



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
(210) 651-6632
Fax (210) 651-9638

AGENDA

CITY COUNCIL SPECIAL SESSION, JUNE 6, 2016 AT 9:00 A.M.

The Garden Ridge City Council will meet in a special session on Monday, June 6, 2016 at 9:00 a.m. in the City Council Chambers, 9400 Municipal Parkway, Garden Ridge, Texas. This is an open meeting, open to the public, subject to the Open Meetings Law of the State of Texas, and as required by law, notice is hereby posted on June 3, 2016 before 9:00 a.m., providing time, place, date and agenda thereof. The meeting facility is wheelchair accessible and accessible parking spaces are provided. Requests for accommodations or interpretative services must be made 48 hours prior to this meeting.

1. Call to Order
2. Roll Call
3. Citizen's Participation - Limit remarks to three (3) minutes per citizen

Rules for Citizen's Participation:

The City Council welcomes citizen participation and comments at all of their Council Meetings. As a courtesy to your fellow citizens and out of respect to our elected officials, we request that if you speak, that you please follow these guidelines.

- a) Direct your comments to the entire Council, not to an individual member, nor to the audience.
- b) Show the City Council the same respect and courtesy that you would like to be shown.
- c) Limit remarks to three (3) minutes per citizen during Item 3 and to three (3) minutes per citizen during Item 6.
- d) Citizens' comments will be limited to one (1) hour in Item 3 and thirty (30) minutes in Item 6.
- e) Citizen comments may be deferred to a specific Business Item set forth in Section 4, below, if such comments pertain to such Business Item.

*NOTE: The Texas Open Meetings Act permits a member of the public or a member of the governmental body to raise a subject that has not been included in the notice for the meeting. However, any discussion of the subject **must be limited** to a proposal to place the subject on the agenda for a future meeting and any response to a question posed to the Council is limited to either a statement of specific factual information or a recitation of existing policy. TEX. GOV'T CODE § 551.042.*

4. Items 4a)-4k) postponed from City Council Regular Meeting on June 1, 2016

- a) Approval of May 4, 2016 Regular City Council Meeting
- b) State of the City
 - i. City Administrator Monthly Activity Report
 - Sign approvals since prior Council meeting
 - Community Center usage and financial report
 - Building Permits issued to date for residential, commercial and minor Construction projects
 - Recognition of employees and/or city events
 - ii. Public Works Monthly Activity Report
 - Street and Right-Of-Way Maintenance
 - Drainage Facility and Easement Maintenance
 - Animal Control (domestic and wild)
 - Public Works Projects
- c) Approval/Disapproval of petition by Tricon Precast for variance to Garden Ridge Ordinance 19, Attachment No. 1, Section 4, Foundation Requirements, to be allowed to construct the Cupolex Structure Slab System
- d) Discussion on extending delinquency date for water billing from 15 days to 30 days
- e) FY2017 Budget submissions and process
- f) City Council Communication Projects
 - i. City Council Idea/Suggestions
 - ii. Citizen Concern/Issue Process
- g) Status Reports:
 - i. Animal Control Ordinance amendments.
 - ii. Sign Ordinance amendments.
 - iii. Personnel Policy.
 - iv. MS4 Ordinance/TCEQ Presentation
- h) Update from the Garden Ridge Parks Committee
 - i. Status report on development of City Parks plan
 - ii. Status report on July 4th Celebration
- i) Update from Deer Management
- j) Future Agenda Items requested by City Council
 - i. Rolling Agenda
- k) Reports and Comments from Mayor and City Councilmembers

The Mayor and/or City Councilmembers may comment, make general announcements and/or provide progress reports on events, activities and/or committees/board meetings concerning the following:

Northeast Partnership
Schertz-Seguin Local Government Corporation ("SSLGC")
Cibolo Valley Local Government Corporation ("CVLGC")
City Water Commission
City Quarry Commission
City Planning & Zoning Commission
Garden Ridge Police Academy Alumni Association
Citizen on Patrol
Garden Ridge Lion's Club
Comal County
Comal ISD/Garden Ridge Elementary
Guadalupe County
Bexar County
Alamo Area Metropolitan Planning Organization ("MPO")
TXDOT
Joint Base Land Use Study-Randolph
Greater Bexar County Council of Cities
Lonestar Light Rail
Northeast Lakeview Friends of Nighthawk
Boy Scouts and/or Girl Scouts

5. Discussion
Determining the strategic direction, initiatives, and establishing project priorities for the City of Garden Ridge; direct staff as necessary.
6. Citizen's Participation – Limit remarks to three (3) minutes per citizen
See "Rules for Citizen's Participation" under Item 3.
7. Adjournment

AGENDA NOTICES:

Decorum Required:

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

Action by Council Authorized:

The City Council may vote and/or act upon any item within this Agenda. The Council reserves

the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the

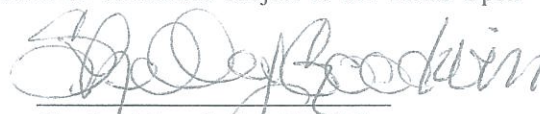
Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

Executive Sessions Authorized:

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

Attendance By Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.


Shelley Goodwin, TRMC
City Secretary

This is to certify that I, Shelley Goodwin, posted this Agenda at 3:45 p.m. on June 2, 2016 on the bulletin board located at the entrance to the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas.


Shelley Goodwin, TRMC
City Secretary



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
(210) 651-6632
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MINUTES OF CITY COUNCIL REGULAR MEETING, MAY 4, 2016

Members Present:

Mayor Nadine Knaus
Councilmember Todd Arvidson
Councilmember Bryan Lantzy
Mayor Pro-Tem John McCaw
Councilmember Larry Thompson
Councilmember Shelby Trial

Member Absent:

None

City Staff Present:

Nancy Cain, City Administrator
Cynthia Trevino, City Attorney
Ron Eberhardt, Police Chief
Royce Goddard, Water Department Manager
Steven Steinmetz, Public Works Director
Karen Ford, Finance/HR
Shelley Goodwin, City Secretary

Commission Chairs Present:

David Heier, Water Commissioner

1. Call to Order

With a quorum of the City Council Members present, Mayor Knaus called the regular meeting of the Garden Ridge City Council to order at 6:00 p.m. on Wednesday, May 4, 2016, in the City Council Chambers of the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas 78266.

2. Pledge of Allegiance

Jake Houge, Boy Scout Troop 828 led the Pledge of Allegiance.

3. Special Presentation**a. Public Service Week Proclamation**

Mayor Knaus presented a proclamation to Nancy Cain, City Administrator, declaring May 2-8, 2016 as Public Service Recognition Week.

b. Police Officer's Appreciation Week Proclamation

Mayor Knaus presented a proclamation to Ron Eberhardt, Police Chief, declaring May 9th -15th as National Police Week and May 15th as Peace Officer's Memorial Day.

c. Public Works Appreciation Week Proclamation

Mayor Knaus presented a proclamation to Steven Steinmetz, Public Works Director, declaring May 16th -22nd as Public Works Week.

4. Citizen's Participation- 3 minute limit per citizen

Cheryn Krivka stated she has been a Garden Ridge resident since 1971 and lives on F.M. 3009 across from Trophy Oaks. She read a letter to the City Council requesting a reduction of speed in Garden Ridge on FM 3009.

5. Consent Agenda

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS REQUESTED BY A MEMBER OF CITY COUNCIL. PUBLIC COMMENT ON CONSENT AGENDA ITEMS MAY BE HEARD DURING CITIZEN'S PARTICIPATION, BUT COMMENTS HEARD DURING CITIZEN'S PARTICIPATION DOES NOT MEAN THAT THE ITEM WILL BE CONSIDERED OUTSIDE THE CONSENT AGENDA.

a) Approval of Minutes

- i. April 6, 2016 Regular City Council Meeting**
- ii. April 12, 2016 City Council and Planning and Zoning Joint Meeting**

b) Ordinance 22-052016 regulating traffic on streets, roads and highways within the City of Garden Ridge by establishing stop sign locations and placement of traffic control devices; establishing prima facie speed limits and placement of traffic control devices; establishing through truck traffic regulations and placement of traffic control devices; establishing no parking zones; and regulating and requiring permits for certain assemblages and processions; providing for a fine not to exceed five hundred dollars (\$500.00) for each violation concerning assemblages and processions; and amending ordinance 22-022016 passed and approved February 3, 2016 (changing Stop Sign to Yield Sign)

c) Recognition of Employees completing probationary period and receipt of 5% salary increase for:

- i. Jesus Sanchez, Police Office effective April 6, 2016**

d) Financial Statement and Investment Report –March 31, 2016

e) State of the City

- i. **City Administrator Monthly Activity Report**
 - Sign approvals since prior Council meeting
 - Community Center usage and financial report
 - Building Permits issued to date for residential, commercial and minor
 - Construction projects
 - Recognition of employees and/or city events
- ii. **Library Monthly Activity Report**
 - New Patrons
 - Old Patrons
 - Library activities and classes
- iii. **Water Manager Monthly Activity Report**
 - Water pumping/usage from city wells
 - Water system infrastructure maintenance, repairs and/or projects
 - Water and/or Drought Management
- iv. **Public Works Monthly Activity Report**
 - Street and Right-Of-Way Maintenance
 - Drainage Facility and Easement Maintenance
 - Animal Control (domestic and wild)
 - Public Works Projects
- v. **Police Department Monthly Activity Report**
 - Traffic Enforcement
 - Criminal activity within city
 - Code Compliance Enforcement

Councilmember Thompson asked that Item 5.e) i. iv, and v be pulled and Councilmember Lantzy asked that Item 5e) iii. be pulled to be discussed separately.

Motion: A motion was made by Councilmember Lantzy, seconded by Councilmember Thompson, to approve the Consent Agenda items 5. a)-d) , and 5 e)ii., remaining items to be considered separately. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

6. Business Items

The City Council may discuss, consider and/or take possible action on the following items:

- a) **City Engineer Projects Update:**
 - i. **CIP Project for 2013**
 - a. Status report
 - ii. **CIP Project for 2015**
 - a. Status report
 - b. Trinity Wells pumpage and infrastructure

iii. CIP Project for 2016
a. Status report

Garry Montgomery, River City Engineering, provided a PowerPoint regarding the CIP Projects for 2013 (see attached PowerPoint). He stated he and Public Works met with contractor regarding the remainder of the warranty issues with the CIP Project for 2013. He stated a Pre-Construction conference was held and he expect construction to begin by the end of May.

Mr. Montgomery reported he continues to work on the construction plans for the tank, pump station, flow meters, chemical feed and offsite waterlines. He stated once Staff approves the location of the tank and other items then a meeting will be scheduled with the electrical sub-consultant to begin their part of the design.

Mr. Montgomery reviewed the 2016 Projects and remaining funds.

The City Council discussed the warranty issues with the CIP Project for 2013, site design for the tanks and the remaining funds for 2016 Projects.

b) Discussion on extending delinquency date for water billing from 15 days to 30 days

Councilmember Lantzy stated he asked for this item to be placed on the Agenda so a reasonable billing date can be discussed.

The City Council discussed the water billing process, other agencies' billing process and whether the delinquent water billing covers the expense of the Water Clerk. The City Council also asked for more information regarding this issue.

c) Implementation of Water Customer Fee of \$.60 per month per customer in accordance with Section 25.06 of Ordinance 54 with said fee being for the Comal Trinity Ground Water Conservation District pumpage.

Nancy Cain, City Administrator, stated the proposed fee is in accordance with Section 25.06 of Ordinance 54. She stated the \$.60 per month per customer fee will be implemented to recoup the fee of Comal Trinity Ground Water Conservation District pumpage.

The City Council discussed the notification to residents regarding the fee and a future matrix regarding a monthly charge depending on water usage.

d) Ordinance 191-052016 adopting Stormwater Pollution Control; regulating the discharge of pollutants into the Municipal Separate Storm Water System (MS4); providing for a penalty; providing for repealing, savings and severability clauses; and providing for an effective date.

Nancy Cain, City Administrator, stated Texas Water Code and Chapter 7402 of the Clean Water Act provides for Regulation of Stormwater Pollution Control. She also stated the intent of this Ordinance is to maintain and improve the quality of surface water and groundwater within the City. The City Attorney and Engineers have been working on the required ordinance.

Mayor Knaus stated Steven Steinmetz, Public Works Director is required to keep stormwater from running into creeks and rivers. She also stated this Plan has to be updated every 5 years

Garry Montgomery, River City Engineering, stated he has argued with TCEQ about the need of this plan in the City, but TCEQ felt that it is necessary because of our location as an urban city. He stated he felt there are somethings in the Plan that are beneficial when it comes to building within the City.

The City Council discussed having a Workshop with TCEQ to get some questions answered.

e) Ordinance 192-052016 approving the recommendation of Texas Department of Transportation reduction of speed limit to 45 mph for sections of FM 2252

Ron Eberhardt, Chief of Police, stated TxDOT has proposed the speed limit around the Quarry and Bracken United Methodist Church on FM 2252 be reduced to 45mph.

The City Council discussed the need for the reduction of speed in this area of FM 2252.

Motion: A motion was made by Councilmember Lantzy, seconded by Councilmember McCaw, to approve Ordinance 192-052016 approving the recommendation of Texas Department of Transportation reduction of speed limit to 45 mph for sections of FM 2252. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

f) Resolution 386-052016 adopting the official motto of the City

Mayor Knaus, stated she has seen several different City mottos and a formal motto has never been adopted.

Motion: A motion was made by Councilmember McCaw, seconded by Councilmember Thompson, to approve the Resolution 386-052016 adopting the official motto of the City to read "A way of life, not just a place to live". The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

g) Resolution 387-052016 approving suspending the Centerpoint Energy 2015 Annual Grip Adjustment for the South Texas Division in the City of Garden Ridge for 45 (forty-five) days from May 30, 2016

Nancy Cain, City Administrator, stated Centerpoint Energy is requesting an annual GRIP adjustment. She stated the City Council has an option to do nothing, approve or suspend the adjustment for 45 days.

Cynthia Trevino, City Attorney, stated the Legislature approved a bill which only allows the GRIP to be protected and the only thing we can do is suspend for 45 days.

The City Council discussed the fluctuation of the customer base rate and the GRIP adjustment.

Motion: A motion was made by Councilmember Lantzy, seconded by Councilmember Arvidson, to approve Resolution 387-052016 approving suspending the Centerpoint Energy 2015 Annual Grip Adjustment for the South Texas Division in the City of Garden Ridge for 45 (forty-five) days from May 30, 2016. The motion carried unanimously.

h) Discussion on 2016 Budget Amendment #1 for the General Fund, Water Company Operation and Maintenance Fund and the Capital Improvement Fund

Nancy Cain, City Administrator, reviewed the proposed amendment to the 2016 Budget Amendment #1 for all city funds. She stated when the Budget is adopted it is done it is based on estimates from the previous year, but later in the year the City has better knowledge of the expenditures and revenues for the remainder of the year.

General Fund

She discussed the revenue adjustments and expenditure for the General Fund. She further stated the total expenditure adjustment is (\$7145) and revenue adjustment is \$22,536.

Water Fund

She discussed the revenue adjustments and expenditures for the Water Fund. She further stated the total expenditure adjustment is \$103,995 and revenue \$13,910.

CIP Fund

She discussed the revenue adjustments and expenditures for the CIP Fund. She further stated the total adjustment is (\$6,983,961) and revenue (\$1,181,000).

i. Resolution 388-052016 approving 2016 Budget Amendment #1 for the City of Garden Ridge General Fund for the period of October 1, 2015 through September 30, 2016

The City Council discussed expenses of Public Works and the fund balance from the completed audit.

