORMANCE MEASURES						
No. of drainage plans reviewed	39	36	45	45	45	-
Construction site inspections	4,916	5,720	7,691	7,700	7,700	-
Storm water plans reviewed	522	641	912	925	925	-
Storm sewer inlet debris removal	80	37	20	21	20	(4.8)
Total lane miles swept	29,460	21,470	20,899	22,799	21,725	(4.7)
Industrial site inspections	118	142	124	145	145	-

Storm Water Utility - Fund Overview

	Actual	Actual	Actual	Amended	Budget	% Change
FUNDING SOURCES	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Interest Earnings	\$ 2,232	17,755	(31,835)	-	-	-
Department Operations	16,327,760	19,139,971	19,397,384	19,238,946	23,925,523	24.4
Transfer from Other Funds	-	-	-	-	-	-
Miscellaneous	161,091	594,804	2,824,063	25,000	25,000	-
Total Revenue Sources	16,491,083	19,752,531	22,189,612	19,263,946	23,950,523	24.3
Utilization of Net Assets	-	-	-	28,188	-	(100.0)
TOTAL FUNDING SOURCES	\$ 16,491,083	19,752,531	22,189,612	19,292,134	23,950,523	24.1

	Actual	Actual	Actual	Amended	Budget	% Change
DEPARTMENT LEVEL EXPENSES	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Compensation	\$ 1,083,654	1,153,053	1,221,096	1,260,311	1,402,691	11.3
Benefits	515,179	663,337	673,296	720,289	772,069	7.2
Supplies	159,832	171,827	190,273	205,842	209,065	1.6
Maintenance	251,890	276,628	304,038	326,633	313,883	(3.9)
Professional Services/Training	29,052	23,019	174,730	478,100	121,400	(74.6)
Other Charges	40,750	34,976	63,517	59,168	33,000	(44.2)
Scheduled Charges	85,934	107,019	115,736	106,006	94,705	(10.7)
Capital Outlay/Reimbursements	-	-	1,555	-	-	-
TOTAL DEPARTMENT LEVEL EXPENSES	\$ 2,166,291	2,429,859	2,744,241	3,156,348	2,946,813	(6.6)

FUND LEVEL EXPENSES						
Debt Service	\$ 6,611,054	6,800,224	9,092,139	9,459,688	9,530,461	0.7
Transfer to Debt Service Fund	3,189,131	4,279,631	5,321,023	2,668,239	5,309,575	99.0
Master Lease	492,657	506,382	548,859	642,493	480,407	(25.2)
Indirect Cost Allocation	148,959	115,353	110,646	127,201	230,829	81.5
Transfer Payment In Lieu of Property Tax	539,623	557,258	612,104	668,900	837,222	25.2
Transfer Payment In Lieu of Franchise Fee	963,110	1,212,869	1,139,519	1,155,837	1,435,531	24.2
Transfer to Storm Water Capital	750,000	1,000,000	750,000	350,000	750,000	114.3
Transfer to LP&L - Collections	689,358	714,797	714,797	779,108	822,446	5.6
Transfer to General Fund	260,193	267,998	276,038	284,320	292,850	3.0
Transfer to General Fund Capital	250,000	-	220,000	-	-	-
Miscellaneous	9,194	8,026	93,960	-	3,996	-
TOTAL FUND LEVEL EXPENSES	13,903,279	15,462,537	18,879,085	16,135,786	19,693,317	22.0
TOTAL EXPENSES	\$ 16,069,570	17,892,397	21,623,326	19,292,134	22,640,129	17.4

Storm Water Utility - Rate Model

FUNDING SOURCES	Budget		Forecast			
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Interest Earnings	\$ -	9,757	11,701	22,371	22,003	19,619
Department Operations	23,925,523	25,636,597	25,892,812	24,963,571	25,213,056	24,253,139
Transfer from Other Funds	-	-	-	-	-	-
Miscellaneous	25,000	25,000	25,000	25,000	25,000	25,000
Total Revenue Sources	23,950,523	25,671,353	25,929,513	25,010,942	25,260,060	24,297,758
Use of Net Assets	-	-	206,072	73,601	476,749	-
TOTAL FUNDING SOURCES	\$ 23,950,523	25,671,353	26,135,585	25,084,544	25,736,809	24,297,758

DEPARTMENT LEVEL EXPENSES	Budget		Forecast			
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Compensation	\$ 1,402,691	1,430,745	1,459,360	1,488,547	1,518,318	1,548,684
Benefits	772,069	817,384	866,593	920,071	978,234	1,041,537
Supplies	209,065	213,246	217,511	221,862	226,299	230,825
Maintenance	313,883	320,160	326,564	333,095	339,757	346,552
Other Charges	249,105	172,444	175,893	179,411	182,999	186,659
Capital Outlay/Reimbursements	-	-	-	-	-	-
TOTAL DEPARTMENT LEVEL EXPENSES	\$ 2,946,813	2,953,980	3,045,920	3,142,986	3,245,607	3,354,257

FUND LEVEL EXPENSES	Budget		Forecast			
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Net Debt Service	\$ 9,530,461	10,970,887	12,039,045	12,297,901	13,034,766	12,714,085
Transfer to Debt Service	5,309,575	5,303,870	5,308,446	5,309,594	4,237,029	3,174,598
Master Lease	480,407	473,787	468,052	446,080	394,749	252,388
Indirect Cost Allocation	230,829	237,754	244,886	252,233	259,800	267,594
Payment In Lieu of Property Tax	837,222	862,339	888,209	914,855	942,301	970,570
Utility - Cost of Business	1,435,531	1,538,196	1,553,569	1,497,814	1,512,783	1,455,188
Transfer to LP&L - Collections	822,446	847,119	872,533	898,709	925,670	953,440
Transfer to Storm Water CIP	750,000	1,400,000	1,400,000	-	850,000	-
Transfer to General Fund	292,850	301,635	310,684	320,005	329,605	339,493
Miscellaneous	3,996	4,116	4,239	4,367	4,498	4,632
TOTAL FUND LEVEL EXPENSES	\$ 19,693,317	21,939,703	23,089,664	21,941,558	22,491,201	20,131,989
TOTAL EXPENSES	\$ 22,640,129	24,893,683	26,135,585	25,084,544	25,736,809	23,486,247

APPROPRIABLE NET ASSETS	Reforecasted	Budget		Forecast			
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Net Assets	\$ 2,592,254	3,902,648	4,680,318	4,474,246	4,400,644	3,923,895	4,735,406
Less: Net Asset Reserve Policy	(2,883,754)	(3,588,828)	(3,845,489)	(3,883,922)	(3,744,536)	(3,781,958)	(3,637,971)
TOTAL APPROPRIABLE NET ASSETS	(291,500)	313,819	834,828	590,324	656,109	141,937	1,097,436

Proposed Rate Structure Changes

Residential Rate Structure

Residential Rate - Monthly (Tier 1)	\$ 14.00	8.80	8.80	8.80	8.40	8.40	8.00
Residential Rate - Monthly (Tier 2)		13.48	13.48	13.48	12.86	12.86	12.25
Residential Rate - Monthly (Tier 3)		17.05	17.05	17.05	16.28	16.28	15.50
Residential Rate - Monthly (Tier 4)		25.58	25.58	25.58	24.41	24.41	23.25

Commercial Rate Structure

Commercial Rate - Monthly	92.92	25.58	25.58	25.58	24.41	24.41	23.25
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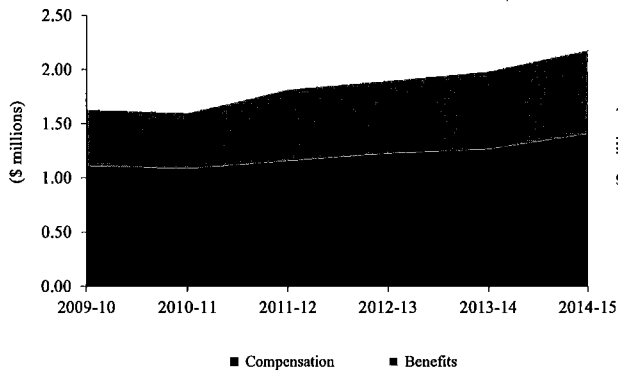
*per Equivalent Residential Unit as of 2014-15

Assumptions

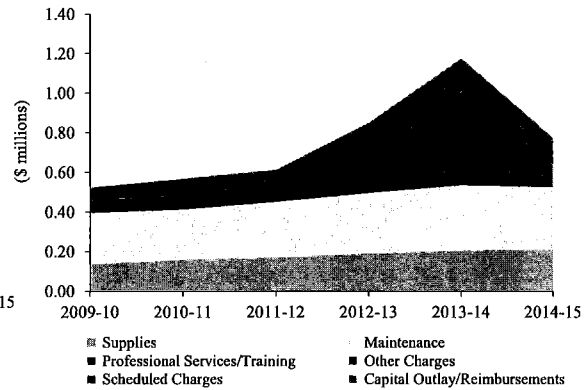
1. FY 2013-14 rate is a flat monthly charge per meter. Beginning in FY 2014-15, the rate is based upon impervious surface area.
2. The estimated growth of expenditures is forecasted at 2-3% unless trends indicate otherwise.
3. The proposed rate structure incorporated in this model is subject to change depending on many variables. Some of these variables may include: interest rates, commodity prices, inflation rates, and changes in the cost or priority of capital projects.

Storm Water Utility - Department Overview

COMPENSATION & BENEFITS HISTORY



COMPOSITION OF EXPENDITURES



	Actual	Actual	Actual	Amended	Budget	% Change
EXPENDITURES BY CATEGORY	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Compensation	\$ 1,083,654	1,153,053	1,221,096	1,260,311	1,402,691	11.3
Benefits	515,179	663,337	673,296	720,289	772,069	7.2
Supplies	159,832	171,827	190,273	205,842	209,065	1.6
Maintenance	251,890	276,628	304,038	326,633	313,883	(3.9)
Professional Services/Training	29,052	23,019	174,730	478,100	121,400	(74.6)
Other Charges	40,750	34,976	63,517	59,168	33,000	(44.2)
Scheduled Charges	85,934	107,019	115,736	106,006	94,705	(10.7)
Capital Outlay/Reimbursements	-	-	1,555	-	-	-
TOTAL EXPENDITURES BY CATEGORY	\$ 2,166,291	2,429,859	2,744,241	3,156,348	2,946,813	(6.6)

	Actual	Actual	Actual	Amended	Budget	% Change
EXPENDITURES BY DEPARTMENT	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Stormwater Utility	\$ 858,466	831,830	1,149,579	1,362,094	1,138,860	(16.4)
Street Cleaning	865,793	994,168	1,042,782	1,092,030	1,101,454	0.9
Storm Sewer Maintenance	442,032	603,861	551,880	702,223	706,499	0.6
TOTAL EXPENDITURES BY DEPARTMENT	\$ 2,166,291	2,429,859	2,744,241	3,156,348	2,946,813	(6.6)

Storm Water Utility - Department Expenditures

Stormwater Utility	Actual	Actual	Actual	Amended	Budget	% Change
EXPENDITURES BY CATEGORY	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Compensation	\$ 489,722	450,787	541,479	490,027	585,916	19.6
Benefits	196,914	225,002	264,070	250,002	291,468	16.6
Supplies	21,411	20,111	20,349	20,546	25,121	22.3
Maintenance	34,495	21,916	29,991	30,749	30,052	(2.3)
Professional Services/Training	12,055	10,136	149,072	464,000	107,600	(76.8)
Other Charges	40,750	34,976	63,517	33,000	33,000	-
Scheduled Charges	63,118	68,903	79,547	73,770	65,703	(10.9)
Capital Outlay/Reimbursements	-	-	1,555	-	-	-
TOTAL STORMWATER UTILITY	\$ 858,466	831,830	1,149,579	1,362,094	1,138,860	(16.4)

Street Cleaning

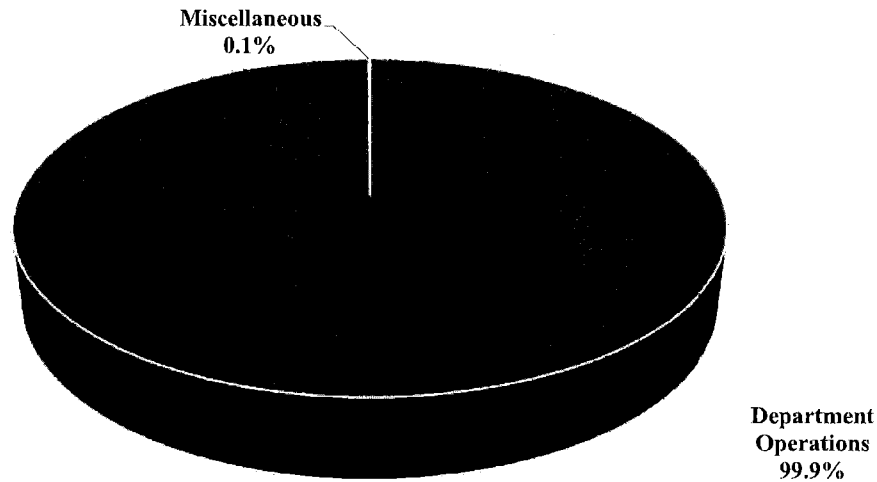
EXPENDITURES BY CATEGORY						
Compensation	\$ 390,620	435,539	452,558	470,946	498,950	5.9
Benefits	210,901	268,981	272,752	284,626	288,651	1.4
Supplies	88,366	94,299	103,715	113,436	109,014	(3.9)
Maintenance	162,973	176,599	195,845	198,478	189,752	(4.4)
Professional Services/Training	893	1,025	1,115	1,600	1,300	(18.8)
Other Charges	-	-	-	7,968	-	(100.0)
Scheduled Charges	12,039	17,725	16,796	14,976	13,787	(7.9)
Capital Outlay/Reimbursements	-	-	-	-	-	-
TOTAL STREET CLEANING	\$ 865,793	994,168	1,042,782	1,092,030	1,101,454	0.9

Storm Sewer Maintenance

EXPENDITURES BY CATEGORY						
Compensation	\$ 203,311	266,727	227,058	299,337	317,824	6.2
Benefits	107,364	169,354	136,475	185,661	191,950	3.4
Supplies	50,056	57,417	66,208	71,860	74,931	4.3
Maintenance	54,421	78,113	78,202	97,406	94,079	(3.4)
Professional Services/Training	16,104	11,858	24,543	12,500	12,500	-
Other Charges	-	-	-	18,200	-	(100.0)
Scheduled Charges	10,776	20,392	19,393	17,260	15,215	(11.8)
Capital Outlay/Reimbursements	-	-	-	-	-	-
TOTAL STORM SEWER MAINTENANCE	\$ 442,032	603,861	551,880	702,223	706,499	0.6

Storm Water Fund Revenue Analysis

FUNDING SOURCES	Actual FY 2010-11	Actual FY 2011-12	Actual FY 2012-13	Amended FY 2013-14	Budget FY 2014-15
Interest Earnings	\$ 2,232	17,755	(31,835)	-	-
Department Operations	16,327,760	19,139,971	19,397,384	19,238,946	23,925,523
Miscellaneous	161,091	594,804	2,824,063	25,000	25,000
Total Revenue Sources	\$ 16,491,083	19,752,531	22,189,612	19,263,946	23,950,523
Utilization of Net Assets	-	-	-	28,188	-
TOTAL FUNDING SOURCES	\$ 16,491,083	19,752,531	22,189,612	19,292,134	23,950,523



The Storm Water Fee generates the majority of the revenue for the fund's department operations, which accounts for almost entirely all revenue in the Storm Water Fund. The projected revenue for FY 2014-15 is determined by the number of water meters during the first fiscal quarter but incorporates a new tiered rate structure based upon impervious surface area thereafter. The Storm Water Fund utilizes a long-term model with an annual growth factor of one percent increase in residential properties and commercial Equivalent Residential Unit (ERU). Additional revenue from operations is derived through storm water plan reviews in conjunction with new construction activity, mobile car wash permits, and sales of the City's Drainage Criteria Manual and Master Drainage Plan (MDP). Historical trends and economic data are analyzed when estimating these revenues. Miscellaneous revenue is derived from the sale of equipment and is projected based upon expectant equipment sales.

Storm Water Fund Line Item Funding Source Summary

FUNDING SOURCES	Account	Actual	Actual	Actual	Re-Forecasted	Budget	% Change
	Number	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Interest on Investments	6802	\$ 2,232	17,755	(31,835)	-	-	-
Miscellaneous	7011	-	146	-	-	-	-
Book Sales	7691	340	-	50	170	170	-
Mobile Wash Permits	7695	2,700	2,775	1,925	2,500	2,500	-
Sale of Equipment	7104	94,370	83,457	183,854	25,000	25,000	-
Contribution from Developers	7425	56,594	498,817	2,621,659	-	-	-
Storm Water Plan Review	7697	7,087	9,610	11,085	11,250	12,500	11.1
Subrogation	7510	-	-	5,490	-	-	-
General Consumer Metered	7523	16,327,760	19,139,971	19,397,384	19,225,026	23,910,353	24.4
Workshop Revenue	7699	-	-	-	-	-	-
Transfer from Storm Water Capital Projects	7988	-	-	-	-	-	-
TOTAL REVENUE SOURCES		\$ 16,491,083	19,752,531	22,189,612	19,263,946	23,950,523	24.3