Motion: A motion was made by Councilmember McCaw, seconded by Councilmember Trial, to approve Resolution 388-052016 approving 2016 Budget Amendment #1 for the City of Garden Ridge General Fund for the period of October 1, 2015 through September 30, 2016. The motion carried unanimously.

ii. Resolution 389-052016 approving 2016 Budget Amendment #1 for the City of Garden Ridge Water Company Operation and Maintenance Fund for the period of October 1, 2015 through September 30, 2016

Motion: A motion was made by Councilmember McCaw, seconded by Councilmember Trial, to approve Resolution 388-052016 approving 2016 Budget Amendment #1 for the City of Garden Ridge Water Company Operation and Maintenance Fund for the period of October 1, 2015 through September 30, 2016. The motion carried unanimously.

iii. Resolution 390-052016 approving 2016 Budget Amendment #1 for the City of Garden Ridge Capital Improvement Fund for the period of October 1, 2015 through September 30, 2016

Motion: A motion was made by Councilmember McCaw, seconded by Councilmember Trial, to approve Resolution 388-052016 approving 2016 Budget Amendment #1 for the City of Garden Ridge Capital Improvement Fund for the period of October 1, 2015 through September 30, 2016. The motion carried unanimously.

i) Planning and Zoning Commission Recommendations and Possible Action:

No Report

j) Quarry Commission Recommendations and Possible Action:

No Report

k) Water Commission recommendations and Possible Action:

No report.

l) Discussion on regulating of firearms carries in City buildings in accordance with recent legislation

Ron Eberhardt, Police of Chief, reported the City Council asked that he obtain Judge Hrnir's opinion regarding firearms in City buildings during Municipal Court, for which he provided a letter. He stated he was also asked to get information regarding handheld metal detectors and walk-through metal detectors.

The City Council discussed Judge Hrnir's letter and the walk-through metal detectors.

m) City Council Communication Projects

i. City Council concerns and direction matrix.

ii. City Council Idea/Suggestions

iii. Citizen Concern/Issue Process

Nancy Cain, City Administrator, explained the revised City Council Idea/Suggestions format and how she prioritized them.

The City Council reviewed the Council Communication Projects and directed Staff to continue to agendaize City Council Idea/Suggestions and Citizen Concern/Issue Process.

n) Status Reports:

i. Animal Control Ordinance amendments.

ii. Sign Ordinance amendments.

iii. Personnel Policy.

Nancy Cain, City Administrator, reported the Animal Control Officer and Public Works Director have both provided amendments to the recommended Animal Control Ordinance and she is in the process of reviewing it.

- **Water pumping/usage from city wells**
- **Water system infrastructure maintenance, repairs and/or projects**
- **Water and/or Drought Management**

Royce Goddard, Water Manager, stated all meters have been changed out except for Hoya Street area.

Motion: A motion was made by Councilmember Lantzy, seconded by Councilmember Trial, to approve e) State of the City iii. Water Manager Monthly Activity Report. The motion carried unanimously.

Councilmember Thompson stated he pulled item e) State of the City iv. Public Works Monthly Activity Report to thank Public Works.

iv. Public Works Monthly Activity Report

- **Street and Right-Of-Way Maintenance**
- **Drainage Facility and Easement Maintenance**
- **Animal Control (domestic and wild)**
- **Public Works Projects**

Councilmember Thompson thanked Public Works and Garry Montgomery, River City Engineer, for taking care of the driveway in the CIP Project and for removing the Bar-B-Que pit inside the Bar-B-Que Hut at the park.

Motion: A motion was made by Councilmember Lantzy, seconded by Councilmember Trial, to approve e) State of the City iv. Public Works Monthly Activity Report. The motion carried unanimously.

Councilmember Thompson stated he pulled item e) State of the City v. Police Department Monthly Activity Report to discuss his report.

v. Police Department Monthly Activity Report

- **Traffic Enforcement**
- **Criminal activity within city**
- **Code Compliance Enforcement**

Councilmember Thompson inquired to enforcement and Code notifications on his report.

Ron Eberhardt, Police Chief, reported the enforcement portion of his report has to do with the total number of citations and warnings that were written for that month. He also reported the Code notification has to do with code compliance and for that period there were 14 code compliance issues out of 98 calls for service.

Motion: A motion was made by Councilmember Thompson, seconded by Councilmember Arvidson, to approve e) State of the City v. Police Department Monthly Activity Report. The motion carried unanimously.

7. Citizen's Participation – Limit remarks to three (3) minutes per citizen

No one wished to speak.

8. Reports and Comments from Mayor and City Councilmembers

The Mayor and/or City Councilmembers may comment, make general announcements and/or provide progress reports on events, activities and/or committees/board meetings concerning the following:

**Northeast Partnership
Schertz-Seguin Local Government Corporation (“SSLGC”)
Cibolo Valley Local Government Corporation (“CVLGC”)
City Water Commission
City Quarry Commission
City Planning & Zoning Commission
Garden Ridge Police Academy Alumni Association
Citizen on Patrol
Garden Ridge Lion’s Club
Comal County
Comal ISD/Garden Ridge Elementary
Guadalupe County
Bexar County
Alamo Area Metropolitan Planning Organization (“MPO”)
TXDOT
Joint Base Land Use Study-Randolph
Greater Bexar County Council of Cities
Lonestar Light Rail
Northeast Lakeview Friends of Nighthawk
Boy Scouts and/or Girl Scouts**

Councilmember Thompson thanked Nancy Cain, City Administrator, for organizing the Joint Meeting with Planning and Zoning Commission to review the draft of the Land Development Code. He stated he wished more residents would have been present.

Councilmember Thompson reminded residents about the 2nd Annual GRCPAAA Car Show.

Councilmember Arvidson thanked the Police Department for the traffic control they have been providing in the morning at Garden Ridge Elementary.

Councilmember Arvidson stated there will be a Deer Management Meeting in June, but watch the Grapevine for details.

Councilmember Lantzy thanked everyone for the hard work that is occurring concerning the Community Center.

Councilmember McCaw stated he attended the TML Small Cities’ Problem-Solving Clinic (see attached report).

City of Garden Ridge

Engineers Update

RIVER CITY ENGINEERING, PLLC

MAY 4, 2016

GARRY MONTGOMERY, P.E.

2013 CIP Project Update

- RCE and Public Works met with the contractor on April 25 to go through the remaining warranty items and mark the areas of pavement that need to be removed and replaced. Once the pavement is replaced the contractor is required to seal coat the area to prevent moisture infiltration.
- The contractor's goal is to have all paving done by the first week in May, weather permitting.
- The driveway at 9111 Garden Ridge Drive will be paved at the same time as the street locations.

2015 CIP Project Update

- We have received the contract, bond and insurance documents from the contractor and have reviewed them.
- Prior to signing the contract the City will need to accept the Contractors Conflict of Interest Form required by the Texas Ethics Commission. No conflicts were identified.
- We are scheduling the Pre-Construction conference and reviewing material submittals at this time. We anticipate holding the Pre-Construction Conference the second week in May.
- We are also in the process of reviewing the proposal for materials testing and construction observation during paving from a Construction Materials testing firm.
- RCE and City Staff will be meeting soon to discuss the project inspection form and procedures to move into construction.
- We expect construction to begin by the end of May.

2015 Well 9 & 10 Site Development

- RCE continues to work on the construction plans for the tank, pump station, flow meters, chemical feed and offsite waterlines.
- We will be meeting with the Water Manager within the next two weeks to go over the final locations of the infrastructure and receive comments.
- Once staff approves the location of the tank, pump building and waterlines we will schedule with the electrical sub-consultant to begin their part of the design.
- We anticipate completing the 90% design plans by the second week in July.
- We have updated the cost estimate for the project based on the 50% design plans and the project remains within the anticipated budget.

2016 CIP Projects and Remaining Funds

➤ Prior to issuing the 2015 CIP Bonds a project list was compiled with corresponding cost estimates. The following list summarizes the remaining funds and projects:

Project Title	Original Estimate	Awarded Project Cost	Contingency	Remaining Project Cost	Balance Available
2015 CIP Project	\$5,208,069.83	\$4,762,497.32	\$350,000	-	\$95,572.51
Well 9 & 10	\$2,308,000.00	\$704,549.07	-	\$1,603,450.93	-
Park Lane, Valley Park, Park Lane Ct & Doerr Lane	\$318,994.50	-	-	-	\$318,994.50
Naco Loop 12" Waterline – Easements and Prelim Design	\$165,000.00	-	-	-	\$165,000.00
Park Improvements and Community Center	\$100,000.00	-	-	-	\$100,000.00
FM 2252 12" Waterline – Easements and Prelim Design	\$42,000.00	-	-	-	\$42,000.00
Bat Cave 12" Waterline – Easements and Prelim Design	\$280,000.00	-	-	-	\$280,000.00
Totals	\$8,422,064.33	\$5,467,046.39	\$350,000.00	\$1,603,450.93	\$1,001,567.01

Contact Report

Friday, April 8, 2016 – Texas Municipal League – Small Cities' Problem-Solving Clinic
Balcones Heights

In Attendance – area Mayors various small cities. Two TML attorneys

The TML attorneys explained its role in helping small cities with problems, legal and otherwise.

Most of the meeting was answering questions and discussing issues from area cities.

- 1) One of the biggest problems was the State Legislature trying to take power away from the cities. One proposal is to make all cities a General Law city. The proposed 4.0% property tax cap with automatic election if violated is another major problem.
- 2) One city mentioned that their Zip Code is the same as the neighboring large city, and a significant amount of sales tax revenue is sent to the large city. Is this a problem in Garden Ridge?
- 3) I raised the problem of the Asphalt Plant. A representative with the TCEQ approached me later and gave me information and a name to contact. The TCEQ is not as weak as mentioned by the TCEQ representative last year.
- 4) Another issue was emails on FOI requests. Very few were aware of the issue. They are now as explained by the TML attorneys.
- 5) There is a Municipal Parks Association with the TML which may have grants for parks. Would be good to check out.
- 6) Although all cities have the power of Eminent Domain, only 4% used it last year. It was discussed as a power of last resort.
- 7) Concealed Handguns was another issue discussed. Based on the comments, there are still a lot of questions how it is to be applied. One item of interest, if a school is sponsoring an event, whether on private or public land, then guns are prohibited.
- 8) One city, Windcrest (Jacobi), is sending out the delinquent tickets to a company for collection. The Offender pays the company's fee.
- 9) General law cities have been severely restricting the residency ordinances for registered sex offenders. It is being fought in the courts by certain groups. One problem is that the restrictions may push the sex offenders to Type A or B cities who may not be able to pass such ordinances.
- 10) In the State of Texas, 95% of cities are under 25,000 population, and 69% are under 5000 population.

John R. McCaw,
Mayor Pro-Tem
April 8, 2016

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I. OPEN GOVERNMENT

This Section examines Texas open government laws related to meetings and records, both of which can result in personal liability for a local public official.

A. Open Meetings

The Texas Open Meetings Act (TOMA) is found in chapter 551 of the Government Code. The TOMA works to protect the public's interest in knowing what a governmental body (e.g., a city council) decides and observing how and why a body reaches a decision. To that end, the general rule is that every regular, special, or called meeting of a governmental body, including a city council and some boards and commissions (depending on membership and authority), must be open to the public and comply with the requirements of the TOMA.¹

The TOMA does not apply to every gathering of the members of a governmental body. For instance, attendance at purely social gatherings or conventions and workshops is not a meeting under the TOMA, so long as any discussion of city business is incidental to the gathering and no formal action is taken.²

When a governmental body holds a meeting subject to the TOMA, the body must post a notice that includes the date, hour, place, and subject of the meeting.³ There are additional notice requirements for a meeting held by videoconference.⁴ The notice must be posted on a bulletin board at city hall in a place readily accessible to the public at all times for at least 72 hours before the meeting.⁵ In addition, the following requirements apply to cities that have a Web site: (1) a city under 48,000 in population must post meeting notices on the site; and (2) a city over 48,000 in population must post the entire agenda on the site.⁶ Emergency meetings to address a matter of urgent public necessity may be called with two hours notice that identifies the nature of the emergency.⁷

If, at a meeting, a member of the public or the governmental body inquires about a subject not on the agenda, any response must be limited to either (1) a statement of factual information; or (2) a recitation of existing policy.⁸ And any deliberation or decision about the subject must be limited

¹ TEX. GOV'T CODE §§ 551.001(3)–(4) (defining the terms “governmental body” and “meeting”), 551.002 (“Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.”).

² *Id.* § 551.001(4).

³ *Id.* § 551.041.

⁴ *Id.* § 551.127.

⁵ *Id.* §§ 551.043, 551.050.

⁶ *Id.* § 551.056(b)(1), (c)(1). The attorney general has explained that “[t]he terms ‘agenda’ and ‘notice’ have been used interchangeably in discussions of the Open Meetings Act, because of the practice of posting the agenda as the notice or as an appendix to the notice. However, an agenda of a meeting is defined as ‘a list, outline, or plan of things to be considered or done,’ while the notice of the meeting is a written announcement.” Tex. Att’y Gen. Op. No. DM-228 (1993) at n.2 (citations omitted).

⁷ TEX. GOV'T CODE § 551.045.

⁸ *Id.* § 551.042.

to a proposal to place the subject on a future agenda.⁹ The governing body of a city may receive from staff, or a member of the body may make, a report about “items of community interest” without having given notice of the subject matter if no action is taken in regard to the item.¹⁰

There are various exceptions that authorize closed meetings, also known as “executive sessions.” The seven most commonly-used exceptions include discussions involving: (1) the purchase or lease of real property; (2) security measures; (3) receipt of gifts; (4) consultation with attorney; (5) personnel matters; (6) economic development; and (7) certain homeland security matters.¹¹ The governing body must first convene in open session, identify which issues will be discussed in executive session, and cite the time and applicable exception.¹² All final actions, decisions, or votes must be made in an open meeting.¹³

Cities must keep written minutes (or a “certified agenda” for executive sessions) or recordings of all meetings, except those involving a closed consultation with an attorney.¹⁴ The minutes of an open meeting must state the subject of deliberations and indicate each vote, decision, or other action taken.¹⁵ Minutes do not have to be a verbatim transcript. Minutes of open meetings must be kept forever.¹⁶ Executive session certified agendas or recordings must be kept for at least two years, and longer if litigation is pending.¹⁷ Effective January 1, 2016, a home-rule city with a population of 50,000 or more must make a video and audio recording of each regularly scheduled open meeting available on its Web site.¹⁸

Penalties for violating the TOMA range from having actions voided to the imposition of fines and incarceration. Any action taken in violation of the TOMA is voidable and may be reversed in a civil lawsuit.¹⁹ There are four criminal provisions under the Act; those provisions prohibit: (1) knowingly conspiring to circumvent the Act by meeting in numbers less than a quorum for the purpose of secret deliberations;²⁰ (2) calling or participating in an impermissible closed meeting;²¹ (3) participating in a closed session without a certified agenda or tape recording;²² and (4) disclosing a certified agenda or recording of a closed meeting to a member of the public.²³ Violations are misdemeanor offenses. Depending upon the offense, fines may be up to \$2,000, and incarceration may be up to six months.

⁹ *Id.*

¹⁰ *Id.* § 551.0415 (defining “items of community interest” to include things like an expression of thanks, congratulations, or condolence).

¹¹ *Id.* §§ 418.183, 551.071, 551.072, 551.073, 551.074, 551.076, 551.087.

¹² *Id.* §§ 551.101, 551.103(c)(3).

¹³ *Id.* § 551.102.

¹⁴ *Id.* §§ 551.021, 551.103.

¹⁵ *Id.* § 551.021.

¹⁶ 13 TEX. ADMIN. CODE § 7.125 (Tex. St. Lib. & Archives Comm’n, Local Schedule GR). Local retention schedules are available at <https://www.tsl.texas.gov/slrn/recordspubs/localretention.html>.

¹⁷ TEX. GOV’T CODE § 551.104.

¹⁸ Tex. H.B. 283, 84th Leg., R.S. (2015) (to be codified at TEX GOV’T CODE § 551.128).

¹⁹ TEX. GOV’T CODE § 551.141-.142.

²⁰ *Id.* § 551.143.

²¹ *Id.* § 551.144.

²² *Id.* § 551.145.

²³ *Id.* § 551.146.

As to the second violation—calling or participating in an illegal closed meeting—an official may be convicted for participating even if unaware that the meeting is prohibited.²⁴ It is a defense that the member or the official acted in reasonable reliance on a: (1) court order; (2) written opinion of a court of record; (3) written attorney general's opinion; or (4) written opinion of the attorney for the governing body.²⁵

Elected and appointed officials who are members of a governmental body subject to the TOMA must complete a one hour open meetings training course regarding the Act.²⁶ If a member of the governmental body fails to attend the required training course, it does not impact the validity of an action taken by the governmental body.²⁷ A certificate of course completion is admissible as evidence in a criminal prosecution under the TOMA, although it is not prima facie evidence that the defendant knowingly violated the TOMA.²⁸

B. Public Information

The Texas Public Information Act (PIA) is found in Government Code Chapter 552. Under the PIA, information that is written, produced, collected, assembled, or maintained in connection with the transaction of official city business is generally available to the public.²⁹ While many cities have professional staff that manage the city's records and respond to public requests for records, it is important for officials to have an understanding of what constitutes a public record and the duties of a city under the PIA.