Summary of Storm Water Fund Fee Changes

ACCOUNT DESCRIPTION	Account	Rate	Actual	Actual	Actual	Amended	Adopted	% Change
	Number	Details	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
General Consumer Metered	7523	New Rate Structure with FY 2014-15 Budget						
		Old Rate Structure						
		Monthly Residential Rate	\$ 12.00	14.00	14.00	14.00	-	-
		Monthly Commercial Rate	79.65	92.92	92.92	92.92	-	-
		New Rate Structure with FY 2014-15 Budget						
		Monthly Residential Rate (Tier 1)	-	-	-	-	8.80	-
		Monthly Residential Rate (Tier 2)	-	-	-	-	13.48	-
		Monthly Residential Rate (Tier 3)	-	-	-	-	17.05	-
		Monthly Residential Rate (Tier 4)	-	-	-	-	25.58	-
		Commercial Monthly Rate per ERU*	-	-	-	-	25.58	-
		*Equivalent Residential Unit - 5700 sf						

Streets Overview

Mission and Purpose

Maintain and repair paved streets, City facility parking lots, and alleys to improve the safety of the driving public. The Streets Department provides the following services:

- Assess and grade unpaved streets and alleys on a regular basis.
- Treat roads with salt during ice and snow events.
- Maintain and repair concrete alleys and valley gutters.
- Provide street maintenance on approximately 9 percent of paved streets with the street maintenance program, a program funded from the Storm Water Utility Fee.
- Provide maintenance and repair to City parking lots.
- Provide assistance in base failure, utility cut repair, and construction projects for City departments.
- Prevent accelerated deterioration of paved streets by ensuring they are acceptably clean.
- Ensure that storm sewer inlets and lines are effectively cleaned and maintained ensuring proper functioning of the system.

Goals and Objectives

- Maintain and repair paved streets, alleys, and City facility parking lots and roads.
- Perform street maintenance on paved streets.
- Perform street repair and patching for utility cuts.
- Maintain and repair unpaved streets, alleys, concrete streets, and valley gutters.
- Construct ADA ramps as requested.
- Clean streets of debris.
- Respond to emergencies: snow, ice, and flooding.
- Provide barricades for special events and by request of other departments.
- Clean, repair, and perform maintenance of storm sewer inlets and drain pipes.

Accomplishments for FY 2013-14

- Completed proactive maintenance of 8.8 percent of City streets through concrete and asphalt repairs, micro-resurfacing, in-house removal and relay, and asphalt rejuvenation.
- Utilized rock crusher to recycle approximately 5,500 tons of asphalt and concrete for the stabilization of alleys.

- Removed and re-laid 15.9 lane miles of residential streets.
- Implemented a comprehensive and sustainable equipment replacement schedule.
- Patched more than 72,000 square feet of potholes and 12,853 square yards of base failures and utility cuts.
- Bladed 464 miles of unpaved streets and 1,640 miles of alleys.
- Swept 22,799 lane miles of streets and picked up 20,542 cubic yards of debris.
- Stabilized or rebuilt 218,240 square yards of unpaved alleys.
- Cleaned 3,713 drain inlets and removed 21 tons of debris.
- Cross-training was implemented between the Water and Street Customer Service Representatives.
- Combined the Street and Water Department office personnel in a central location.

Objectives for FY 2014-15

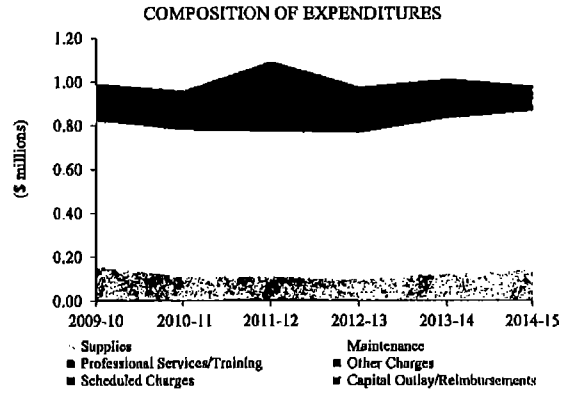
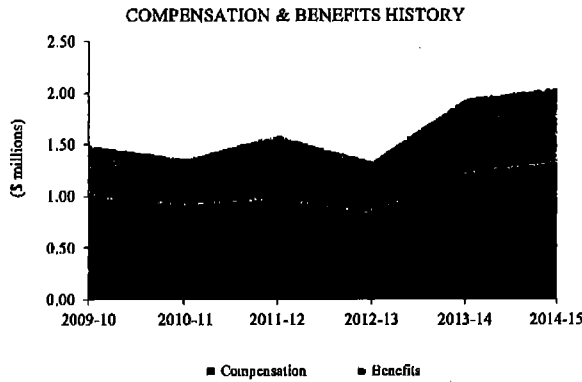
- Increase proactive street maintenance on City streets.
- Stabilize or rebuild 170,000 square yards of unpaved alleys.
- Complete citywide street inventory using the Infrastructure Maintenance Management Program software.
- Implement repair of the brick streets in the downtown area.

Expenditure Overview

- Total budgeted expenditures increased \$74,201, or 2.5 percent, when compared with the FY 2013-14 Operating Budget.
- Supplies increased \$19,700, or 15.8 percent, due to the projected increase in the cost of fuel.
- Maintenance increased \$14,263, or 2.0 percent, due mainly to the rising cost of materials for maintaining city streets.
- Scheduled charges decreased \$55,598, or 33.2 percent, due to a decrease in the data processing service charges.



Streets Overview



EXPENDITURES BY CATEGORY	Actual	Actual	Actual	Amended	Budget	% Change
	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Compensation	\$ 912,904	965,870	834,667	1,216,344	1,311,134	7.8
Benefits	450,121	628,182	504,490	725,968	736,391	1.4
Supplies	112,709	112,468	100,605	124,481	144,181	15.8
Maintenance	665,169	659,220	664,905	707,567	721,830	2.0
Professional Services/Training	8,782	134,983	5,204	6,090	6,090	-
Other Charges	10,869	11,105	10,874	9,378	-	(100.0)
Scheduled Charges	163,308	179,188	197,530	167,271	111,673	(33.2)
Capital Outlay/Reimbursements	-	-	-	-	-	-
TOTAL EXPENDITURES BY CATEGORY	\$ 2,323,862	2,691,015	2,318,275	2,957,098	3,031,299	2.5

STAFFING	Actual	Actual	Actual	Amended	Budget	Change
	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Public Works - Streets	37	36	36	36	36	-
TOTAL STAFFING	37	36	36	36	36	-

PERFORMANCE MEASURES	Actual	Actual	Actual	Amended	Budget	% Change
	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	from Amended
Base failures/utility cut repairs (Sq. Yds.)	44,835	10,206	11,764	12,853	12,310	(4.2)
Lane miles of paved streets	3,023	3,023	3,023	3,023	3,023	-
In-house remove and relay program	194,000	111,604	111,739	120,500	125,000	3.7
Asphalt Rejuvenator (Residential)	474,877	463,612	476,186	462,190	465,500	0.7
Micro-Surfacing	1,669,030	1,676,282	1,649,567	1,097,348	1,500,500	36.7

Storm Water Overview

Mission and Purpose

To protect public health and safety through storm water management by working to reduce the risk of flooding, improve the overall drainage system, and preserve the water quality in playa lakes, ground water, and tributaries to the Brazos River. To accomplish this mission, the Storm Water Department provides the following services:

- Design and construct storm drainage systems that reduce the risk of flooding.
- Review and approve drainage plans and storm water pollution prevention plans ensuring proper planning, reducing the risk of flooding, and ensuring compliance with City codes and ordinances.
- Maintain storm sewers, storm water property, and easements.
- Perform routine street sweeping as part of the Municipal Separate Storm Sewer Systems (MS4) permit requirements.
- Perform routine inspections of construction sites and industrial facilities to ensure compliance with the City's MS4 permit.

Overview

The City's storm water run-off is primarily conveyed through the City's street system that discharges into more than 141 playa lakes. The subsurface drainage, via storm sewer pipes with curb inlets, conveys water to two small intermittent streams (Blackwater Draw and Yellowhouse Draw) which both converge at the upper reaches of the North Fork of the Brazos River.

The City's municipal separate storm sewer system (MS4) is made up of approximately 1,161 miles of paved and unpaved streets, 559 linear miles of paved and unpaved alleys, 1,239 storm sewer inlets, 93 miles of subsurface storm sewer pipe, six detention basins, 141 playa lakes, and one pump station. Maintenance of all of the storm sewers, including street cleaning is funded through storm water fees.

A primary focus of the Storm Water Utility is the on implementation of the new rate structure that went into effect January 2015.

Another focus has been on the new Storm Water Master Plan that began in April 2015. That plan will help to revise the Drainage Criteria Manual and update the existing drainage plans throughout the City. It will ultimately take a proactive look at problem areas and prioritize future projects as the City continues to grow and expand.

Another major focus is on continued compliance with both the City's MS4 Permit and the comprehensive Storm Water Ordinance.

Goals and Objectives

- Review drainage plans from the development community in a timely manner.
- Comply with the MS4 permit by maintaining partnerships with Texas Tech University, Texas Department of Transportation, contractors, and citizens.
- Evaluate and monitor the drainage system within the City for potential problems and effective solutions.
- Increase awareness and public education about illicit discharge and general storm water matters and enforce guidelines of the Storm Water Ordinance.

Accomplishments for FY 2014-15

- Completed Phase 1 construction of the Northwest Lubbock Drainage Project.
- Began development of Storm Water Master Plan.
- Completed work to launch new rate structure for storm water utility fees.
- Removed 14 tons of material from storm sewer inlets in accordance with the MS4 permit.

Objectives for FY 2015-16

- Begin FEMA Restudy for Systems B, C, and D that have been positively impacted by construction completion of the Northwest Drainage Project to include the Arnett-Benson neighborhood.
- Continue repair and replacement of storm sewer inlets.
- Continue the residential street sweeping program to give the City an overall clean appearance and prevent debris from entering and blocking the storm drainage system.
- Continue the inlet cleaning program in accordance with the MS4 permit.

Financial Condition

Adjusting for accounts payable, other current liabilities, and restricted cash at September 30, 2014, Storm Water has \$4,014,778 in net position. The amount on September 30, 2015, is expected to be \$4,174,039. The Storm Water fund is required, by policy, to have 15 percent of revenue set aside as a reserve. The fund is forecast to have a reserve surplus of \$753,305 at September 30, 2015.



Storm Water Overview

Current Assets at September 30, 2014	\$ 1,667,831
Less: Accounts Payable and Accrued Liabilities	(680,062)
Net Current Assets	987,769
Cashflow Calculations	
Current Assets Less Current Liabilities	987,769
Less: Negative Unrestricted	-
Add: Restricted Cash reserved for Debt Service	3,027,009
Total Available Cash at September 30, 2014	<u>\$ 4,014,778</u>
FY 2014-15 Budget Forecast:	
Operating Revenues	\$22,804,891
Non-Operating Revenues	25,000
Less: Expenses	(22,670,630)
Forecast Addition to Net Current Assets	<u>159,261</u>
Total Available Cash by September 30, 2015	4,174,039
Estimated September 30, 2015	
Target Net Position Policy	15.00%
Target Net Position by Policy	\$ 3,420,734
Available for Appropriation at September 30, 2015	<u>\$ 753,305</u>

Revenue Overview

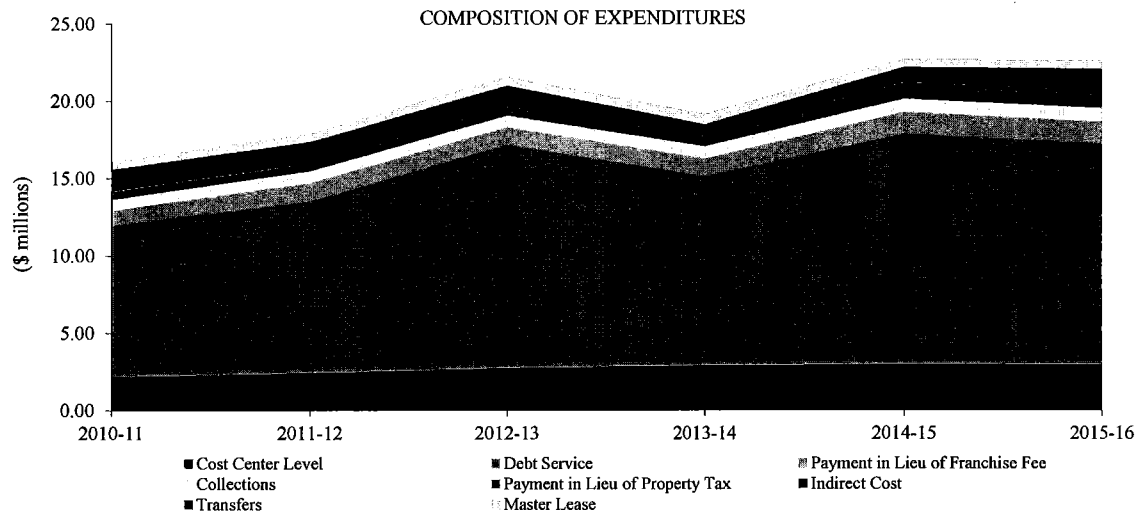
- Total revenues decreased \$598,106, or 2.5 percent, based upon historical revenues from the tiered rate structure implemented during FY 2014-15.

Expense Overview

- Total expenditures decreased \$18,849, or 0.1 percent, when compared with the FY 2014-15 Operating Budget.
- Compensation and benefits increased \$17,776, or 0.8 percent, due to the transference of employee dental insurance coverage costs to a departmental obligation.
- Supplies decreased \$40,804, or 19.5 percent, due to a projected decrease in the per gallon price of diesel and unleaded fuel.

- Maintenance increased \$19,441, or 6.2 percent, due to an increase in the Radio Shop scheduled charge resulting from an upgrade to P25-compliant communications network infrastructure and equipment.
- Professional services and training decreased \$11,370, or 9.4 percent, due to reallocating costs related to contracted services for mowing right-of-way areas.
- Scheduled charges increased \$8,737, or 9.2 percent, due to an increase in the data processing charge, which was offset slightly by a lowered cost for liability insurance.
- The transfer to debt service decreased \$569,331, or 6.0 percent, due to savings from refunding prior bonds.
- The Master Lease payment increased \$66,249, or 13.8 percent, due to scheduled payments from prior year equipment and vehicle purchases.
- The indirect cost allocation decreased \$22,245, or 9.6 percent.
- The transfer payment in lieu of property tax increased \$84,231, or 10.2 percent, due to a higher tax rate.
- The transfer payment in lieu of franchise fee decreased \$35,886, or 2.5 percent, due to a decrease in total revenue. The amount budgeted is equal to 6 percent of revenue from department operations.
- The transfer to Storm Water capital increased \$400,000, or 53.3 percent, due to funding proposed capital projects with cash in lieu of issuing debt.
- The transfer to Lubbock Power and Light (LP&L) for costs related to consumer billing increased \$40,633, or 4.9 percent.

Enterprise Fund - Storm Water Utility



	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Amended FY 2014-15	Budget FY 2015-16	% Change from Amended
STAFFING						
Stormwater Utility	10	11	12	13	13	-
Street Cleaning	15	15	15	15	15	-
Storm Sewer Maintenance	10	10	10	10	10	-
TOTAL STAFFING	35	36	37	38	38	-

	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Amended FY 2014-15	Budget FY 2015-16	% Change from Amended
PERFORMANCE MEASURES						
No. of drainage plans reviewed	36	45	40	40	40	-
Construction site inspections	5,720	7,691	8,754	9,900	9,950	0.5
Storm water plans reviewed	641	912	975	840	850	1.2
Storm sewer inlet debris removal	37	20	14	20	20	-
Total lane miles swept	21,470	20,899	15,485	19,000	19,000	-
Industrial site inspections	142	124	189	180	185	2.8

Storm Water Utility - Fund Overview

	Actual	Actual	Actual	Amended	Budget	% Change
FUNDING SOURCES	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	from Amended
Interest Earnings	\$ 17,755	(31,835)	2,714	-	-	-
Department Operations	19,139,971	19,397,384	19,742,584	23,925,523	23,327,417	(2.5)
Transfer from Other Funds	-	-	-	-	-	-
Miscellaneous	594,659	2,824,063	2,042,144	25,000	25,000	-
Total Revenue Sources	19,752,385	22,189,612	21,787,442	23,950,523	23,352,417	(2.5)
Utilization of Net Assets	-	-	-	-	-	-
TOTAL FUNDING SOURCES	\$ 19,752,385	22,189,612	21,787,442	23,950,523	23,352,417	(2.5)

	Actual	Actual	Actual	Amended	Budget	% Change
DEPARTMENT LEVEL EXPENSES	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	from Amended
Compensation	\$ 1,153,053	1,221,096	1,174,342	1,402,691	1,407,711	0.4
Benefits	663,337	673,296	642,844	772,069	784,825	1.7
Supplies	171,827	190,273	175,821	209,065	168,261	(19.5)
Maintenance	276,628	304,038	324,745	313,883	333,323	6.2
Professional Services/Training	23,019	174,730	413,046	121,400	110,030	(9.4)
Other Charges	34,976	63,517	57,434	33,000	33,000	-
Scheduled Charges	107,019	115,736	106,006	94,705	103,443	9.2
Capital Outlay/Reimbursements	-	1,555	14,305	30,500	-	(100.0)
TOTAL DEPARTMENT LEVEL EXPENSES	\$ 2,429,859	2,744,241	2,908,544	2,977,313	2,940,593	(1.2)