The PIA applies to all city records, on practically any media and created on any device.³⁰ For example, items such as handwritten notes taken by a city councilmember during a city council meeting, an interview, or during an evaluation in connection with the official business of the city are public records.³¹ E-mails sent from a councilmember's personal computer to constituents relating to city business are public records subject to the PIA.³²

When a city receives a request, it should never inquire why a person is requesting information, but if a request for information is unclear, a city official may ask for clarification.³³ All requests should be treated the same, without regard to the requestor's identity.³⁴ Members of the public

²⁴ *Tovar v. State*, 949 S.W.2d 370 (Tex. App.—San Antonio 1997), *aff'd*, 978 S.W.2d 584 (Tex. Crim. App. 1998).

²⁵ TEX. GOV'T CODE § 551.144(c).

²⁶ *Id.* § 551.005(a).

²⁷ *Id.* § 551.005(f).

²⁸ *Id.* § 551.005(g).

²⁹ *Id.* § 552.002.

³⁰ *Id.*

³¹ *See, e.g.*, Open Records Decision Nos. 626 (1994) (concluding handwritten notes taken during oral interview by Texas Department of Public Safety promotion board members are subject to the PIA), 450 (1986) (concluding handwritten notes taken by appraiser while observing teacher's classroom performance are subject to the PIA).

³² *See* GOV'T CODE § 552.002 (defining "public information").

³³ *Id.* § 552.222.

³⁴ *Id.* § 552.223. A city is not, however, required to accept or comply with a request for information from a person who is imprisoned or confined in a correctional facility. *Id.* § 552.028.

may request copies of information or inspect information at city hall, and information should be available, at a minimum, during normal business hours.³⁵

Certain specifically-listed information is made “automatically” public under the PIA. For example, a completed report, audit, evaluation, or investigation made of, for, or by a governmental body must almost always be released.³⁶ Information must be released “promptly,” which is defined in the PIA as being “as soon as possible under the circumstances, that is, within a reasonable time, without delay.”³⁷ If a requestor seeks a large volume of information, a city may certify to the requestor in writing a reasonable date by which it will provide the information.³⁸

While certain information has to be disclosed, there are literally hundreds of exceptions that either allow or require (also known as permissive and mandatory exceptions) a city to withhold certain types of information. The exceptions range from information regarding ongoing law enforcement investigations to certain medical information. If a city official believes that requested information is confidential by law or may be withheld pursuant to an exception, the city has ten business days to seek an attorney general ruling to allow it to withhold the information, and an additional five business days to submit samples of the information with arguments as to why the information may be withheld.³⁹ Generally, the only way that a city can withhold information under the PIA is if the attorney general rules that it may do so, and missing the ten-day deadline may waive the city’s right to withhold.⁴⁰ Because of the strict deadlines, cities should develop procedures for receiving and processing requests for information. Both city staff and officials should be familiar with any such procedures.

A city may charge fees for providing public information.⁴¹ In many cases, the fees may include the reasonable costs of copies and labor.⁴² If a city does not act in good faith in calculating the costs, a requestor is entitled to recover three times the amount of the overcharge actually paid.⁴³

The PIA provides for both criminal penalties and civil remedies. The criminal provisions prohibit: (1) willfully destroying, mutilating, removing without permission, or altering public information;⁴⁴ (2) distributing information that is confidential under the PIA, knowingly using confidential information in an impermissible manner, permitting inspection of confidential information by a person who is not authorized to inspect the information, or disclosing

³⁵ *Id.* §§ 552.021, 552.221.

³⁶ *Id.* § 552.022.

³⁷ *Id.* § 552.221.

³⁸ *Id.*

³⁹ *Id.* § 552.301.

⁴⁰ *Id.* There are a limited number of statutes that allow a city to withhold information without requesting a ruling from the attorney general. See, e.g., *id.* § 552.1175(f) (relating to the address, phone number, social security number and personal family information of peace officers and others).

⁴¹ *Id.* §§ 552.261–.275.

⁴² *Id.* § 552.261.

⁴³ *Id.* § 552.269.

⁴⁴ *Id.* § 552.351.

confidential information to an unauthorized person;⁴⁵ or (3) with criminal negligence, failing or refusing to give access to or provide copies of public information to a requestor.⁴⁶ Violations are misdemeanor offenses. Depending on the offense, fines may be up to \$4,000 and up to six months in jail may be served.⁴⁷ A city official may also be ordered to release public information by a civil court.⁴⁸ In addition to constituting a crime, violations of the second and third offenses listed above also constitute official misconduct and thus, may be grounds for removal under the “official misconduct” provisions of Texas Local Government Code Sections 21.025(a)(2) and 21.031(a) or through a recall or other removal action authorized by a city charter.

As to the third offense—failing or refusing to provide access to or copies of information—it is, by its terms, limited to an officer for public information or the officer’s agent. Therefore, it likely would not apply to a councilmember.

C. Records Retention

The Local Government Records Act (LGRA) is found in Chapters 201 through 205 of the Local Government Code. Under the LGRA, a city is required to establish a records management program.⁴⁹ In simple terms, such a program generally addresses the creation, use, maintenance, retention, preservation, and disposal of city records.

Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are city property and must be preserved and managed in accordance with state law.⁵⁰ There are statutory procedures by which a city can seek to recover a local government record.⁵¹

It is a Class A misdemeanor for an officer or employee to knowingly or intentionally violate the LGRA or rules adopted pursuant to the LGRA by: (1) impermissibly destroying or alienating a local government record; or (2) intentionally failing to deliver records to a successor in office as required by the LGRA.⁵²

⁴⁵ *Id.* § 552.352.

⁴⁶ *Id.* § 552.353. It is an affirmative defense that the officer reasonably believed that public access was not required and that (1) the officer relied on a court order or attorney general opinion, (2) the officer requested a decision from the attorney general, (3) the governmental body filed a petition for declaratory judgment after the attorney general issued a ruling; or (4) the person is an agent of an officer for public information and relied on the written instructions of that officer not to disclose the information. *Id.*

⁴⁷ *Id.* §§ 552.351–.353.

⁴⁸ *Id.* § 552.321.

⁴⁹ TEX. LOC. GOV’T CODE §§ 203.026, 203.047.

⁵⁰ *Id.* § 201.005.

⁵¹ *Id.* § 202.005.

⁵² *Id.* § 202.008. As discussed elsewhere, city records are also protected from destruction by state laws outside of the LGRA. *See* TEX. GOV’T CODE § 552.351 (providing that the willful destruction or mutilation of a public record is a criminal offense), TEX. PENAL CODE § 37.10(3) (providing that the intentional destruction of a governmental record is a criminal offense).

II. CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

A common source of alleged wrongdoing revolves around conflicts of interest. Whether real or perceived, these allegations often arise out of a conflict of interest relating to personal financial gain, employment, or special treatment for family members or business relations. This section highlights various state laws that require city officials disclose information about these matters to the public by filling out some type of disclosure or abstaining from voting on a matter. If you have any doubt whether you have a conflict of interest, you should comply with these requirements.

A. Local Government Code Chapter 171: Real Property and Business Interests

Chapter 171 of the Local Government Code regulates local public officials' conflicts of interest.⁵³ It prohibits a local public official from voting or participating on a matter involving a business entity or real property in which the official has a substantial interest if an action on the matter will result in a special economic effect on the business that is distinguishable from the effect on the public, or in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public.⁵⁴

A public official who has such interest is required to file, before a vote or decision on any matter involving the business entity or real property, an affidavit with the city's official record keeper (usually the city secretary), stating the nature and extent of the interest.⁵⁵ In addition, a public official is required to abstain from further participation in the matter except when a majority of the members of the governing body also have a substantial interest and are required to file and do file affidavits of similar interests on the same official matter.⁵⁶

The term "local public official" is defined to mean "a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any . . . municipality . . . or other local governmental entity who exercises responsibilities beyond those that are advisory in nature."⁵⁷ This term includes a member of a planning and zoning commission.⁵⁸

A public official has a substantial interest in a business entity if the official:

- (1) owns 10 percent or more of the voting stock or shares of the business entity;
- (2) owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
- (3) receives funds from the business entity that exceed 10 percent of the person's gross income for the preceding year.⁵⁹

⁵³ TEX. LOC. GOV'T CODE §§ 171.001--010.

⁵⁴ *Id.* § 171.004.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* § 171.001(1).

⁵⁸ Tex. Att'y Gen. Op. No. DM-309 (1994), at 2.

⁵⁹ TEX. LOC. GOV'T CODE § 171.002(a).

A public official has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of \$2,500 or more.⁶⁰

A public official is also considered to have a substantial interest in a business entity or real property if the official's relative within the first degree of consanguinity (blood) or affinity (marriage) has a substantial interest in the business entity or real property.⁶¹ As such, any "substantial interest" that a public official's spouse, parent, child, step-child, father or mother-in-law, or son or daughter-in-law has is imputed to the public official. For example, a public official has a "substantial interest" in a business that employs the official's daughter if the official's daughter earns a small income, which exceeds ten percent of her gross income.⁶²

A business entity is defined as "a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law."⁶³ A nonprofit corporation is considered a business entity.⁶⁴ The term also includes a business entity that represents an entity or person with an interest in a matter before the city council.⁶⁵ Public entities such as a city, state university or school district, are not a business entities.⁶⁶

The limit on "further participation" by a public official who has a conflict does not preclude the public official from attending meetings, including executive session meetings, relevant to the matter in which he has a substantial interest, provided that the official remains silent during the deliberations.⁶⁷ Thus, an interested public official does not participate in a matter by merely attending an executive session on the matter and remaining silent during the deliberations.⁶⁸

The question of whether a vote or decision has a "special economic effect" on a business entity or on the value of real property is generally a question of fact.⁶⁹ However, a vote or decision will, as a matter of law, have a "special economic effect" if the governing body considers purchasing goods or services from a business entity in which a local public official has a substantial interest.⁷⁰ Additionally, the issue of whether a vote or decision has a special economic effect may be answered as a matter of law in the context of the purchase or sale of an interest in real property.⁷¹

Whether it is "reasonably foreseeable" that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public, is fact specific.⁷²

⁶⁰ *Id.* § 171.002(b).

⁶¹ *Id.* § 171.002(c).

⁶² Tex. Att'y Gen. Op. No. JC-0063 (1999).

⁶³ TEX. LOC. GOV'T CODE § 171.001(2).

⁶⁴ Tex. Att'y Gen. Op. No. JM-424 (1986), at 2.

⁶⁵ Tex. Att'y Gen. Op. No. DM-309 (1994), at 2.

⁶⁶ Tex. Att'y Gen. Op. Nos. GA-0826 (2010), at 1, DM-267 (1993), at 2, JM-852 (1988), at 2.

⁶⁷ Tex. Att'y Gen. Op. No. GA-0334 (2005), at 6.

⁶⁸ *Id.*

⁶⁹ Tex. Att'y Gen. Op. No. GA-0796, at 4 (2010); Tex. Att'y Gen. LO-98-052.

⁷⁰ Tex. Att'y Gen. Op. No. GA-0136 (2004), at 3.

⁷¹ Tex. Att'y Gen. Op. No. GA-0796 (2010), at 4 (discussing *Dallas Cnty. Flood Control Dist. No. 1 v. Cross*, 815 S.W.2d 271, 281-82 (Tex. App.—Dallas 1991, writ denied)).

⁷² Tex. Att'y Gen. LO-96-049.

In instances where the economic effect is direct and apparent at the time of the action, both a court and the attorney general have concluded that the economic effect was “reasonably foreseeable.”⁷³

There are special rules beyond the filing of an affidavit and abstaining from voting that apply to the adoption of a budget. If an item of the budget is specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest, the governing body must vote on that line item separately.⁷⁴ The affected member may not generally participate in consideration of that item.⁷⁵

If a public official votes on a matter that he or she has a substantial interest in or fails to abstain from further participation, the action of the governing body on the matter is not voidable, unless the matter that was the subject of the action would not have passed without the vote of the person who had a substantial interest.⁷⁶ A knowing violation of Chapter 171 is a Class A misdemeanor, which is punishable by a fine and/or confinement.⁷⁷

B. Local Government Code Chapter 176: Vendor Relationships

Chapter 176 of the Local Government Code requires certain local government officers to disclose employment, business, and familial relationships with vendors who conduct business, or consider conducting business, with local government entities. The requirements apply to most political subdivisions, including cities.⁷⁸ The Chapter also applies to a “local government corporation, a board, commission, district, or authority” whose members are appointed by a mayor or the city council.⁷⁹

A “local government officer” (officer) includes: (1) a mayor or city councilmember; (2) a director, administrator, or other person designated as the executive officer of the city; and (3) an agent (including an employee) of the city who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.⁸⁰

An officer is required to file a conflicts disclosure statement in at least three situations:

1. An officer must file a statement if the officer or officer’s family member⁸¹ has an employment or other business relationship with a vendor that results in the officer or officer’s family member receiving taxable income of more than \$2,500 in the preceding

⁷³ *Dallas Cnty. Flood Control Dist. No. 1 v. Cross*, 815 S.W.2d 271, 278 (Tex. App.—Dallas 1991, writ denied); Tex. Att’y Gen. Op. No. GA-0796 (2010), at 6.

⁷⁴ TEX. LOC. GOV’T CODE § 171.005.

⁷⁵ *Id.*

⁷⁶ *Id.* § 171.006.

⁷⁷ *Id.* § 171.003.

⁷⁸ TEX. LOC. GOV’T CODE § 176.001.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ An officer’s family member is a person related to the officer within the first degree by consanguinity (blood) or affinity (marriage). *Id.*

twelve months.⁸² An officer who only receives investment income, regardless of amount, is not required to file a disclosure statement. Investment income includes dividends, capital gains, or interest income gained from a personal or business checking or savings account or other similar account, a personal or business investment, or a personal or business loan.⁸³

2. An officer is required to file a statement if the officer or officer's family member accepts one or more gifts (including lodging, transportation, and entertainment accepted as a guest) from a vendor that has an aggregate value of more than \$100 in the preceding twelve months.⁸⁴ An officer is not required to file a statement in relation to a gift, regardless of amount, if the gift: (1) is a political contribution; (2) is food accepted as a guest; or (3) is offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.⁸⁵
3. An officer is required to file a statement if the officer has a family relationship with the vendor.⁸⁶

There is at least one exception to the three situations set out above. A local government officer does not have to file a statement if the vendor is an administrative agency supervising the performance of an interlocal agreement.⁸⁷

An officer is required to file a statement no later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of facts that require a filing of the statement.⁸⁸

A "vendor" includes any person that enters or seeks to enter into a contract with a city.⁸⁹ The term also includes: (1) an agent of a vendor; (2) an officer or employee of a state agency when that individual is acting in a private capacity; and (3) Texas Correctional Industries (but no other state agency).⁹⁰

Chapter 176 applies to any written contract for the sale or purchase of real property, goods (personal property), or services.⁹¹ A contract for services would include one for skilled or unskilled labor, as well as professional services.⁹²

⁸² *Id.* § 176.003(a)(2)(A).

⁸³ *Id.* § 176.001.

⁸⁴ *Id.* § 176.003(a)(2)(B).

⁸⁵ *Id.* §§ 176.001(2-b), 176.003(a-1).

⁸⁶ *Id.* § 176.003(a)(2)(C). An officer has a family relationship with a vendor if they are related within the third degree by consanguinity (blood) or second degree by affinity (marriage). *Id.* § 176.001.

⁸⁷ *Id.* § 176.003(a-2).

⁸⁸ *Id.* § 176.003(b).

⁸⁹ *Id.* § 176.001.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

A vendor is required to file a conflict of interest questionnaire if the vendor has a business relationship with the city and has: (1) an employment or other business relationship with an officer or an officer's family member that results in the officer receiving taxable income that is more than \$2,500 in the preceding twelve months; (2) has given an officer or an officer's family member one or more gifts totaling more than \$100 in the preceding twelve months; or (3) has a family relationship with an officer.⁹³

A vendor is required to file a questionnaire not later than the seventh business day after the later of the following: (1) the date that the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or (2) the date that the vendor becomes aware of a relationship or gives a gift to an officer or officer's family member, or becomes aware of a family relationship with an officer.⁹⁴

The statements and disclosures must be filed with the records administrator of the city.⁹⁵ A records administrator includes a city secretary, a person responsible for maintaining city records, or a person who is designated by the city to maintain the statements and disclosures filed under Chapter 176.⁹⁶

A city that maintains a Web site is required to post on that site statements and disclosures that are required to be filed under Chapter 176.⁹⁷ However, a city that does not have a Web site is not required to create or maintain one.⁹⁸

An officer or vendor who knowingly fails to file a statement or a disclosure when required to do so commits a Class A, B, or C misdemeanor, depending on the amount of the contract.⁹⁹ It is an exception to prosecution that an officer/vendor files a statement/questionnaire not later than the seventh day after the date the person receives notice from the city of the alleged violation.¹⁰⁰ The validity of a contract between a city and a vendor is not affected solely because a vendor fails to file a questionnaire.¹⁰¹

The Texas Ethics Commission is charged with creating statements and disclosure forms. The forms (Form CIS and Form CIQ) may be found at https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm. As of the date this publication was prepared, Form CIS does not take into account the new requirement that a local government officer disclose any "family relationship" with a vendor. The League has been in contact with the Texas Ethics Commission about amending the form, and will continue to monitor this issue. In the meantime, officers who have a family relationship with a vendor should work closely with their local legal counsel in deciding how to disclose that information.

⁹³ *Id.* §176.006(a).

⁹⁴ *Id.* §176.006(a-1).

⁹⁵ *Id.* §§176.003(b), 176.006(a-1).

⁹⁶ *Id.* §176.001(5).

⁹⁷ *Id.* § 176.009.

⁹⁸ *Id.*

⁹⁹ *Id.* §§ 176.013.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* § 176.006(i).

C. Government Code Chapter 553: Property Acquisition

Chapter 553 of the Government Code provides that a “[a] public servant who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.”¹⁰²

Chapter 553’s affidavit requirement applies to a “public servant,” defined as a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as: (1) a candidate for nomination or election to public office; or (2) an officer of government.¹⁰³

The term “public funds” is defined to “include[] only funds collected by or through a government.”¹⁰⁴ The language of Chapter 553 suggests that a public servant is required to disclose his/her interest in property even when the property is to be acquired by a separate governmental entity with which the public servant is not affiliated. There appears to be no case or attorney general opinion that addresses this issue. Thus, a public servant or official subject to Chapter 553 should consult his/her private legal counsel regarding the application of Chapter 553 in this scenario.

Chapter 553 is not, by its language, limited to real property interests. Thus, if a public servant has a legal or equitable interest in any real (e.g., land) or personal (e.g., a vehicle) property acquired with public funds, and has actual notice of the acquisition or intended acquisition of the property, the public servant should file a Chapter 553 affidavit.¹⁰⁵

A Chapter 553 affidavit has to be filed within ten days before the date on which the property is to be acquired by purchase or condemnation.¹⁰⁶ The affidavit is filed with the county clerk of the county in which the public servant resides as well as the county clerk of each county in which the property is located.¹⁰⁷

The affidavit must include: (1) the name of the public servant; (2) the public servant’s office, public title, or job designation; (3) a full description of the property; (4) a full description of the nature, type, and amount of interest in the property, including the percentage of ownership interest; (5) the date the public servant acquired an interest in the property; (6) the following verification: “I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code;” and (7) an acknowledgement of the same type required for recording a deed in the deed records of the

¹⁰² TEX. GOV’T CODE § 553.002(a).

¹⁰³ *Id.* § 553.001(2).

¹⁰⁴ *Id.* § 553.001(1).

¹⁰⁵ *Id.* § 553.002.

¹⁰⁶ *Id.* § 553.002(a).

¹⁰⁷ *Id.* § 553.002(c).

county.¹⁰⁸ An affidavit example is available on our Web site at: <http://www.tml.org/example-documents>.

A person who violates Section 553.002 of the Government Code by failing to file the required affidavit is presumed to have committed a Class A misdemeanor offense if the person had actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property.¹⁰⁹

D. Local Government Code Chapter 145: Cities with a population of 100,000 or more

Local Government Code Chapter 145's financial disclosure requirements apply *only in a city with a population of 100,000 or more*.¹¹⁰ In general terms, Chapter 145:

1. requires each mayor, each member of a city council, each city attorney, each city manager, and each candidate for city office to file an annual financial statement with the city clerk or secretary;¹¹¹
2. requires that the financial statement include an account of the financial activity of the covered individual and the individual's spouse and dependent children, if the individual had control over that activity; and¹¹²
3. requires that the financial statement include all sources of income; shares of stocks owned, acquired, or sold; bonds, notes, or other paper held, acquired, or sold; any interest, dividend, royalty, or rent exceeding \$500; each person or institution to whom a personal debt of \$1,000 or more exists; all beneficial interests in real property or businesses owned, acquired, or sold; certain gifts received; income in excess of \$500 from a trust; and a list of all boards of directors on which the individual serves.¹¹³

Candidates for elected city office are required to file the financial disclosure statement not later than the earlier of: (1) the twentieth day after the deadline for filing an application for a place on the ballot in the election; or (2) the fifth day before the date of the election.¹¹⁴ Annually, the mayor, city councilmembers, the city manager, and the city attorney must file a financial disclosure statement for the preceding year by April 30.¹¹⁵ A new city manager or a new city attorney must file a financial disclosure statement within forty-five days of assuming the duties of office.¹¹⁶

¹⁰⁸ *Id.* § 553.002(b).

¹⁰⁹ *Id.* § 553.003.

¹¹⁰ TEX. LOC. GOV'T CODE § 145.001.

¹¹¹ *Id.* §§ 145.002–.003.

¹¹² *Id.* § 145.003(b)(2), TEX. GOV'T CODE § 572.023(a).

¹¹³ TEX. LOC. GOV'T CODE § 145.003(b)(2), TEX. GOV'T CODE § 572.023(b).

¹¹⁴ TEX. LOC. GOV'T CODE § 145.004(c).

¹¹⁵ *Id.* § 145.004, TEX. GOV'T CODE § 572.026(a).

¹¹⁶ TEX. LOC. GOV'T CODE § 145.004, TEX. GOV'T CODE § 572.026(c).

City officers and candidates for elected city office must file the financial statement on a form provided by the Texas Ethics Commission.¹¹⁷ A detailed listing of the required contents can be found in Section 572.023 of the Texas Government Code. If information in the financial disclosure form is required to be filed by category, Section 572.022 sets forth reporting categories. The city secretary must deliver (by mail, personal delivery, e-mail, or other electronic transfer) copies of the form to city officers and candidates for city office within certain time deadlines.¹¹⁸

The completed financial disclosure statement is filed with the city clerk or secretary.¹¹⁹ Statements are public records and are to be maintained so as to be accessible to the public during regular office hours.¹²⁰

Both criminal and civil penalties may be imposed for failure to file a financial disclosure statement. An offense under Chapter 145 is a class B misdemeanor, which is punishable by a fine up to \$2,000 and/or confinement up to 180 days.¹²¹ Section 145.010 sets forth a process whereby a civil penalty up to \$1,000 can be assessed upon failure to comply after notice is received from the city attorney.

The city secretary shall grant an extension of not more than sixty days for the filing of the financial disclosure statement to a city officer or a person appointed to a city office if: (1) the individual makes an extension request before the filing deadline; or (2) the individual's physical or mental capacity prevents either the filing or the request for an extension before the filing date.¹²² Extensions shall not be granted to candidates for elected city office.¹²³

The city secretary shall maintain a list of the city officers and candidates required to file a financial disclosure statement. No later than ten days after the filing deadline, the city secretary shall provide a list to the city attorney showing for each city officer and candidate for city office: (1) whether the individual filed a timely statement; (2) whether the individual was granted an extension and the new filing deadline; or (3) whether the individual did not timely file a financial statement or receive an extension of time.¹²⁴

E. Miscellaneous Conflicts Provisions

1. Plats

A provision governing conflicts of interest in the plat approval process was added to state law in 1989. It requires a member of a municipal authority responsible for approving plats who has a substantial interest in a subdivided tract to file an affidavit stating the nature and extent of the

¹¹⁷ TEX. LOC. GOV'T CODE § 145.005(a).

¹¹⁸ *Id.* §§ 145.002, 145.005(b).

¹¹⁹ *Id.* § 145.003(b).

¹²⁰ *Id.* § 145.007(a).

¹²¹ *Id.* § 145.009.

¹²² *Id.* § 145.004(e).

¹²³ *Id.* § 145.004(f).

¹²⁴ *Id.* § 145.008.

interest and abstain from further participation in the matter.¹²⁵ The affidavit must be filed with the municipal secretary or clerk before a vote or decision regarding the approval of a plat for the tract.

For purposes of this disclosure requirement, “subdivided tract” means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.¹²⁶

A person has a substantial interest in a subdivided tract if the person:

- (1) has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more;
- (2) acts as a developer of the tract;
- (3) owns 10% or more of the voting stock or shares of or owns either 10% or more or \$5,000 or more of the fair market value of a business entity that:
 - (A) has an equitable or legal ownership interest in the tract with a fair market value of 2,500 or more; or
 - (B) acts as a developer of the tract; or
- (4) receives in a calendar year funds from a business entity described in (3) that exceed 10% of the person’s gross income for the previous year.¹²⁷

A person is also considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity to another person who has a substantial interest in the tract. An offense under this subsection is a Class A misdemeanor.¹²⁸ The finding by a court of a violation of this requirement does not render voidable an action of the municipal authority responsible for approving plats, unless the measure would not have passed without the vote of the member who violated the requirement.¹²⁹

2. Depository

A bank is disqualified from serving as the depository of the city if an officer or employee of the city who has a duty to select the depository owns or has a beneficial interest, individually or collectively, in more than 10 percent of the outstanding capital stock of the bank.¹³⁰ In other words, a city council may not select a bank as the city’s depository if a mayor or councilmember owns more than 10 percent of the bank.

If an officer or employee of the city is a director or officer of the bank, or owns 10 percent or less of the capital stock of the bank, the bank is not disqualified from serving as the city’s depository so long as: (1) the interested officer or employee does not vote or take part in the proceedings;

¹²⁵ *Id.* § 212.017(d).

¹²⁶ *Id.* § 212.017(a).

¹²⁷ *Id.* § 212.017(b).

¹²⁸ *Id.* § 212.017(e).

¹²⁹ *Id.* § 212.017(f).

¹³⁰ *Id.* § 131.903(a)(2).

and (2) a majority of the other members of the city council vote to select the bank as the depository.¹³¹

The attorney general has concluded that Section 131.903 of the Local Government Code regarding conflicts of interest in the selection of banks as depositories is an exception to the general conflicts of interest statute in Chapter 171 of the Local Government Code.¹³² That being said, TML attorneys advise that any local public official with a “substantial interest” in a bank, as that term is defined by Chapter 171 of the Local Government Code, comply with the Chapter 171 requirements of (1) filing an affidavit that discloses the potential conflict; and (2) abstaining from participating in the selection of the bank, even if the potential conflict doesn’t trigger the specific conflict of interest provision under Local Government Code Section 131.903.

III. ACTING AS A SURETY

There are various instances in which a city may require an entity with which it contracts to utilize a surety (sometimes referred to as a guarantor or secondary obligor).¹³³ In addition, certain city officers may be required to execute a bond in conjunction with their office.¹³⁴

A local public official commits a Class A misdemeanor offense if the official knowingly: (1) acts as a surety for a business entity that has work, business, or a contract with the governmental entity or (2) acts as a surety on any official bond required of an officer of the governmental entity.¹³⁵ For the purposes of these violations, a “local public official” is defined to mean “a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any . . . municipality . . . who exercises responsibilities beyond those that are advisory in nature.”¹³⁶

IV. PURCHASING

At meetings throughout the budget year, the city council may be called on to approve the purchase of goods, services, and property. With limited exceptions, before a city enters into a contract that requires an expenditure of more than \$50,000, it must comply with the procedures for competitive sealed bidding or competitive sealed proposals in Chapter 252 of the Texas Local Government Code.¹³⁷ As an alternative to competitive sealed bidding or proposals, a city may use the following procurement methods: (1) the reverse auction procedure for purchasing in Section 2155.062(d) of the Government Code; (2) a cooperative purchasing program under

¹³¹ *Id.*

¹³² Tex. Att’y Gen. LO-97-093.

¹³³ See, e.g., *Wisnaker v. Johnny Folmar Drilling Co.*, 334 S.W.2d 465, 466 (Tex. Civ. App.—Texarkana 1960, writ dismissed) (describing that the City of Quitman had filed suit against a drilling company and its surety on the company’s performance bond for breach of contract).

¹³⁴ See, e.g., TEX. LOC. GOV’T CODE § 22.072(c) (authorizing the city council in a type A general law city to require municipal officers to execute a bond payable to the city and conditioned that the officer will faithfully perform the duties of the office).

¹³⁵ TEX. LOC. GOV’T CODE § 171.003.

¹³⁶ *Id.* § 171.001(1).

¹³⁷ *Id.* §§ 252.021, 252.022.

Subchapters D and F of Chapter 271 of the Local Government Code; or (3) an alternative procurement method for city construction projects set out in Chapter 2269 of the Texas Government Code.¹³⁸

A city may use competitive sealed proposals for the purchase of any goods or services, including high technology items and insurance.¹³⁹ However, construction projects must generally be procured using competitive bidding or specific alternative methods (discussed below).

For general procurement of goods or services (as discussed below, special rules may apply to construction procurement), a contract must be awarded to: (a) the lowest responsible bidder, or (b) the bidder who provides goods or services at the “best value.”¹⁴⁰ When determining “best value,” the city may consider factors other than the purchase price of the goods and services, including among other things: (1) the reputation of the bidder and the bidder’s goods or services; (2) the quality of the bidder’s goods or services; (3) the bidder’s past relationship with the city; and/or (4) any other lawful criteria.¹⁴¹

The city must indicate in the bid specifications and requirements that the contract will be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the “best value” for the city.¹⁴²

In addition, two provisions—Local Government Code Sections 271.905 and 271.9051—authorize the use of local preference when awarding a contract *under the Local Government Code*. Section 271.905 allows a city to consider a bidder’s principal place of business when a city awards a contract for real or personal property.¹⁴³ Specifically, it provides that if a city receives one or more bids from a bidder whose principal place of business is in the city and whose bid is within three percent of the lowest bid price of a non-resident, the city may pick the resident bidder after a written determination that the decision is in the best interests of the city.¹⁴⁴ This is a useful provision for awarding contracts, but it appears to be directed towards the purchase of tangible items rather than services.

Section 271.9051 authorizes a city to give a preference to a local bidder when awarding a contract for personal property *or services* if: (1) the local bid is within five percent of the lowest bid that isn’t local, and (2) the city’s governing body finds in writing that the local bid offers the best combination of price and economic development factors such as local employment and tax revenues. Legislation passed in 2009 and 2011 limits the applicability of this provision to

¹³⁸ *Id.* § 252.021. House Bill 628, passed during the 2011 regular legislative session, consolidated the alternative procurement methods for most governmental entities into a new Chapter 2267 of the Texas Government Code. Senate Bill 1093, passed during the 2013 regular legislative session, moves those methods to Chapter 2269 of the Texas Government Code.

¹³⁹ *Id.* § 252.021(b).

¹⁴⁰ *Id.* § 252.043.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.* § 271.905.

¹⁴⁴ *Id.*

contracts for construction services that are less than \$100,000 and contracts for other purchases that are less than \$500,000.

A city does not have to comply with competitive procurement requirements for certain expenditures, even if the expenditure is over \$50,000. The most common exemptions are as follows (see Section 252.022(a) of the Local Government Code for a complete list of exemptions):

- A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the city's residents or to preserve the property of the municipality.¹⁴⁵
- A procurement necessary to preserve or protect the public health or safety of the city's residents.¹⁴⁶
- A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.¹⁴⁷
- A procurement for personal, professional, or planning services.¹⁴⁸
- A purchase of land or a right-of-way.¹⁴⁹
- A procurement of items that are available from only one source.¹⁵⁰

Whether or not to use any of the exemptions is up to each city, and the decision should be made based on the advice of local legal counsel.