FUND LEVEL EXPENSES						
Debt Service	\$ 6,800,224	9,092,139	9,519,295	9,530,461	8,961,130	(6.0)
Transfer to Debt Service Fund	4,279,631	5,321,023	2,668,239	5,309,575	5,303,870	(0.1)
Master Lease	506,382	548,859	659,841	480,407	546,656	13.8
Indirect Cost Allocation	115,353	110,646	127,201	230,829	208,584	(9.6)
Transfer Payment In Lieu of Property Tax	557,258	612,104	668,900	825,949	910,180	10.2
Transfer Payment In Lieu of Franchise Fee	1,212,869	1,139,519	1,155,837	1,435,531	1,399,645	(2.5)
Transfer to Storm Water Capital	1,000,000	750,000	350,000	750,000	1,150,000	53.3
Transfer to LP&L - Collections	714,797	714,797	779,108	822,446	863,079	4.9
Transfer to General Fund	267,998	276,038	284,320	292,850	301,635	3.0
Transfer to General Fund Capital	-	220,000	-	-	-	-
Miscellaneous	8,026	93,960	64,400	3,996	3,281	(17.9)
TOTAL FUND LEVEL EXPENSES	15,462,537	18,879,085	16,277,141	19,682,044	19,648,060	(0.2)
Compensation Adjustment					51,854	
TOTAL EXPENSES	\$ 17,892,397	21,623,326	19,185,685	22,659,356	22,640,507	(0.1)

Storm Water Utility - Rate Model

FUNDING SOURCES	Budget		Forecast			
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Interest Earnings	\$ -	12,215	28,078	19,023	12,901	19,342
Department Operations	23,327,417	23,443,986	23,561,137	23,678,875	23,797,201	23,916,119
Transfer from Other Funds	-	-	-	-	-	-
Miscellaneous	25,000	25,000	25,000	25,000	25,000	25,000
Total Revenue Sources	23,352,417	23,481,201	23,614,215	23,722,897	23,835,102	23,960,460
Use of Net Assets	-	-	1,811,044	1,224,258	1,392	-
TOTAL FUNDING SOURCES	\$ 23,352,417	23,481,201	25,425,260	24,947,156	23,836,494	23,960,460

DEPARTMENT LEVEL EXPENSES	Budget		Forecast			
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Compensation	\$ 1,407,711	1,435,865	1,464,583	1,493,874	1,523,752	1,554,227
Benefits	784,825	830,395	879,864	933,608	992,041	1,055,620
Supplies	168,261	171,626	175,058	178,559	182,131	185,773
Maintenance	333,323	339,990	346,790	353,726	360,800	368,016
Other Charges	246,473	251,401	256,429	261,558	266,789	272,125
Capital Outlay/Reimbursements	-	-	-	-	-	-
TOTAL DEPARTMENT LEVEL EXPENSES	\$ 2,940,593	3,029,277	3,122,724	3,221,325	3,325,513	3,435,761

FUND LEVEL EXPENSES	Budget		Forecast			
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Net Debt Service	\$ 8,961,130	8,983,261	11,892,525	11,847,472	12,255,350	11,888,397
Transfer to Debt Service	5,303,870	5,308,446	5,309,594	4,237,029	3,174,598	2,116,722
Master Lease	546,656	618,597	710,726	771,795	629,433	576,533
Indirect Cost Allocation	208,584	214,842	221,287	227,925	234,763	241,806
Payment In Lieu of Property Tax	910,180	937,485	965,610	994,578	1,024,416	1,055,148
Utility - Cost of Business	1,399,645	1,406,639	1,413,668	1,420,732	1,427,832	1,434,967
Transfer to LP&L - Collections	863,079	888,971	915,641	943,110	971,403	1,000,545
Transfer to Storm Water CIP	1,150,000	1,050,000	550,000	950,000	450,000	200,000
Transfer to General Fund	301,635	310,684	320,005	329,605	339,493	349,678
Miscellaneous	3,281	3,379	3,481	3,585	3,693	3,804
TOTAL FUND LEVEL EXPENSES	\$ 19,648,060	19,722,305	22,302,536	21,725,832	20,510,981	18,867,600
Compensation Adjustment	51,854					
TOTAL EXPENSES	\$ 22,640,507	22,751,584	25,425,260	24,947,156	23,836,494	22,303,362

APPROPRIABLE NET ASSETS	Reforecasted	Budget	Forecast				
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Net Assets	\$ 4,174,039	4,885,949	5,615,566	3,804,522	2,580,263	2,578,872	4,235,970
Less: Net Asset Reserve Policy	(3,420,734)	(3,499,113)	(3,516,598)	(3,534,171)	(3,551,831)	(3,569,580)	(3,587,418)
TOTAL APPROPRIABLE NET ASSETS	753,305	1,386,837	2,098,968	270,351	(971,568)	(990,709)	648,552

Proposed Rate Structure Changes

Residential Rate Structure

Residential Rate - Monthly (Tier 1)	\$ 8.80	8.80	8.80	8.80	8.80	8.80	8.80
Residential Rate - Monthly (Tier 2)	13.48	13.48	13.48	13.48	13.48	13.48	13.48
Residential Rate - Monthly (Tier 3)	17.05	17.05	17.05	17.05	17.05	17.05	17.05
Residential Rate - Monthly (Tier 4)	25.58	25.58	25.58	25.58	25.58	25.58	25.58

Commercial Rate Structure

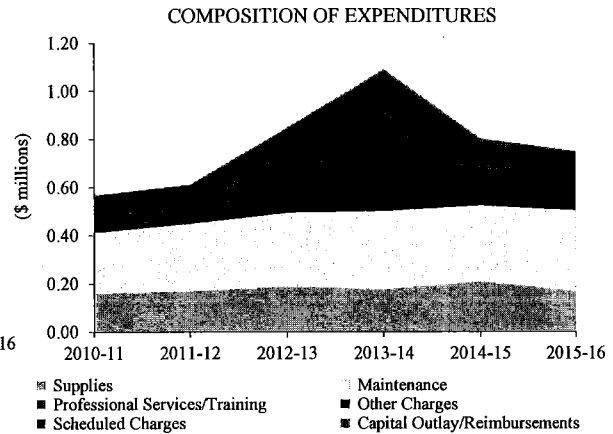
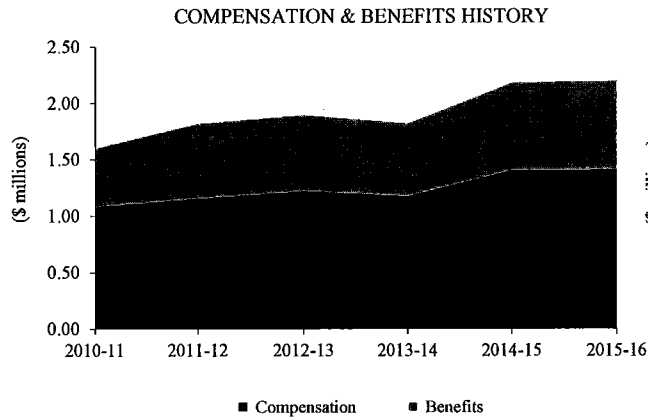
Commercial Rate - Monthly	25.58	25.58	25.58	25.58	25.58	25.58	25.58
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*per Equivalent Residential Unit as of 2014-15

Assumptions

1. Beginning in FY 2014-15, the rate is based upon impervious surface area.
2. The estimated growth of expenditures is forecasted at 2-3% unless trends indicate otherwise.
3. The proposed rate structure incorporated in this model is subject to change depending on many variables. Some of these variables may include: interest rates, commodity prices, inflation rates, and changes in the cost or priority of capital projects.

Storm Water Utility - Department Overview



EXPENDITURES BY CATEGORY	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Amended FY 2014-15	Budget FY 2015-16	% Change from Amended
Compensation	\$ 1,153,053	1,221,096	1,174,342	1,402,691	1,407,711	0.4
Benefits	663,337	673,296	642,844	772,069	784,825	1.7
Supplies	171,827	190,273	175,821	209,065	168,261	(19.5)
Maintenance	276,628	304,038	324,745	313,883	333,323	6.2
Professional Services/Training	23,019	174,730	413,046	121,400	110,030	(9.4)
Other Charges	34,976	63,517	57,434	33,000	33,000	-
Scheduled Charges	107,019	115,736	106,006	94,705	103,443	9.2
Capital Outlay/Reimbursements	-	1,555	14,305	30,500	-	(100.0)
TOTAL EXPENDITURES BY CATEGORY	\$ 2,429,859	2,744,241	2,908,544	2,977,313	2,940,593	(1.2)

EXPENDITURES BY DEPARTMENT	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Amended FY 2014-15	Budget FY 2015-16	% Change from Amended
Stormwater Utility	\$ 831,830	1,149,579	1,396,303	1,169,360	1,139,364	(2.6)
Street Cleaning	994,168	1,042,782	971,264	1,101,454	1,106,517	0.5
Storm Sewer Maintenance	603,861	551,880	540,977	706,499	694,711	(1.7)
TOTAL EXPENDITURES BY DEPARTMENT	\$ 2,429,859	2,744,241	2,908,544	2,977,313	2,940,593	(1.2)