A city, in making an expenditure of more than \$3,000 but less than \$50,000, shall contact at least two HUBs on a rotating basis, based on information provided by the Texas Comptroller's Office pursuant to Chapter 2161 of the Government Code, see information at <http://www.window.state.tx.us/procurement/prog/hub/>.¹⁵¹ If the list fails to identify a HUB in the county in which the city is located, the city is exempt.¹⁵²

For construction projects that involve the construction of a building that is to be designed and constructed in accordance with accepted building codes (commonly referred to as "vertical construction projects"), and those that are civil engineering projects (commonly referred to as "horizontal construction projects"), a city may use many of the alternative procurement methods set out in Chapter 2269 of the Texas Government Code.¹⁵³ The alternative methods are:

¹⁴⁵ *Id.* § 252.022(a)(1).

¹⁴⁶ *Id.* § 252.022(a)(2).

¹⁴⁷ *Id.* § 252.022(a)(3).

¹⁴⁸ *Id.* § 252.022(a)(4). Certain professional services, however, must be procured through a competitive selection process under Chapter 2254 of the Government Code (the Professional Services Procurement Act).

¹⁴⁹ *Id.* § 252.022(a)(6).

¹⁵⁰ *Id.* § 252.022(a)(7).

¹⁵¹ *Id.* § 252.0215.

¹⁵² *Id.*

¹⁵³ House Bill 628, passed during the 2011 regular legislative session, consolidated the alternative procurement methods for most governmental entities into a new Chapter 2267 of the Texas Government Code. Senate Bill 1093, passed during the 2013 regular legislative session, moves those methods to Chapter 2269 of the Texas Government Code.

- Competitive bidding (which is different than the “standard” competitive bidding processes in Chapter 252/Chapter 271, Subchapter B).¹⁵⁴
- Competitive sealed proposals (may be used for civil engineering projects).¹⁵⁵
- Construction manager agent.¹⁵⁶
- Construction manager at risk (may be used for civil engineering projects).¹⁵⁷
- Design-build¹⁵⁸ (may not generally be used for civil engineering projects, although a handful of very large cities—those over 100,000 in population—may use design-build for a limited number of civil works projects under Government Code Chapter 2269, Subchapter H).
- Job order contract (may not be used for civil engineering projects).¹⁵⁹

For each of the methods listed above, a city awards the contract to the contractor who provides the “best value” to the city based on the selection criteria established by the city in its procurement documents. The selection criteria may generally include factors other than the construction cost, including among other things: (1) the reputation of the contractor and the contractor’s goods or services; (2) the quality of the contractor’s goods or services; and (3) the contractor’s past relationship with the city.¹⁶⁰

Any provision in the charter of a home rule city that relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts that is in conflict with Chapter 252 controls unless the governing body elects to have Chapter 252 supersede the charter.¹⁶¹

Chapter 271, Subchapters D and F, of the Local Government Code (Cooperative Purchasing Programs) authorize cities to enter into cooperatives with the state or other local governments for the purpose of procuring goods and services. The state purchasing cooperative is online at <http://www.window.state.tx.us/procurement/>, and a joint TML/Texas Association of School Board cooperative is online at <https://www.tasb.org/Services/BuyBoard.aspx>. In addition, several councils of governments offer cooperative purchasing.

Section 2155.062(d) of the Texas Government Code authorizes the use of the reverse auction method for the purchase of goods and services. A reverse auction procedure is: (1) real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or (2) a bidding process usually lasting less than two

¹⁵⁴ TEX. GOV’T CODE Chapter 2269, Subchapter C.

¹⁵⁵ *Id.* Chapter 2269, Subchapter D.

¹⁵⁶ *Id.* Chapter 2269, Subchapter E.

¹⁵⁷ *Id.* Chapter 2269, Subchapter F.

¹⁵⁸ *Id.* Chapter 2269, Subchapters G and H.

¹⁵⁹ *Id.* Chapter 2269, Subchapter I.

¹⁶⁰ *Id.* § 2269.056.

¹⁶¹ TEX. LOC. GOV’T CODE § 252.002.

weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.¹⁶²

A contract made without compliance with competitive procurement laws is void, and performance of the contract may be enjoined by any property tax paying resident or a person who submitted a bid for a contract to which the competitive sealed bidding requirement applies, regardless of residency, if the contract is for the construction of public works.¹⁶³ The specific criminal penalties are as follows:

- A municipal officer or employee who intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive procurement requirements of Chapter 252 commits a Class B misdemeanor.¹⁶⁴
- A municipal officer or employee who intentionally or knowingly violates the competitive procurement requirements of Chapter 252 commits a Class B misdemeanor.¹⁶⁵
- A municipal officer or employee who intentionally or knowingly violates Chapter 252 other than by conduct described above commits a Class C misdemeanor.¹⁶⁶

A final conviction for an offense constituting a Class B misdemeanor results in the immediate removal of that person from office or employment. For a period of four years following conviction, the removed officer or employee is ineligible to be appointed or elected to a public office in Texas, to be re-employed by the city, or to receive any compensation through a contract with that city.¹⁶⁷

New requirements were adopted in H.B. 1295, to be codified as Subchapter Z, Chapter 2252, Government Code. H.B. 1295 will apply to contracts entered into after January 1, 2016. The bill provides that: (1) a city is prohibited from entering into a contract with a business entity unless the business entity submits a disclosure of interested parties (i.e., discloses a person who has a controlling interest in the business or who actively participates in facilitating the contract for the business) if the contract: (a) requires an action or vote by the city council before the contract may be signed; or (b) the contract has a value of at least \$1 million; and (2) a city must, not later than 30 days after receiving a disclosure, submit a copy to the Texas Ethics Commission. The bill directs the Texas Ethics Commission to create a disclosure form and adopt rules necessary to implement the new requirement. As of the date this publication was prepared, neither the rules nor the form have been adopted by the Commission. City officials should be aware of the new law and consult with local legal counsel regarding its application.

¹⁶² TEX. GOV'T CODE § 2155.062(d).

¹⁶³ TEX. LOC. GOV'T CODE § 252.061.

¹⁶⁴ *Id.* § 252.062.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* § 252.063.

V. NEPOTISM

“Texas was the first state in the nation to recognize ‘the need for nepotism regulations and restrictions’; it first did so in 1907.”¹⁶⁸ Chapter 573 of the Texas Government Code is the primary anti-nepotism law in Texas.¹⁶⁹

In many cities, the city council exercises final control over hiring decisions. In such a city, the general rule is that a councilmember is prohibited from appointing, confirming the appointment of, or voting on the appointment of an individual if: (1) the individual is related to himself or any member of the council within the third degree by consanguinity (blood) or within the second degree by affinity (marriage); and (2) the position will be directly or indirectly compensated from public funds.¹⁷⁰ Chapter 573 does not require that the nepotism problem be disclosed or documented in any particular fashion.

The resignation of a councilmember does not resolve nepotism problems where the councilmember continues to serve in a holdover capacity.¹⁷¹ However, once the city fills the former officer’s position and has qualified and sworn a new person into office, the local entity may then hire a close relative of the former official.

There are two statutory exceptions to the prohibition against the appointment of close relatives. Chapter 573 does not apply to cities with fewer than 200 people.¹⁷² An exception (referred to as the “continuous employment exception”) also exists for relatives who are continuously employed prior to the public official’s election or appointment for: (a) thirty days, if the public official was appointed; (b) six months, if the public official is elected at an election other than the general election; or (c) one year, if the public official is elected at the general election.¹⁷³ But if an individual continues in a position under this exception, the public official to whom the individual is related “may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.”¹⁷⁴

¹⁶⁸ OFFICE OF THE TEXAS ATTORNEY GENERAL, 2006 PUBLIC OFFICERS: TRAPS FOR THE UNWARY 17 (2006) (citing *Collier v. Firemen’s & Policemen’s Civil Serv. Comm’n of Wichita Falls*, 817 S.W.2d 404, 408 (Tex. App.—Fort Worth 1991, writ denied); Richard D. White Jr., *Consanguinity by Degrees: Inconsistent Efforts to Restrict Nepotism in State Government*, 32 ST. & LOC. GOV’T REV. 108, 109 (Spring 2000)).

¹⁶⁹ TEX. GOV’T CODE §§ 573.001–.084.

¹⁷⁰ *Id.* § 573.041. A “public official” is defined to mean “(A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state; (B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or (C) a judge of a court created by or under a statute of this state.” *Id.* § 573.001(3).

¹⁷¹ TEX. CONST. art. XVI, § 17; Tex. Att’y Gen. Op. No. JM-636 (1987).

¹⁷² TEX. GOV’T CODE § 573.061(7).

¹⁷³ *Id.* § 573.062.

¹⁷⁴ *Id.*; see also Tex. Att’y Gen. Op. No. JC-0558 (2002) (concluding that a city commissioner could not participate in a deliberation regarding a merit salary increase for his sibling who was working under the continuous employment exception and explaining that the term deliberation “embraces any discussion or consideration of a measure”).

In some cities, the city council has delegated final hiring authority to an employee. The delegation of final hiring authority, by ordinance, does not relieve a city council of its nepotism problems.¹⁷⁵ However, if final hiring authority has been delegated by city charter, reserving no authority in the city council, it is a valid delegation and may relieve the council of nepotism problems.¹⁷⁶

In addition to placing prohibitions on the hiring of close relatives, Chapter 573 prohibits a public official from trading nepotistic appointments.¹⁷⁷ For instance, a city councilmember is prohibited from appointing an individual who is closely related to a county commissioner where there is an understanding that the county commissioner will return the favor by hiring the city councilmember's close relative.

Chapter 573 also contains prohibitions applicable to candidates. A candidate is prohibited from taking "affirmative action to influence the following individuals regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within" the third degree by blood or second degree by marriage: (1) an employee of the office to which the candidate seeks election; or (2) an employee or officer of the governmental body to which the candidate seeks election.¹⁷⁸

Noncompliance with Chapter 573 may subject the appointing officer(s) to severe consequences including removal from office and criminal sanctions.¹⁷⁹

VI. PENAL CODE PROVISIONS

There are various provisions of the Texas Penal Code commonly used to prosecute crimes related to government and government officials. This section highlights some of these provisions.

A. Bribery, Gifts, and Honorariums

Chapter 36 of the Texas Penal Code, entitled "Bribery and Corrupt Influences," proscribes certain conduct such as bribery, coercion of a public servant or voter, attempts to influence the

¹⁷⁵ Tex. Att'y Gen. Op. No. DM-2 (1991) (members of city council of a Type A general law city did not avoid prohibitions of anti-nepotism law by delegating hiring responsibility to the city administrator).

¹⁷⁶ Tex. Att'y Gen. Op. Nos. GA-0226 (2004) (explaining that a home-rule city may delegate final hiring authority to the city manager to avoid application of Section 573.041 to the city council if it delegates full and final authority by charter, reserving no authority in the city council); GA-0595 (2008) ("If the charter provides the city manager with full and final appointing authority . . . and reserves no authority for the city's governing body . . . the city manager may appoint an individual who is related to a city commissioner, but is not related to the city manager, without contravening the nepotism statutes, Government Code chapter 573.").

¹⁷⁷ TEX. GOV'T CODE § 573.044.

¹⁷⁸ *Id.* § 573.042.

¹⁷⁹ *Id.* §§ 573.081–.084.

outcome of certain proceedings, and tampering with a witness.¹⁸⁰ The Chapter deals generally with offenses involving a “public servant,” which is defined to mean a person elected, selected, appointed, employed or otherwise designated as an “officer, employee, or agent of government,” which includes a city.¹⁸¹ The Texas Ethics Commission is authorized to prepare written advisory opinions regarding Chapter 36 and those opinions are available on the Commission’s Web site.¹⁸²

1. Bribery

“A person commits the offense of bribery if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another any benefit as consideration for the recipient’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.”¹⁸³ It is no defense to prosecution that a person whom the actor sought to influence was not qualified to act in the desired manner because he had not assumed office or, for some other reason, lacked jurisdiction.¹⁸⁴

A “benefit” is anything reasonably regarded as pecuniary gain or advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest (such as a relative or business partner).¹⁸⁵ At least one Texas Court has indicated that the term should be broadly construed to promote justice.¹⁸⁶

The offense of bribery is a second degree felony.¹⁸⁷

2. Honorariums and Other Gifts

A councilmember may not solicit, accept, or agree to accept an honorarium in consideration for services that the member would not have been requested to provide but for the member’s official position or duties.¹⁸⁸ The term “‘honorarium’ is commonly understood to be ‘a payment in recognition of acts or professional services for which custom or propriety forbids a price to be

¹⁸⁰ TEX. PENAL CODE §§ 36.01–.10.

¹⁸¹ *Id.* §§ 1.07(24)(B), (41)(A).

¹⁸² TEX. GOV’T CODE § 571.091(a)(8); *see also* <http://www.ethics.state.tx.us/>.

¹⁸³ *Valencia v. State*, No. 13-02-020-CR, 2004 WL 1416239 at *2 (Tex. App.—Corpus Christi June 24, 2004, pet. ref’d)(not design. for pub.); *see also* TEX. PENAL CODE § 36.02.

¹⁸⁴ TEX. PENAL CODE § 36.02(b).

¹⁸⁵ *Id.* § 36.01(3).

¹⁸⁶ *Valencia v. State*, No. 13-02-020-CR, 2004 WL 1416239 at *3 (Tex. App.—Corpus Christi June 24, 2004, pet. ref’d)(not design. for pub.)(concluding that the offer to vote for or recommend the appointment of someone for a constable position is commensurate with an offer of a “benefit”).

¹⁸⁷ TEX. PENAL CODE § 36.02(e).

¹⁸⁸ *Id.* § 36.07(a); Texas Ethics Advisory Opinion No. 173 (1993).

set.”¹⁸⁹ An honorarium may include such things as fees for speaking, fees for teaching, severance pay, and moving expenses.¹⁹⁰

Not included in the honorarium prohibition are: (1) transportation and lodging expenses in connection with conferences or similar events where the councilmember provides services (e.g., addressing the audience) so long as the service is more than merely perfunctory (i.e., superficial); and (2) meals provided in connection with an event described in (1) above.¹⁹¹

A councilmember may not solicit, accept, or agree to accept *any* benefit from a person the councilmember knows is interested in or likely to become interested in any contract, purchase, payment, claims, or transaction involving the exercise of the member’s discretion.¹⁹² Texas Penal Code Section 36.10 carves out exceptions under which a city official may accept certain gifts or benefits, including:

- (1) fees prescribed by law to be received by a councilmember or any other benefit to which the member is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a councilmember (e.g., a jury duty fee);
- (2) gifts given by a person with whom the councilmember has a familial, personal, business or professional relationship, independent of the member’s official status (e.g., birthday gift from a family member);
- (3) certain benefits for which the councilmember files a statement under Chapter 572, Government Code, or a report under Title 15 of the Texas Election Code (TEX. ELEC. CODE § 251.001 *et seq.*);
- (4) political contributions as defined by Title 15 of the Texas Election Code (TEX. ELEC. CODE § 251.001 *et seq.*);
- (5) items with a value of less than \$50, excluding cash or a negotiable instrument (e.g., a check);
- (6) items issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) transportation, lodging, and meals that are allowed under the honorarium prohibition (Penal Code § 36.07(b));

¹⁸⁹ Tex. Att’y Gen. Op. No. GA-0354 (2005).

¹⁹⁰ *Id.*

¹⁹¹ TEX. PENAL CODE § 36.07(b).

¹⁹² *Id.* § 36.08(d); *see also* Tex. Att’y Gen. Op. No. KP-0003 (2015) (concluding it is a fact question as to whether a sheriff, who has no authority to accept donations from the public to the county, engaged in illegal solicitation by attempting to raise funds to purchase scanning sonar for use in a lake patrol program).

(8) certain complimentary legal advice or legal services rendered to a public servant who is a first responder; and

(9) food, lodging, transportation, or entertainment accepted as a guest, if the donee is required by law to report those items.¹⁹³

If a city official receives an unsolicited benefit from someone under the official's jurisdiction that he is prohibited from accepting under Texas Penal Code Section 36.08, he may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.¹⁹⁴

A violation of either of the bribery and gift laws described above is a Class A misdemeanor.¹⁹⁵ There are no specific provisions in Chapter 36 of the Texas Penal Code providing for removal of a public official or employee due to a conviction under these laws. However, such a conviction may be grounds for removal under the "official misconduct" provisions of Texas Local Government Code Sections 21.025(a)(2) and 21.031(a) or through a recall or other removal action authorized by a city charter.