Storm Water Utility - Department Expenditures

Stormwater Utility	Actual	Actual	Actual	Amended	Budget	% Change
EXPENDITURES BY CATEGORY	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	from Amended
Compensation	\$ 450,787	541,479	565,393	585,916	586,022	0.0
Benefits	225,002	264,070	278,065	291,468	289,284	(0.7)
Supplies	20,111	20,349	19,483	25,121	20,297	(19.2)
Maintenance	21,916	29,991	22,334	30,052	31,732	5.6
Professional Services/Training	10,136	149,072	390,290	107,600	107,600	-
Other Charges	34,976	63,517	45,842	33,000	33,000	-
Scheduled Charges	68,903	79,547	73,770	65,703	71,429	8.7
Capital Outlay/Reimbursements	-	1,555	1,125	30,500	-	(100.0)
TOTAL STORMWATER UTILITY	\$ 831,830	1,149,579	1,396,303	1,169,360	1,139,364	(2.6)

Street Cleaning

EXPENDITURES BY CATEGORY						
Compensation	\$ 435,539	452,558	412,905	498,950	504,105	1.0
Benefits	268,981	272,752	249,210	288,651	298,312	3.3
Supplies	94,299	103,715	94,627	109,014	87,918	(19.4)
Maintenance	176,599	195,845	193,667	189,752	200,700	5.8
Professional Services/Training	1,025	1,115	586	1,300	1,300	-
Other Charges	-	-	5,295	-	-	-
Scheduled Charges	17,725	16,796	14,976	13,787	14,182	2.9
Capital Outlay/Reimbursements	-	-	-	-	-	-
TOTAL STREET CLEANING	\$ 994,168	1,042,782	971,264	1,101,454	1,106,517	0.5

Storm Sewer Maintenance

EXPENDITURES BY CATEGORY						
Compensation	\$ 266,727	227,058	196,044	317,824	317,584	(0.1)
Benefits	169,354	136,475	115,569	191,950	197,229	2.8
Supplies	57,417	66,208	61,711	74,931	60,046	(19.9)
Maintenance	78,113	78,202	108,744	94,079	100,891	7.2
Professional Services/Training	11,858	24,543	22,170	12,500	1,130	(91.0)
Other Charges	-	-	6,298	-	-	-
Scheduled Charges	20,392	19,393	17,260	15,215	17,832	17.2
Capital Outlay/Reimbursements	-	-	13,180	-	-	-
TOTAL STORM SEWER MAINTENANCE	\$ 603,861	551,880	540,977	706,499	694,711	(1.7)

Storm Water Fund Line Item Funding Source Summary

	Account	Actual	Actual	Actual	Re-Forecasted	Budget	% Change
FUNDING SOURCES	Number	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	from Amended
Interest on Investments	6802	\$ 17,755	(31,835)	2,714	-	-	-
Book Sales	7691	-	50	-	-	-	-
Mobile Wash Permits	7695	2,775	1,925	1,950	2,500	1,900	(24.0)
Sale of Equipment	7104	83,457	183,854	6,966	25,000	25,000	-
Contribution from Developers	7425	498,817	2,621,659	2,020,088	-	-	-
Subrogation	7510	-	5,490	1,475	-	-	-
Storm Water Plan Review	7697	9,610	11,085	11,665	12,500	11,750	(6.0)
General Consumer Metered	7523	19,139,971	19,397,384	19,742,584	23,910,353	23,313,767	(2.5)
Workshop Revenue	7699	-	-	-	-	-	-
Transfer from Storm Water Capital Projects	7988	-	-	-	-	-	-
TOTAL REVENUE SOURCES		\$ 19,752,385	22,189,612	21,787,442	23,950,353	23,352,417	(2.5)

Debt Service Fund Overview

Debt Service/Capital Projects

The Debt Service Fund is used to account for general long-term debt principal and interest for debt issues and other long-term debts for which a tax has been dedicated. The City budgets for debt service in fourteen funds: General Debt Service, Water, Wastewater, Solid Waste, Storm Water, North Overton Tax Increment Financing Reinvestment Zone (North Overton TIF), LP&L, Airport, Cemetery, Civic Centers, Hotel Occupancy Tax, Gateway, Internal Service Funds, and the Central Business District TIF (CBD TIF). Debt requirements in these funds for FY 2015-16 are as follows:

- General obligation debt service, which includes general obligation bonds and certificates of obligation, is budgeted in the General Debt Service Fund. The bond election held in May 2004, approved \$30 million in new debt issuance. There is currently \$3.7 million in authorized, but unissued bonds from that election. The most recent bond election, held in November 2009, approved \$50.585 million in new debt issuance to finance improvements in streets and public safety, all of which have been issued.
- Following are the amounts of debt service that are budgeted in various City funds:

Water	\$33,277,713
Wastewater	22,573,607
Lubbock Power & Light	19,461,609
General Debt Service	16,651,798
Storm Water	14,286,538
Gateway	8,552,688
North Overton TIF	3,052,806
Solid Waste	1,777,671
Airport	1,721,347
Internal Services	1,116,416
Civic Centers	527,642
Central Business District TIF	502,434
Hotel Occupancy Tax	94,108
Cemetery	55,659

Debt Capacity

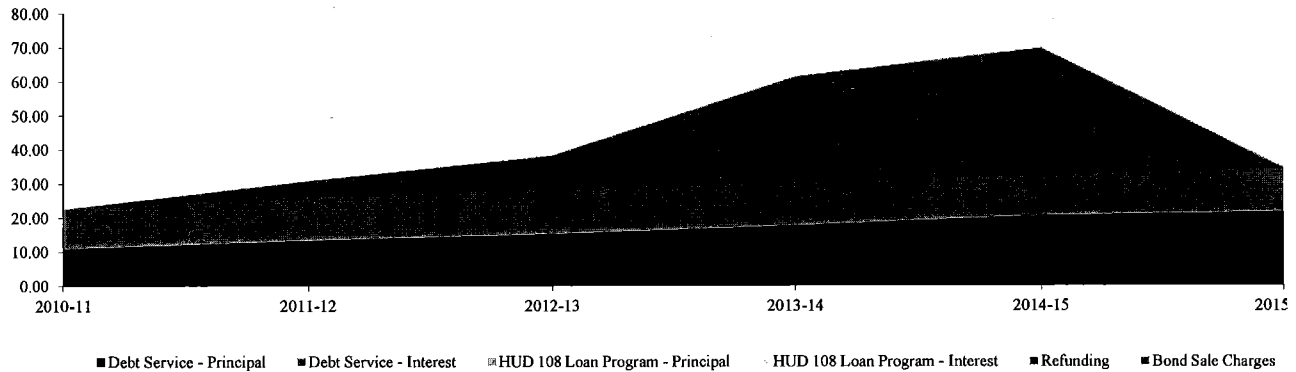
In FY 2014-15, the City did not issue any General Obligation Bonds.



Debt Service Fund

	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Budget FY 2014-15	Proposed FY 2015-16	Change from Amended
RESOURCE SUMMARY						
Funding Sources	38,767,263	61,873,682	53,343,131	70,621,802	34,965,718	-34.5%
Utilization of Net Assets	-	-	-	-	-	0.0%

COMPOSITION OF EXPENDITURES



	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Re-forecasted FY 2014-15	Proposed FY 2015-16	% Change from Amended
FUNDING SOURCES						
Ad valorem tax collections	12,190,640	13,093,380	14,707,715	14,976,730	16,921,889	13.0
Delinquent Taxes	230,594	279,266	263,157	259,698	264,999	2.0
Unallocated GO Bond Interest - Tax Backed	43,908	-	35,509	-	-	-
Interest Earnings on Debt Service Cash	5,340	4,619	18,039	26,748	-	(100.0)
HUD 108 Loan Program	131,200	-	-	-	-	-
Transfer from Overton TIF	3,224,513	3,249,097	3,211,032	3,212,054	3,027,073	(5.8)
Transfer from CBD TIF	134,739	129,698	129,994	307,459	499,172	62.4
Transfer from Hotel Tax Fund	97,247	97,323	95,757	98,863	94,109	(4.8)
Transfer from Gateway	8,258,784	8,296,726	8,202,787	8,432,473	8,429,207	(0.0)
Transfer from Stormwater (Street Maintenance)	4,279,631	5,321,023	2,668,239	5,309,575	5,303,870	(0.1)
Transfer from General Fund (Street Maintenance)	-	-	2,635,789	-	-	-
Refunding	9,711,289	30,704,485	20,949,255	37,572,804	-	(100.0)
Build America Bond Subsidy	459,377	439,395	425,858	425,399	425,399	(0.0)
Miscellaneous Recoveries	-	258,671	-	-	-	-
Total Revenue Sources	38,767,263	61,873,682	53,343,131	70,621,802	34,965,718	(50.5)
Utilization of Net Assets	-	-	-	-	-	-
TOTAL FUNDING SOURCES	38,767,263	61,873,682	53,343,131	70,621,802	34,965,718	(50.5)

	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Re-forecasted FY 2014-15	Proposed FY 2015-16	% Change from Amended
EXPENDITURES						
Debt Service - Principal	15,101,532	17,572,428	19,438,434	20,314,908	21,537,763	6.0
Debt Service - Interest	13,274,433	12,914,291	12,235,984	11,776,646	12,619,942	7.2
HUD 108 Loan Program - Principal	-	-	-	-	-	-
HUD 108 Loan Program - Interest	-	-	-	-	-	-
Fiscal Agent Fees	3,717	3,467	4,179	7,190	6,840	(4.9)
Refunding	9,703,645	30,465,061	20,768,374	37,288,195	-	(100.0)
Bond Sale Charges	114,340	228,130	181,631	284,609	273,531	(3.9)
Transfer to Civic Centers	530,044	530,859	529,258	528,538	527,642	(0.2)
TOTAL EXPENDITURES	38,727,712	61,714,236	53,157,860	70,200,086	34,965,718	(50.2)

	Actual FY 2011-12	Actual FY 2012-13	Actual FY 2013-14	Re-forecasted FY 2014-15	Proposed FY 2015-16	% Change from Amended
FUND BALANCE						
Beginning Fund Balance	1,329,043	1,368,594	1,528,041	1,713,311	2,135,027	24.6
Change in Fund Balance	39,551	159,446	185,271	421,716	-	(100.0)
ENDING FUND BALANCE	1,368,594	1,528,041	1,713,311	2,135,027	2,135,027	24.6

Streets Overview

Mission and Purpose

To provide well maintained public right-of-ways for the safe movement of the public. The Streets Department provides the following services:

- Assess and grade unpaved streets and alleys on a regular basis.
- Treat roads with salt during ice and snow events.
- Maintain and repair concrete alleys and valley gutters.
- Provide street maintenance on approximately 9 percent of paved streets.
- Provide maintenance and repair to City parking lots.
- Provide assistance in base failure, utility cut repair, and construction projects for City departments.
- Prevent accelerated deterioration of paved streets by ensuring they are acceptably clean.
- Ensure that storm sewer inlets and lines are effectively cleaned and maintained ensuring proper functioning of the system.

Goals and Objectives

- Investigate and respond to citizen requests.
- Repair reported potholes.
- Perform street maintenance on paved streets.
- Perform street repair and patching for utility cuts.
- Maintain and repair unpaved streets, alleys, concrete streets, and valley gutters.
- Construct ADA ramps as requested.
- Clean streets of debris.
- Respond to emergencies: snow, ice, and flooding.
- Provide barricades for special events and by request of other departments.
- Clean, repair, and perform maintenance of storm sewer inlets and drain pipes.

Accomplishments for FY 2014-15

- Completed proactive maintenance of 8 percent of City streets through concrete and asphalt repairs, micro-resurfacing, in-house removal and relay, and asphalt rejuvenation.
- Utilized rock crusher to recycle approximately 2,933 cubic yards of asphalt and concrete for the stabilization of alleys.

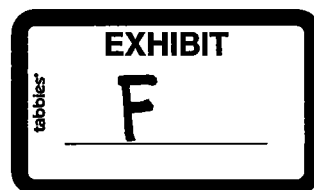
- Removed and re-laid 6.24 lane miles of residential streets.
- Implemented a comprehensive and sustainable equipment replacement schedule.
- Patched more than 85,640 square feet of potholes and 12,805 square yards of base failures and utility cuts.
- Bladed 358 miles of unpaved streets and 1,101 miles of alleys.
- Swept 15,485 lane miles of streets and picked up 14,100 cubic yards of debris.
- Stabilized or rebuilt 5 miles of unpaved alleys.
- Cleaned 2,967 drain inlets and removed 14 tons of debris.

Objectives for FY 2015-16

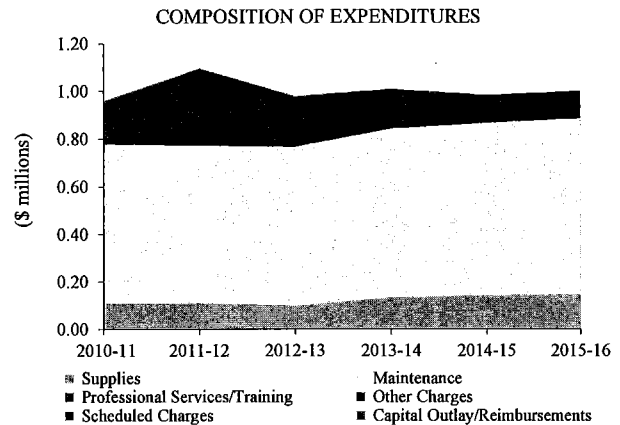
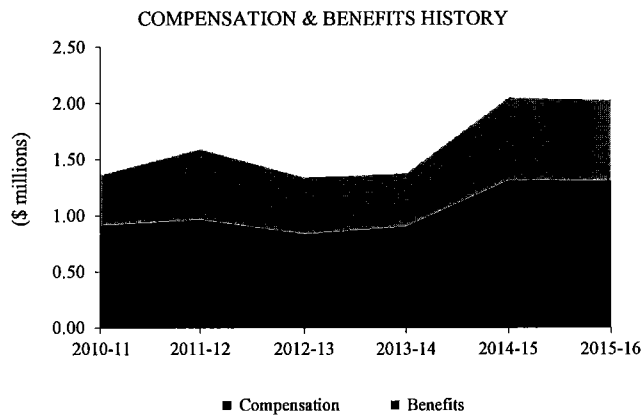
- Increase proactive street maintenance on City streets.
- Stabilize or rebuild 30,000 square yards of unpaved alleys.
- Complete citywide street inventory using the Infrastructure Maintenance Management Program software.

Expenditure Overview

- Budgeted expenditures decreased \$9,835, or 0.3 percent, compared to FY 2014-15.
- Compensation and benefits decreased \$25,426, or 1.2 percent, due to a significant decrease in Workers' Compensation liability costs.
- Supplies increased \$2,625, or 1.82 percent, with a slight decrease in unleaded fuel cost offset by an increase in diesel fuel.
- Maintenance costs rose \$14,050, or 1.9 percent, due to an increase in the Radio Shop scheduled charge resulting from an upgrade in network infrastructure and equipment to comply with Project 25.
- An increase of \$2,161 in other charges was offset slightly by a decrease of \$1,565, or 1.4 percent, in scheduled charges.



Streets Overview



EXPENDITURES BY CATEGORY	Actual	Actual	Actual	Amended	Budget	% Change
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	from Amended
Compensation	\$ 965,870	834,667	903,461	1,311,134	1,308,619	(0.2)
Benefits	628,182	504,490	472,816	736,391	713,479	(3.1)
Supplies	112,468	100,605	135,035	144,181	146,806	1.8
Maintenance	659,220	664,905	706,930	721,830	735,880	1.9
Professional Services/Training	134,983	5,204	3,878	6,090	6,090	-
Other Charges	11,105	10,874	2,625	-	2,161	-
Scheduled Charges	179,188	197,530	161,248	111,673	110,108	(1.4)
Capital Outlay/Reimbursements	-	-	-	-	-	-
TOTAL EXPENDITURES BY CATEGORY	\$ 2,691,015	2,318,275	2,385,994	3,031,299	3,023,144	(0.3)

STAFFING	Actual	Actual	Actual	Amended	Budget	Change
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	from Amended
Public Works - Streets	36	36	36	36	36	-
TOTAL STAFFING	36	36	36	36	36	-

PERFORMANCE MEASURES	Actual	Actual	Actual	Amended	Budget	% Change
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	from Amended
Base failures/utility cut repairs (Sq. Yds.)	10,206	11,764	12,805	11,592	12,054	4.0
Lane miles of paved streets	3,023	3,023	3,106	3,106	3,106	-
In-house remove and relay program	111,604	111,739	43,959	211,517	167,381	(20.9)
Asphalt Rejuvenator (Residential)	463,612	476,186	461,005	465,500	464,500	(0.2)
Micro-Surfacing	1,676,282	1,649,567	1,437,999	820,202	1,563,849	90.7

beck steel inc.

Mayor Glen Robertson
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

April 7, 2015

Via E-mail (GRobertson@mylubbock.us)

Re: City of Lubbock Storm Water Drainage Utility System
Unauthorized Uses of Drainage Charge Revenues

Dear Mayor Robertson,

The City of Lubbock (the "City") is currently reviewing and evaluating the advisability of the new Storm Water Utility System ("Storm Water") drainage charge fee structure that was adopted by the City via Ordinance No. 2014-00124 on October 23, 2014 and implemented beginning in January 2015. As a result of numerous complaints from various concerned citizen groups, the City is currently considering what changes should be made to the new drainage charge fee structure. While this is an important issue for the City to resolve to ensure that the drainage charges are levied on a fair and reasonable basis, I am writing to you about a related but separate issue - the legal permissibility of the uses of the Storm Water drainage charge revenues.