B. Falsification of Government Documents and the Misuse of Information

City officials have access to and responsibility for documents and information. For instance, under the Public Information Act, a councilmember acting in his official capacity may review records of the city without implicating the PIA's prohibition against selective disclosure.¹⁹⁶ And under the Open Meetings Act, a councilmember may participate in a closed session to discuss the purchase or lease of real property.¹⁹⁷ Once privy to information or documents not available to the public, it is important for a councilmember to understand what liability he or she may have in regard to those documents and that information.

1. Falsification of Governmental Records

Penal Code Section 37.10 works to prevent, among other things, the falsification of governmental records. A governmental record is broadly defined to include, among other things,

¹⁹³ TEX. PENAL CODE § 36.10.

¹⁹⁴ *Id.* § 36.08(i).

¹⁹⁵ *Id.* §§ 36.07(c), 36.08(h).

¹⁹⁶ *See, e.g.*, Tex. Att'y Gen. Op. No. JM-119 (1983) at 2 ("[W]hen a trustee of a community college district, acting in his official capacity, requests information maintained by the district, he is not a member of the 'public' for purposes of the Open Records Act."); Open Records Decision No. 666 at 2 (2000) ("[A] member of a governmental body who is acting in his or her official capacity is not a member of the public for purposes of access to information in the governmental body's possession. Thus, an authorized official may review records of the governmental body without implicating the Act's prohibition against selective disclosure.").

¹⁹⁷ TEX. GOV'T CODE § 551.072.

anything belonging to, received by, or kept by government for information, including court and election records.¹⁹⁸

The following activities are prohibited: (1) knowingly making a false entry in or false alteration of a governmental record; (2) making, presenting, or using a record, document or thing with knowledge of its falsity and an intent that it be taken as a legitimate government record; (3) intentionally destroying, concealing, removing or impairing the truth, legibility, or availability of a governmental record; (4) possessing, selling, or offering to sell a governmental record or blank form with the intent that it be used unlawfully; (5) making, presenting, or using a governmental record with knowledge of its falsity; or (6) possessing, selling, or offering to sell a governmental record or blank form with knowledge that it was obtained unlawfully.¹⁹⁹

A violation of Section 37.10 can range from a misdemeanor to a third degree felony, depending upon the intent of the actor and type of record involved.

2. Misuse of Official Information

Penal Code Section 39.06 proscribes the misuse of official information. A public servant commits an offense if, in reliance on information to which he has access by virtue of his office or employment and that has not been made public, he: (1) acquires or helps another acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; (2) speculates or helps another speculate on the basis of the information; or (3) coerces another into suppressing or failing to report that information to a law enforcement agency.²⁰⁰

A public servant commits an offense if, with intent to obtain a benefit or intent to harm or defraud another, he discloses or uses information for a nongovernmental purpose that: (1) he has access to by means of his office or employment; and (2) is not public.²⁰¹ Conversely, a person commits an offense if, with intent to obtain a benefit or intent to harm or defraud another, he solicits or receives from a public servant information that: (1) the public servant has access to by mean of his office or employment; and (2) is not public.²⁰²

For purposes of this statute, “information that has not been made public” is information to which the public does not generally have access, and that is prohibited from disclosure under Chapter 552 of the Government Code (the Public Information Act),²⁰³ such as the social security number of a peace officer where the officer has chosen to restrict access to that information or the proprietary information received from a third party in response to a request for proposals.

¹⁹⁸ TEX. PENAL CODE § 37.01(2).

¹⁹⁹ *Id.* § 37.10(a).

²⁰⁰ *Id.* § 39.06(a).

²⁰¹ *Id.* § 39.06(b).

²⁰² *Id.* § 39.06(c).

²⁰³ *Id.* § 39.06(d).

Coercing an employee into suppressing or failing to report information is a Class C misdemeanor.²⁰⁴ Otherwise, the misuse of official information is a felony, the degree of which depends on the net pecuniary gain.²⁰⁵

3. Fraudulent Use or Possession of Identifying Information

Penal Code Section 32.51 prohibits the fraudulent use or possession of identifying information (e.g., social security number, date of birth, fingerprints, bank account number). It is an offense, with the intent to harm or defraud another, to obtain, possess, transfer or use an item of (1) identifying information of another person without that person's consent; (2) information concerning a deceased person if obtained, possessed, transferred or used without legal authorization; or (3) identifying information of a child younger than eighteen years.²⁰⁶ An offense is a felony.²⁰⁷

C. Abuse of Official Capacity

A public servant may not intentionally or knowingly, with the intent to obtain a benefit or harm or defraud another, violate a law relating to the public servant's office or employment.²⁰⁸ This provision may be best described as a "catch all" for bad government officials and because of its broad language may be used to attach a criminal penalty to varied conduct that may not have another criminal statute tied to it. A violation of this prohibition is a Class A misdemeanor.

A public servant may not intentionally or knowingly, with the intent to obtain a benefit or harm or defraud another, misuse government property, services, personnel or other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of his office or employment.²⁰⁹ For instance, a city councilmember may not use city staff to gather information for use in a reelection campaign²¹⁰ or use city funds to purchase paint for use on his house.²¹¹ Items such as frequent flyer miles, rental car or hotel discounts, or food coupons are *not* things of value belonging to the government for the purposes of Penal Code section 39.02.²¹²

²⁰⁴ *Id.* § 39.06(f).

²⁰⁵ *Id.* § 39.06(c).

²⁰⁶ *Id.* § 32.51(b).

²⁰⁷ *Id.* § 32.51(c).

²⁰⁸ *Id.* § 39.02(a).

²⁰⁹ *Id.*

²¹⁰ See Tex. Ethics Advisory Op. Nos. 522 (2014) (concluding that the work time of state employees is a thing of value belonging to the state and may not be misused by state employees or members of the legislature; and the use of a legislative employee's work time for purely personal activities would not further a state purpose and would constitute a misuse), 431 (2000) (concluding that it is a misuse of state resources for a legislator to use legislative staff members to gather information for use at a campaign fundraiser).

²¹¹ See *State v. Trevino*, 930 S.W.2d 713, 714 (Tex. App.—Corpus Christi 1996, pet. ref'd) (describing the indictment of a city maintenance director who instructed employees to purchase paint for use to paint the city manager's home).

²¹² TEX. PENAL CODE § 39.02(d).

The penalty for misusing government property, services, or personnel varies, depending upon the value of the thing misused:

- Class C misdemeanor if the value is less than \$100;
- Class B misdemeanor if the value is \$100 or more but less than \$750;
- Class A misdemeanor if the value is \$750 or more but less than \$2,500;
- State jail felony if the value is \$2,500 or more but less than \$30,000;
- Third degree felony if the value is \$30,000 or more but less than \$150,000;
- Second degree felony if the value is \$150,000 or more but less than \$300,000; and
- First degree felony if the value is \$300,000 or more.²¹³

D. Official Oppression

A public servant commits an offense by acting under color of his office or employment to intentionally: (1) subject another person to mistreatment, arrest, detention, search, seizure, dispossession, assessment, or lien that the public servant knows is unlawful; (2) deny or impede another person in the exercise or enjoyment of a right, privilege, power, or immunity, knowing his conduct is unlawful; or (3) subject another to sexual harassment.²¹⁴ These offenses constitute a Class A misdemeanor, except that it's a third degree felony if the public servant tries to impair the accuracy of data reported to the Texas Education Agency through the Public Education Information Management System.²¹⁵

E. Forgery

To "forge" something means to alter, make complete, execute, or authenticate any writing so that it purports: (1) to be the act of a person who did not authorize that act; (2) to have been executed at a time, place, or in a sequence other than was in fact the case; or (3) to be a copy of an original when no such original exists.²¹⁶ The term also means to issue, transfer, register the transfer of, pass, publish, or otherwise utter a writing that is forged or to possess the same.²¹⁷

It is an offense to forge a writing with the intent to defraud or harm another.²¹⁸ An offense ranges from a misdemeanor to a felony. It is a third degree felony to forge a writing that is or purports to be a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States.²¹⁹ And a person is presumed to intend to defraud or harm another if the person acts with respect to two or more writings of the same type and if each writing is one of the government writings listed above.²²⁰

²¹³ *Id.* § 39.02(c).

²¹⁴ *Id.* § 39.03(a).

²¹⁵ *Id.* § 39.03(d).

²¹⁶ *Id.* § 32.21(a).

²¹⁷ *Id.*

²¹⁸ *Id.* § 32.21(b).

²¹⁹ *Id.* § 32.21(e).

²²⁰ *Id.* § 32.21(f).

F. Theft

It is unlawful to appropriate property with the intent to deprive the owner of the property.²²¹ There is a value ladder to determine the punishment range such that the higher the value of the property stolen, the more severe the punishment. An offense is increased to the next higher category of offense if: (1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant; or (2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of that contractual relationship.²²²

VII. POLITICAL CONTRIBUTIONS, POLITICAL ADVERTISING, AND CAMPAIGN COMMUNICATIONS

The Texas Ethics Commission (TEC) is the best source of information for a candidate or an official regarding unlawful political contributions, political advertising, and campaign communications because TEC is charged by state law with administering and enforcing Title 15 of the Election Code (TEX. ELEC. CODE § 251 *et seq.*) which governs these matters.²²³ Following are a few key provisions of which candidates and officials should be aware.

A. Political Contributions

There are various prohibitions related to making and accepting political contributions, including prohibitions against accepting contributions without a campaign treasurer appointment in effect²²⁴ and accepting cash contributions that exceed \$100.²²⁵ Violations of these two prohibitions are Class A misdemeanors. The Election Code also prohibits the conversion of political contributions for personal use.²²⁶

Chapter 253 of the Election Code provides not only criminal, but also civil liability for violations of its provisions. For instance, a person who knowingly makes or accepts a campaign contribution in violation of Chapter 253 may have to pay an opposing candidate damages amounting to twice the value of the unlawful contribution or expenditure and attorney's fees.²²⁷

B. Political Advertising and Campaign Communications

Certain disclosures must be made in relation to political advertising. "[P]olitical advertising that contains express advocacy is required to include a disclosure statement. The person who causes the political advertising to be published, distributed, or broadcast is responsible for including the

²²¹ *Id.* § 31.03(a).

²²² *Id.* § 31.03(f).

²²³ TEX. GOV'T CODE § 571.061(a)(3).

²²⁴ TEX. ELEC. CODE § 253.031.

²²⁵ *Id.* § 253.033.

²²⁶ *Id.* § 253.035.

²²⁷ *Id.* § 253.131.

disclosure statement.”²²⁸ A violation may result in a civil penalty in an amount determined by the TEC.

There are restrictions on the contents of political advertising and campaign communications. Political advertising and campaign communications must not misrepresent a person’s identity or title or the source of the advertising or communication.²²⁹ A violation is a misdemeanor offense.²³⁰ A TEC publication entitled “Political Advertising: What You Need to Know” is available at <https://www.ethics.state.tx.us/guides/Gpolad.pdf>.

There are restrictions on the use of a city’s internal mail system to distribute political advertising. Officers and employees of a city are prohibited from knowingly using or authorizing the use of an internal mail system for the distribution of political advertising.²³¹ The prohibition does not apply to use of the city’s mail system to distribute political advertising that: (1) is delivered to the city’s premises through the U.S. postal service; or (2) is the subject of or related to an investigation, hearing, or other official proceeding of the city.²³² A violation of the prohibition is a Class A misdemeanor.²³³

Finally, it is important for a city official to understand the limitations on spending public funds (i.e., city funds) for political advertising. City officers and employees are prohibited from knowingly spending city funds for political advertising. The prohibition does not apply to a communication that factually describes the purpose of a measure so long as it does not advocate the passage or defeat of the measure.²³⁴ A permissible communication may not, however, contain false information that is likely to influence a voter to vote for or against the measure.²³⁵ A violation of these prohibitions is a Class A misdemeanor. Additionally, an officer or employee could be fined by the TEC. A city council that has ordered an election on a measure (e.g., a bond election), may request the TEC to issue a written advisory opinion as to whether a particular communication violates these prohibitions and the written opinion, among other things, serves as an affirmative defense to prosecution or imposition of a civil penalty. A TEC publication entitled “A Short Guide to the Prohibition Against Using Political Subdivision Resources for Political Advertising in Connection with an Election” is available at http://www.ethics.state.tx.us/pamphlet/B09pad_pol.pdf.

VIII. RANGES OF PUNISHMENT

Following is a list of the various levels of punishment prescribed by the Texas Penal Code and referenced throughout this Primer:

²²⁸ TEX. ETHICS COMM’N, POLITICAL ADVERTISING: WHAT YOU NEED TO KNOW (July 19, 2011), *available at* <https://www.ethics.state.tx.us/guides/Gpolad.pdf>; *see also* TEX. ELEC. CODE § 255.001. There are certain exceptions to these rules.

²²⁹ *Id.* §§ 255.004–.006.

²³⁰ *Id.*

²³¹ *Id.* § 255.0031.

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.* § 255.003.

²³⁵ *Id.*

- Class C Misdemeanor – punishable by a fine not to exceed \$500.²³⁶
- Class B Misdemeanor– punishable by a fine not to exceed \$2,000, confinement in jail for a term not to exceed 180 days, or both.²³⁷
- Class A Misdemeanor– punishable by a fine not to exceed \$4,000, confinement in jail for a term not to exceed one year, or both.²³⁸
- State Jail Felony–generally punishable by confinement in jail for a term of not more than two years or less than 180 days, a fine not to exceed \$10,000, or both.²³⁹
- Third Degree Felony–punishable by imprisonment for a term of not more than ten years or less than two years, a fine not to exceed \$10,000, or both.²⁴⁰
- Second Degree Felony–punishable by imprisonment for a term of not more than twenty years or less than two years, a fine not to exceed \$10,000, or both.²⁴¹
- First Degree Felony–punishable by imprisonment for life or for any term of not more than 99 years or less than 5 years, a fine not to exceed \$10,000, or both.²⁴²

IX. LEGAL EXPENSES

Service as a city official brings with it duties and responsibilities that are unique to public servants. Public officials often enjoy immunity from suits arising from their actions as a public official. And, to the extent that the Legislature has waived that immunity, the Legislature may have limited an official's liability and/or provided that officials may be indemnified.²⁴³

In the absence of a governing statute, the attorney general has opined that city officials may have their legal expenses paid for in *civil* suits brought against them personally if a majority of the city council determines: (1) payment of the legal fees serve a public interest and not merely the defendant's private interest; and (2) the officer committed the alleged action or omission forming the basis of the suit while acting in good faith within the scope of his or her official duties.²⁴⁴ It is common for a city to purchase insurance (sometimes referred to as "errors and omissions insurance") that may provide coverage for officials in this regard.

The payment of legal expenses in relation to a *criminal* prosecution is analyzed differently. An official must pay criminal defense costs up-front because a city may not pay the expenses of an official who is found guilty of criminal charges. In other words, a city must defer payment of

²³⁶ TEX. PENAL CODE § 12.23.

²³⁷ *Id.* § 12.22.

²³⁸ *Id.* § 12.21.

²³⁹ *Id.* § 12.35.

²⁴⁰ *Id.* § 12.34.

²⁴¹ *Id.* § 12.33.

²⁴² *Id.* § 12.32.

²⁴³ See, e.g., TEX. CIV. PRAC. & REM. CODE §§ 102.004 ("A local government may provide legal counsel to represent a defendant for whom the local government may pay damages under this chapter."), 108.002 (discussing a public servant's liability limitation and referencing a city's authority to indemnify the public servant).

²⁴⁴ See, e.g., Tex. Att'y Gen. Op. Nos. JC-0294 (2000), H-887 (1976).

criminal legal expenses until they know the outcome of the case.²⁴⁵ If a public official is found not guilty, a city has discretion to pay for a person's legal expenses in a criminal matter upon findings that the payment furthers a city purpose and that the prosecution was for an act performed in the bona fide performance of official duties.²⁴⁶ A city councilmember is disqualified from voting on the issue of whether to pay his or her own legal fees, or the legal fees of another city councilmember indicted on the same facts for the same offense.²⁴⁷ If a public official is found guilty, the city is prohibited from paying the expenses.²⁴⁸

²⁴⁵ See Tex. Att'y Gen. Op. No. JC-0294 (2000) at 1 ("[A] governmental body may not decide to pay the legal expenses incurred by a public officer or employee in defending against a criminal prosecution until it knows the outcome of the prosecution.").

²⁴⁶ *Id.* at 6 (opining that previous cases concluding that public funds could not be used to defend a public officer in a criminal prosecution would likely not be followed today); see also Tex. Att'y Gen. Op. No. KP-0016 n.4 (explaining that JC-0294 "should not be read as precluding the payment of attorney's fees for services rendered in a criminal matter that concludes favorably at the grand jury stage", i.e., before charges are filed).

²⁴⁷ Tex. Att'y Gen. Op. Nos. KP-0016 (2015) at 3, JC-0294 (2000) at 1, 6 (citing *City of Del Rio v. Lowe*, 111 S.W.2d 1208 (Tex. Civ. App.—San Antonio 1937), *rev'd on other grounds*, 122 S.W.2d 1919 (Tex. 1938)).

²⁴⁸ *Id.* at 1, 9.

*If the larger local rule cities can
repeal sex offenders, then the sex offenders
will guarantee to General Law Cities - I.E.,
Gainesville*



Legislative UPDATE

Update: General Law City Sex Offenders Litigation

Last Tuesday, the Second Court of Appeals in Fort Worth heard oral argument in the first of what is sure to be several appeals related to the authority of general law cities to adopt sex offender residency restriction ordinances (SORROs).

Over the last decade, dozens of home rule cities and some 50 general law cities have enacted SORROs. While each ordinance may have minor variations, the essential purpose is to prohibit a person who is required by state law to register as a sex offender from establishing a residence within a certain distance of places where children gather.

In November 2015, at least 46 of the general law cities received a letter from Texas Voices for Reason and Justice (TVRJ), a "statewide criminal-justice advocacy group" that represents sex offenders, asking those cities to repeal their SORROs.

Under current law, Texas has no statewide residency restriction for registered sex offenders. Instead, statutory provisions simply require sex offenders to register with the police department in the city where they live. Additionally, the parole panel is required to establish a "child safety zone," an area a specified distance from the premises where children commonly gather, that a releasee is restricted from entering. However, the releasee may request that the parole panel modify the child safety zone at any time after the imposition of the condition of parole. Certain sex offenders on community supervision (probation, for example) may also be required to follow these guidelines as a condition of their probation. Once offenders have completed their sentence, there are no state regulations preventing them from being around children.

The 46 general law cities that chose to enact a SORRO did so based on provisions in the Local Government Code that delegate to them the state's "police powers," which are those necessary to protect the health and safety of citizens.

The TVRJ letters demanded that the cities repeal their SORROs by December 19, 2015, and threatened a lawsuit against any city that has not done so. In the face of that threat, at least 13 cities chose to repeal their ordinances. Those cities did so not because they lack SORRO authority.

Rather, they did so because – as small, general law cities – they have limited resources to devote to litigation.

TVRJ followed through with its threat by filing lawsuits against several of the remaining cities, including the Cities of Alvarado, Argyle, Fulton, Hickory Creek, Krum, Meadows Place, Oak Point, Ponder, West Lake Hills, and Westworth Village.

The substance of the sex offenders' claims – that general law cities have no authority to enact a SORRO – is largely based on a March 2007 opinion from the Texas attorney general's office. The petitions allege that, because they are incorporated under the general laws, and no general law expressly delegates the authority to enact a sex offender residency restriction ordinance, the defendant cities are not authorized to enact one.

Of course, attorney general opinions are not binding on courts. Moreover, the three-sentence conclusions in the one cited by TVRJ should be treated as dicta because the purpose of the opinion wasn't to opine on general law authority, and it provides essentially no analysis as to the question of general law authority to enact a SORRO.

The League filed an amicus curiae ("friend of the court") brief in the case arguing that Sections 51.001 and 51.012 of the Local Government Code provide the express prerogative to enact a SORRO as an "ordinance, act, law, or regulation" necessary for public welfare and "good order."

The League will provide updates on this case and others as they move through the process.

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Texas Property Taxes

Cities are not the problem and revenue caps are not the solution

Lt. Governor Dan Patrick recently announced his appointment of seven senators to ~~serve on~~ a new Select Committee on Property Tax Reform and Relief. Though the select committee was established to receive public feedback about how to best improve our property tax system, and to make recommendations accordingly, there is little doubt that revenue caps will be a focal point of the hearings and almost certainly will be recommended to the Senate Finance Committee.

The committee is seeking to reduce property tax burden on homeowners and businesses. However, imposing revenue caps would be a misguided effort to reach that goal. Currently, if a Texas city increases property tax collections by more than eight percent over the previous year, voters can petition for an election to rollback the increase. Bills were introduced in 2015 to replace that eight percent "rollback rate" with a hard cap of four percent and require mandatory elections on an increase over four percent – all with the false claim that this would provide property tax relief. Revenue caps are a terrible idea for the following reasons;

- **Unprecedented Population Growth.** Not only do the vast majority of Texans live in cities, but Texas cities are among the fastest growing in the entire country (many Texas cities have seen their populations grow by more than 10 percent since 2010, some experiencing upwards of 30 percent growth.) The state demographer recently estimated the state's population will double by 2050. In other words, more than 25 million more people will be living in Texas in 35 years, and cities will experience the lion's share of that population growth. Given this reality, now is the exact wrong time for the state to further limit cities' financial flexibility when it comes to providing essential transportation infrastructure and public safety protections (among other things) to a rapidly growing population.
- **City Property Taxes Aren't the Problem.** Cities collect just 16 percent of the property taxes levied in the state, according to the state comptroller. Most of the property taxes paid by Texans (55 percent) go to school districts. The latest property tax report by the comptroller shows the total amount of property taxes collected by cities rose by just 3.61 percent between 2012 and 2013, while school district tax collections rose by more than twice that rate or 7.72 percent. School property taxes have been rising because the legislature continues to reduce the state's share of funding for schools which forces districts to get more revenue from property taxes.
- **Revenue Caps Provide Minimal Tax Relief, at best.** If a four percent cap on city property tax increases had been in effect in 2013, the owner of a homestead in the City of Dallas with an assessed value of \$250,000 would have seen a "cut" in city property taxes of \$33.10 annually or about \$2.75 per month. The tax savings would have been even less if the homeowner was disabled or elderly and qualified for additional exemptions.
- **More Commonly, Revenue Caps Provide No Tax Relief At All.** According to the state comptroller's latest survey of property tax rates in 1,002 cities in Texas, 56 percent of cities either reduced their property taxes or raised their property taxes by less than four percent from 2013 to 2014 (29 percent of all cities actually reduced their property taxes). That means property owners in at least 564 Texas cities would have seen no reduction in their city property taxes if the four percent cap had been in effect.

Continued on Next Page

- **Revenue Caps Encourage Cities to Increase Taxes to Build Up Reserves.** If a hard four percent revenue cap were placed on Texas cities, it could encourage some cities to adopt the rollback rate every year. Most cities aren't adopting rates anywhere near the rollback rate under the current tax system. But tying the hands of our local officials may have the effect of pushing cities right up against a lowered rollback tax rate, just so the city can generate sufficient reserves in case of a major project or emergency situation. In other words, less financial flexibility for local governments could force cities into increasing tax rates since local control in future years would be limited.
- **Texas Cities Receive Minimal State Funding.** Unlike other states that have experimented with revenue caps, Texas state government provides almost no funding for the provision of city services. In fact, Texas ranks 47th out of the 50 states in the amount of general revenue it receives from state government. Caps might make more sense in a state where cities are also receiving appropriations of revenue from state government as a safety net. In Texas, city governments are tasked with generating and spending revenue, and welcome that responsibility.
- **Local Decisions Should Be Made By Local Officials.** State officials have no responsibility to provide local services or to meet unfunded state and federal mandates on cities. Elected city officials have constituents to represent. If an elected city councilmember acts contrary to the will of the citizens, that councilmember is not reelected. City officials interact with city residents everyday, spend hours reviewing city budgets, and are personally familiar with the priorities of their communities. In short, city officials are in a far superior position to determine the appropriate tax rate in their cities than are state officials in Austin.
- **Elections aren't cheap.** Nearly all revenue cap proposals include a mandatory rollback election if a city exceeds the lowered rollback rate, instead of the current system that allows voters to petition to hold an election. Requiring cities to hold rollback elections is yet another unfunded mandate from Austin. Based on costs reported to the Secretary of State in 2014 by a sampling of counties, municipalities, and special districts, the average cost incurred by a local governmental entity for an election held is \$1.70 per registered voter. This means that some Texas cities will be spending in excess of \$1 million on mandatory rollback elections.

To learn more, visit www.tml.org or call 512-231-7400
Legislative direct contact: Shanna Igo 512-750-8718



www.tml.org | 512-231-7400

Garden Ridge Community Center

4/30/16

Revenues

Rentals	\$ 20,775
Deposits	\$ 5,575*
Donations	\$ 0

Total Deposits Received:	\$ 13,700
Deposits refunded to date:	<u>\$ 8,125</u>
Revenue from deposits to date:	\$ 5,575*

Total Revenue: \$ 26,350

Expenditures

Telephone	\$ 329
Supplies	\$ 785
Utilities	\$ 4,402
Maintenance	\$ 4,423
Cleaning	\$ 2,395
Equipment	\$ 72
Facility Enhancements	\$10,596
Manager	\$10,210
Marketing	\$ 0
Donation Expenditures	<u>\$ 150</u>
Total Expenditures:	\$33,362

Revenue Over/ (Under) Expenditures: \$ (7,012)

GARDEN RIDGE COMMUNITY CENTER MONTHLY REPORT

2016

April 21th thru May 20th, 2016

New Events Booked in Current Month	Charged	4
	No Charge	0

2015-2016

Total Number of Events for the Month	4
Events cancelled in for the Month	1
Total Number of Days in Use for the Month	7
Wildflower Room Only	

2013-2014

Total Number of Events for the Year	81
Total Number of days Used for the Year	261
Total Number cancelled for the Year	4
Wildflower and Bluebonnet Room	

Past years	# of Events	# of Days
2011-2012	76	257
2010-2011	72	241
2009-2010	65	208
2008-2009	67	199
2008	53	190
2007	58	183
2006		139
2005		116
2004		81

CITY OF GARDEN RIDGE BUILDING REPORT

4/21/2015 THRU 5/20/2016

MAJOR PERMITS

Permit #	Address	Builder	Sq Ft.	Value \$	Permit Fees
1008 -16	21306 Maricopa Path	Chesmar Homes	4,664	\$ 606,320.00	\$ 3,748.20
1010 -16	8307 Garden Arbor	Chesmar Homes	4,078	\$ 530,140.00	\$ 3,396.80
1014 -16	20479 Wahl Lane	Champagne Homes	4,988	\$ 648,440.00	\$ 3,889.40
TOTAL			13,730	\$ 1,784,900.00	\$ 11,034.40

R PERMITS

Permit #	Address	Builder	Project	Permit Fees
1002 -16	19923 Lloyds Park	Wesley Friesenhahn	Minor Plumbing	\$ 100.00
1003 -16	9325 Sumac Lane	Onesimo Electric	Minor Electric	\$ 125.00
1004 -16	19902 Lloyds Park	Special Touches Construction	Driveway	\$ 125.00
1005 -16	8407 Orchard Glen	Bruce Gasper	Outbuilding	\$ 100.00
1006 -16	22015 Las Cimas	Advanced Solar & Electric	Minor Electric	\$ 125.00
1007 -16	8237 Park Lane	TX Power Solar	Minor Electric	\$ 125.00
1009 -16	8410 Wild Wind Park	Paradise Lawn	Deck	\$ 100.00
1011 -16	8916 Bode Circle	IES Residential TX Solar	Minor Electric	\$ 125.00
1012 -16	8423 Orchard Glen	Keith Zars Pools	Pool, Spa, Deck	\$ 566.68
1013 -16	19442 Arrowood Place	Aquatic Landscape	Koi Pond	\$ 125.00
1015 -16	22009 Senna Hills	Outbuilding & Pergola	Miguel Guardado	\$ 200.00
1016 -16	9106 Cinnabar Ct.	Texas Quality Fence	Fence	\$ 125.00
1017 -16	9497Cinchona Trail	Solar Electric Texas	Minor Electric	\$ 125.00
1018 -16	20519 Cedar Cavern	Alan Schindler	Outbuilding	\$ 100.00
1019 -16	8223 Wild Wind Park	Quality Fence & Welding	Fence	\$ 125.00
1020 -16	20526 Cedar Cavern	Alamo Plumbing Solutions	Minor Plumbing	\$ 100.00
1021 -16	8624 Verano	Erus Energy LLC	Minor Electric	\$ 125.00
1022 -16	8606 Wild Wind Park	Custom Concrete Solutions	Patio	\$ 215.04
1023 -16	8411 Orchard Glen	Alamo Fence	Fence	\$ 125.00
1024 -16	9276 Cinchona Trail	Gary Pools	Pool, Deck	\$ 495.96
1025 -16	21307 Hampton Park	Apex Home Energy Savings	Minor Electric	\$ 125.00
TOTAL				\$ 3,477.68

TOTAL MAJOR FEES FOR THE MONTH	\$ 11,034.40
TOTAL MINOR FEES FOR THE MONTH	\$ 3,477.68
TOTAL ALL PERMIT FEES FOR THE MONTH	\$ 14,512.08

TOTAL MAJOR PROJECTS VALUE FOR THE YEAR	\$ 7,201,867.40
TOTAL MAJOR PROJECTS SQ FT. FOR THE YEAR	55,399

TOTAL MAJOR PERMIT FEES FOR THE YEAR	\$ 45,533.79
TOTAL MINOR PERMIT FEES FOR THE YEAR	\$ 15,184.65
TOTAL ALL PERMIT FEES FOR THE YEAR	\$ 60,718.44



Garden Ridge Women's Club

8824 Garden Ridge Drive
Garden Ridge, TX 78266

May 15, 2016

Ms. Nancy Cain,
City of Garden Ridge
9400 Municipal Parkway
Garden Ridge, TX 78266

Dear Ms. Cain:

The Garden Ridge Women's Club is a nonprofit organization, whose activities promote civic improvements, charitable organizations, and social activities for the benefit of the residents of the greater Garden Ridge community. During the past year, the Garden Ridge Women's Club membership has had several events to raise funds for our support of various organizations within the greater Garden Ridge area.

The Garden Ridge Women's Club Board of Directors has selected the City of Garden Ridge as the recipient of a donation in the amount of \$1,400. We request that the funds be disbursed as follows:

\$500 Garden Ridge Community Center
\$500 Garden Ridge Library
\$400 Garden Ridge Parks Committee

The Garden Ridge Women's Club appreciates all the good works of the City of Garden Ridge and is pleased to support our community.

Sincerely,

GARDEN RIDGE WOMEN'S CLUB

June Fordiani, President

cc: Kim Ryan, Garden Ridge Community Center
Linda Crosland, Librarian, Garden Ridge Library
Shelby Trial, Garden Ridge Parks Committee
Mayor Nadine Knaus

Public Works

April 20, 2016—May 20, 2016

Street and Right of Way Maintenance

Shred right of ways: 3
Tree trimming: Forest Waters/Paradise Pass
Sign poles replaced: 2

Storm water Drainage Facility and Easement Maintenance

Outfalls inspected: 19
Detention/Retention ponds inspected: 18
Tonkawa Pass Drainage: Shredded
Hickory Bend Drainage: No Trespassing signage upgraded.