The recent ordinance adopted by the City for the changes to the drainage charge fee structure clearly states that the City is operating the Storm Water Utility System pursuant to the provisions of Subchapter C of Chapter 552 of the Texas Local Government Code (the "Code"). Attached for your information and ease of reference is a copy of the "Storm Water Overview" excerpt included in the City's 2014-2015 publication on City Enterprise Funds that is available on the City's website. Based on the information included in the Overview, it appears that several intended uses of drainage charge revenues may exceed the scope of permissible uses of such funds and thus constitute unauthorized expenditures of drainage charge revenues. Included in the list of Storm Water's Objectives for FY 2014-2015 is "*Increase street maintenance on City streets.*" Additionally, under listed Accomplishments for 2013-2014 is "*Completed maintenance of 8.8 percent of City streets, including concrete and asphalt repairs, micro-resurfacing, in-house remove and relay program, and asphalt rejuvenator program.*" From the foregoing, it is reasonable to conclude that in 2014-2015, the City intends to spend drainage charge revenues to perform concrete and asphalt repairs to more than 8.8 percent of the City's streets. When reviewing the applicable provisions of the Code, it appears that repairing the City's streets (or even paving new streets) with drainage charge revenues is an unauthorized use of such funds.

Subchapter C of Chapter 552 of the Code authorizes the City to impose a drainage charge on the users of the City's drainage utility system. The Code clearly identifies the purpose and scope of such drainage charge in Section 552.044(4) of the Code, which states that "drainage charge"

EXHIBIT

G

tabbles

means: “(A) the *levy imposed to recover the cost of the service* of the municipality in furnishing drainage for any benefitted property; and (B) if specifically provided by the governing body of the municipality by ordinance, *an amount made in contribution to funding of future drainage system construction* by the municipality.” Section 552.047 (a) of the Code also imposes limits/requirements on the drainage charge imposed by the City. It states, “The governing body of the municipality may charge a lot or tract of benefitted property for drainage service on any basis other than the value of the property, but *the basis must be directly related to drainage* and the terms of the levy, and *any classification of the benefitted properties in the municipality must be nondiscriminatory, equitable, and reasonable.*”

As the foregoing language indicates, one of the permissible uses of drainage charges is to fund future drainage system construction; the other permissible use of such drainage charges is to recover “**the cost of the service**” in the City furnishing drainage to the benefitted properties. The Code provides a detailed definition of what costs may be included in the scope of the term “cost of the service”. Section 552.044(2) states:

(2) “**Cost of service**” as applied to a drainage system service to any benefitted property means:

(A) the prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;

(B) the prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;

(C) the prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the benefitted property;

(D) the prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;

(E) the prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a drainage facility used in draining the benefitted property;

(F) the prorated cost of debt service and reserve requirements of structures, equipment, and facilities provided by revenue bonds or other drainage revenue-pledge securities or obligations issued by the municipality; and

(G) *the administrative costs of a drainage utility system.*

Section 552.044(3) provides a statutory definition of the term “drainage” and states that it “means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural

or artificial watercourses.” Streets and alleys are not constructed for the purpose of drawing surface water from land; but rather are constructed by the City as a means of public travel available for use by all who travel within the City. Thus, the cost of paving or repair of paving of City streets does not qualify as a “cost of service” for the City to furnish drainage to benefitted properties. There is no debate that the paving and repairs of City streets is an important governmental function of the City; however the cost of such paving and repairs should be funded out of the City’s General Fund from its regular tax-based revenues. The owners of property serviced by Storm Water should not be inequitably burdened with paying for a portion of the paving and repairs of City streets under the guise of a drainage charge.

The Storm Water Utility Fund Overview lists estimated Department Level Expenses of \$2,946,813 for FY 2014-2015. The Fund Overview lists “Fund Level Expenses” of \$19,693,317 for FY 2014-2015, yet many of the listed expenses appear to be nothing more than mechanisms for transferring funds to the City for unauthorized uses. For FY 2014-2015, Debt Services is listed at \$9,530,461, Master Lease is listed at \$480,407, and Transfer to Storm Water Capital (presumably an amount made in contribution to funding of future drainage system construction) is listed at \$750,000. Combined, these Fund Level Expenses amount to \$10,760,868. None of the other listed “Fund Level Expenses” on their face appear to meet the permissible uses of drainage charges set forth in Section 552.044(4) of the Code as discussed above. Accordingly, approximately \$8,932,449 of Fund Level Expenses (45.36% of the Total Fund Level Expenses) do not appear to be authorized uses of drainage charge revenues.

If Storm Water eliminated the ineligible Fund Level Expenses from its budget, the revised amount of projected permissible expenses for 2014-2015 would only be \$13,707,681. This substantially reduced budget amount certainly calls into question the need for the City to impose a drainage rate structure for the purpose of collecting an estimated \$23,925,523 in drainage charge revenues as is listed in the Fund Overview for 2014-2015, an amount that is more than \$10 million in excess of the forecasted amount of legitimate costs of service for the storm water drainage system and contributions for future drainage construction. Remember, Section 552.047(a) of the Code states that the basis for assessing the drainage charge “must be directly related to drainage” and that it must be “nondiscriminatory, equitable, and reasonable.” To the extent a portion of the drainage charges being imposed by the City are intended to fund unauthorized uses of such revenues, that portion of the drainage charge would not be “directly related to drainage”. Further, to the extent such portion of the drainage charges are intended to fund unauthorized uses of such revenues, it would seem axiomatic that that portion of the drainage charge is unreasonable because it is unnecessary and thus excessive.

Since the City is currently reviewing the new drainage fee structure to determine what changes should be made to make the drainage fee structure nondiscriminatory, equitable and reasonable (as required by state law), it would be very appropriate for the City to also review the level of revenue funding projected to be collected from drainage charges to determine what portions of the current budgeted Fund Level Expenses are impermissible and unauthorized uses of the drainage charge revenues. You, as the leader of the City, along with the other City Council members, are stewards of the public funds collected by the City and have a duty to ensure that the City complies with the applicable provisions of the Code in the collection and expenditure of the drainage charge revenues. If such does not already exist, I strongly urge you and the City

Council to obtain a written legal opinion letter from the City Attorney on the permissible uses of drainage charges and whether all of the identified Fund Level Expenses qualify as permissible uses of such revenues under the provisions of Subchapter C of Chapter 552 of the Texas Local Government Code. Further, it would be advisable for the City to consider seeking the assistance of the Lubbock County Auditor in requesting an Attorney General's Opinion under the provisions of Section 402.042 of the Texas Government Code regarding the permitted uses of the drainage charge revenues and whether the Fund Level Expenses questioned above, especially the use of such revenues to fund street paving and repair, are authorized uses of such monies.

This is an extremely important matter that needs to be addressed immediately. If you have any questions regarding this letter or the grave concerns set forth herein or if I can be of any service to you or the City in the resolution of this matter, please don't hesitate to contact me.

Sincerely yours,



John C. Beck
President & CEO

Cc: Victor Hernandez, District 1 (via email, VHernandez@mylubbock.us)
Floyd Price, District 2 (via email, FPrice@mylubbock.us)
Jeff Griffith, District 3 (via email, JGriffith@mylubbock.us)
Jim Gerlt, District 4 (via email, JGerlt@mylubbock.us)
Mayor Pro Tem Karen Gibson, District 5 (via email, KGibson@mylubbock.us)
Latrelle Joy, District 6 (via email, LJoy@mylubbock.us)



Office of the City Attorney

July 27, 2015

Terry L. Salazar
Quilling, Selander, Lownds, Winslett & Moser, PC
2001 Bryan Street, Suite 1800
Dallas, Texas 75201

Dear Mr. Salazar:

Thank you for taking the time and effort to travel to Lubbock to meet with me on June 26, 2015 on behalf of your client, Beck Steel. It was beneficial for the City of Lubbock to gain a better understanding of your client's position as to the current storm water revenue structure.

As you are aware, the City Council instructed staff earlier this year to re-evaluate the storm water rate structure and that review is currently underway. The relevant city staff has worked diligently this year to address the issues raised by the modifications that went into effect in January, and that work is continuing.

The City Council is anticipating that it will consider possible amendments to the relevant ordinance in the near future, and it has directed staff to prioritize the development of options for the governing body's consideration, review, and if approved, implementation to address the concerns voiced by Lubbock citizens.

Although it is the City's position that its storm water utility and the use of the funds are in compliance with the law, and are within the broad authority of a home-rule municipality, the City Council may yet amend the ordinance, as is its purview as a legislative body.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Weaver", written over a light-colored background.

Chad Weaver
City Attorney

CW/vw