Park and City Facility/Property Maintenance

Park Ln. Park Benches pressure washed/trees trimmed.
Paul Davis Park BBQ hut: Walls painted
Parks mowed: 2
Community center mowed: 1
Community Center: Outdoor Benches Painted

Animal Control

Domestic Animal Apprehensions:	Dogs 2	Cats 0	YTD Dogs 22	Cats 9
Nuisance Complaint Calls :	0		YTD 0	
Animal Bite Calls :	0		YTD 0	
Deer Carcass Disposals:	7		YTD 78	
Raccoon :	0		YTD 13	
Opossum :	2		YTD 21	
Skunks :	0		YTD 3	
Other: 3 Armadillo, 3 snakes, 1 fox, 1 bat, 2 squirrels			YTD 20	

Hunters for the hungry animal donations : Deer /Wild Hogs	YTD 4
Total animal control apprehensions/pickups for 2016:	YTD 166
Animal transferred to adoption agency: 2	YTD 4
Animals returned to owners: 2	YTD 17
Animals' adopted: Dogs. 0 Cats 0	YTD 3
Current animals in city's care: Dogs. 5 Cats. 3	
Animals ready for adoption: Dogs. 0 Cats. 0	

Special Note

Oak Wilt Update: Found

May 20, 2016

To: Mayor Knaus and City Council

From: City Administrator Cain

Tricon Precast, 21248 Old Nacogdoches Road, has submitted plans for the construction of a new office building at their location in Garden Ridge. The proposed 2,320 square feet office building will replace an existing construction trailer that has been utilized as an office. Tricon is proposing to use a Cupolex Structure Slab System which does not comply with the City of Garden Ridge's current foundation requirements. Tricon is seeking a variance to Garden Ridge Ordinance 19, Attachment No. 1, Section 4. Foundation Requirements, to be allowed to construct the Copulex Structure Slab System.

The City Engineer has reviewed and researched the Cupolex foundation system and does not have any issue with the construction.

A representative from Tricon Precast will be present to address the variance request and answer questions concerning the proposed foundation system they desire to install.

Information concerning the Cupolex Structure Slab System and the city's current foundation requirements are attached for your convenience.

City Administrator

From: Building Inspections
Sent: Tuesday, May 10, 2016 9:14 AM
To: City Administrator
Subject: FW: Cupolex concrete slab

From: Garry Montgomery [<mailto:garry@rcetx.com>]
Sent: Tuesday, April 26, 2016 7:35 AM
To: Building Inspections
Cc: City Administrator
Subject: RE: Cupolex concrete slab

Wilbert,

I have reviewed and researched the Cupolex foundation and have not found any negatives to the construction design or methods. This foundation is more typical in Canada and Northern US States but I do not have any issue with the construction. I will bring the plan set back to you in the next day or two.

Thanks,

Garry Montgomery, P.E., CFM, SIT
Engineer IV

River City Engineering, PLLC.
1011 W. County Line Rd.
New Braunfels, Texas 78130
Office: 830-626-3588 x 153
garry@rcetx.com
www.rcetx.com

From: Building Inspections [<mailto:buildinginspections@ci.garden-ridge.tx.us>]
Sent: Friday, April 15, 2016 10:28 AM
To: Garry Montgomery <garry@rcetx.com>
Subject: Cupolex concrete slab

Gary,

Nancy would like you to look at a set of plans we received for an office building. You will notice that they want to use a "cupolex" concrete slab which our ordinance does not address. Please look the plans and information I am leaving you and give us your comments.

You can pick up the plans in Jan's office.

Wilbert Lenz
Building Official
City Of Garden Ridge

TRICON PRECAST LTD.



City of Garden Ridge
9400 Municipal Parkway
Garden Ridge, TX 78266-2366
Attention: Ms. Nancy Cain

Subject: Cupolex Structure Slab System, TPL Plant 21248 Old Nacogdoches Road

Dear Ms. Cain,

Tricon Precast is planning to construct a 2320 SF office building to replace our existing construction trailer. This building will consist of a structure slab and precast concrete insulated building panels.

We understand the City of Garden Ridge standard drawing for slab-on-grade shows the slab placed over sand and vapor barrier. The building is designed with a structural slab utilizing the Cupolex slab system and Tricon Precast requests the City's approval for this system.

The Cupolex slab system is design to eliminate the typical issues associated with slab-on-grade construction. Cupolex is a patented concrete forming system for floors made from 100% recycled plastic. Concrete is poured over the modular dome forms to create structural slabs with an under slab void that results in minimal concrete contact with the soil, providing a capillary barrier against moisture; yet using less concrete and reinforcing steel than a typical standard slab with equivalent load bearing capacity. The Cupolex slab system provides major advantages over standard sab on grade construction. (see attached documents for further technical specifications).

If you any question or require additional information please do not hesitate to contact us.

Respectfully Submitted ,

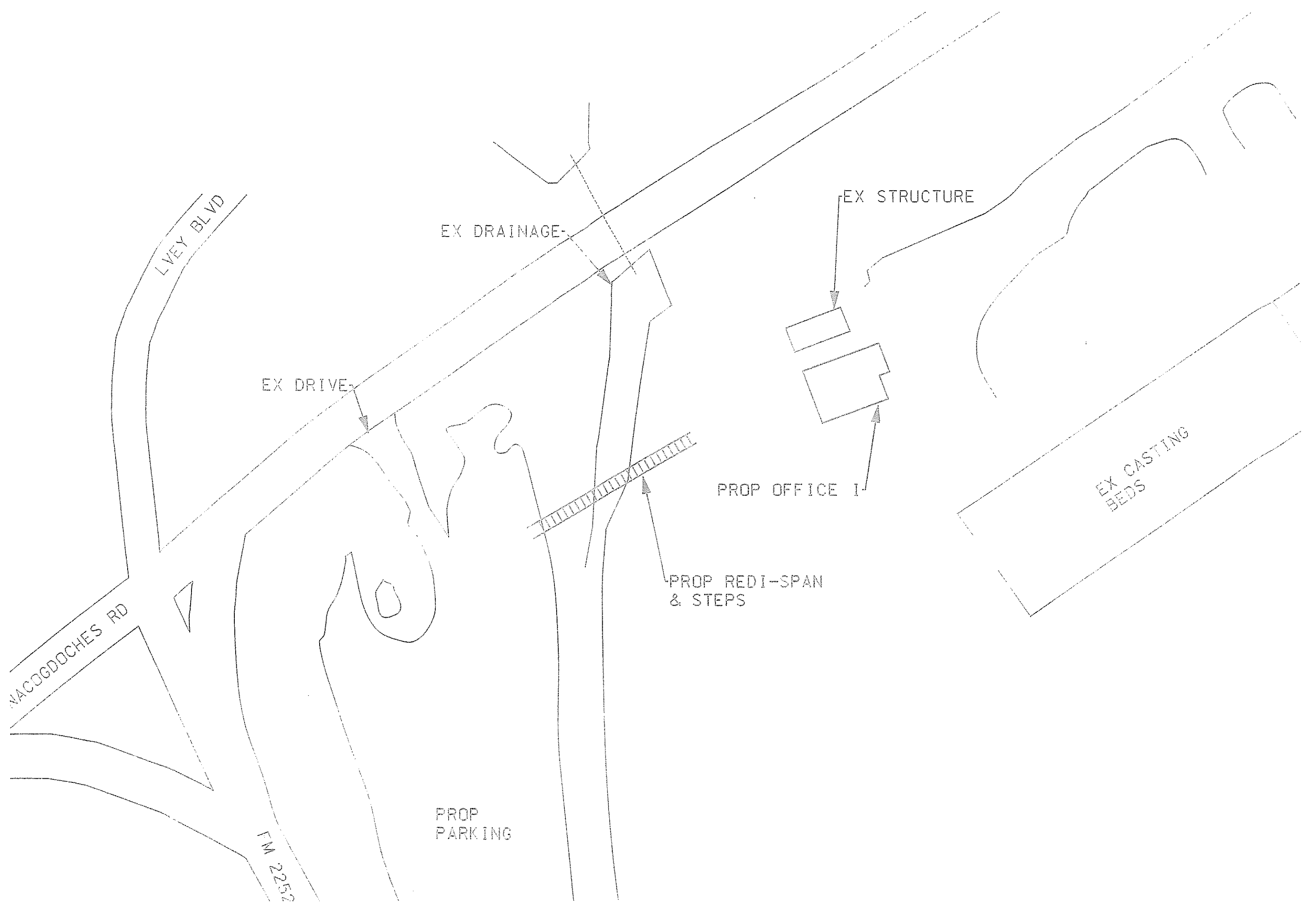
Tricon Precast Limited

A handwritten signature in cursive script, appearing to read 'William Wygle', written over the printed name.

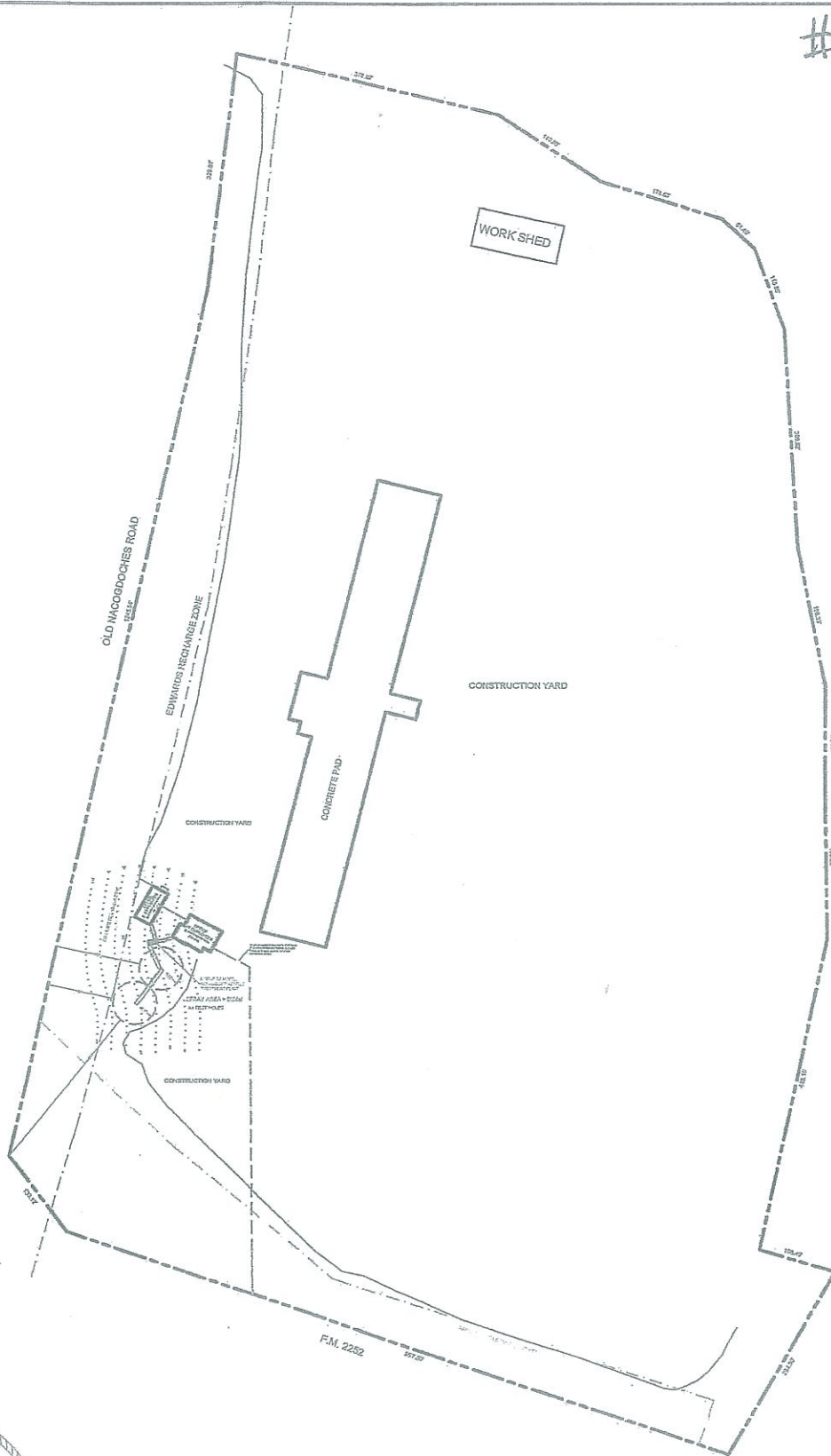
William Wygle PE
Manager of Engineering
Office: 281-936-9832
Cell 281-831-2342

Attachments:

1. Site plan
2. Cupolex Building System
3. "Everything You Ever Wanted To About CUPOLEX"



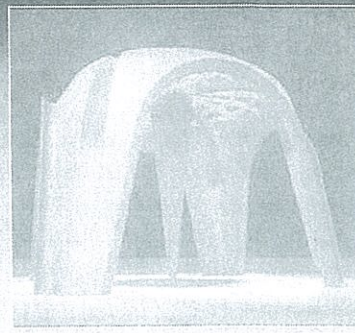
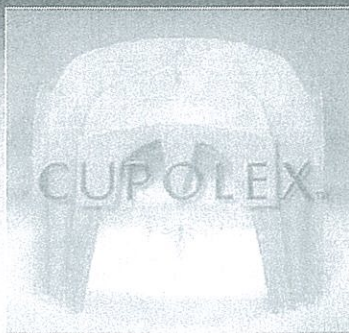
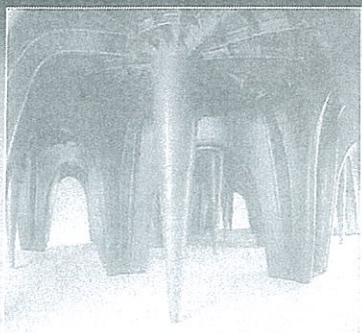
#104206



OWNER: TRICON PRECAST, LTD.		DRAWN BY:	
STREET ADDRESS: 21248 NACOGDOCHES ROAD			
LEGAL DESC: JOHN NELSON SURVEY No. 97, A-436			ACREAGE: 36.944
PREPARED BY: GREG W. JOHNSON, P.E. F#002585	SCALE: N.T.S.	DATE: 12/2/2015	REVISED: 3/30/2016

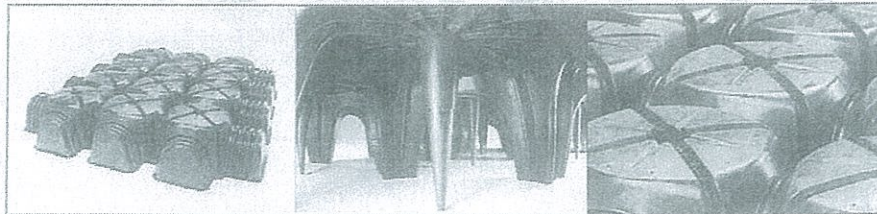
CUPOLEX[®]

BUILDING SYSTEMS



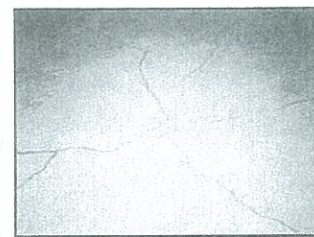
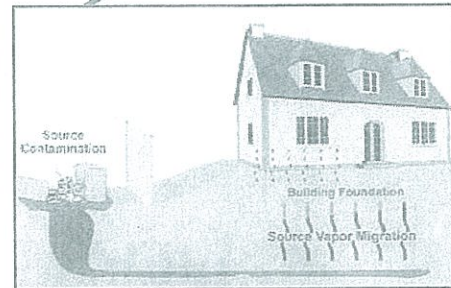
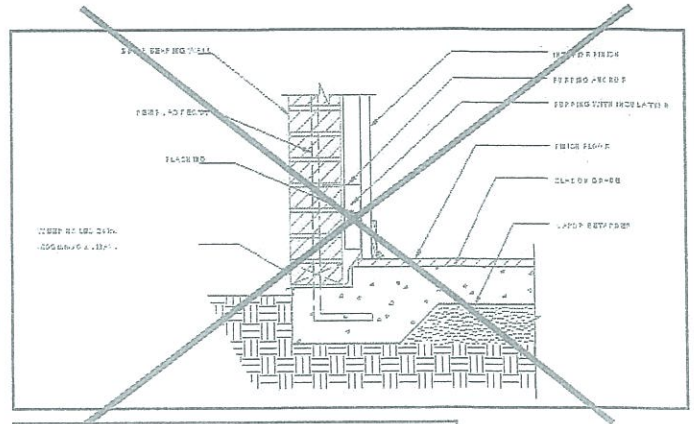
SLAB ON GROUND

THE CUPOLEX[®] SOLUTION



Identifying The Problem

➤ Slab-on-ground is a well-used building solution in North America and other parts of the world, and they are very well known to not provide healthy interior environments. The slab on ground is in direct contact with the typical draining layer such as a gravel, sand or a compacted subbase and under complicated hydrothermal conditions. When not properly applied, moisture damage in slab-on-ground structures may result, leading to mould growth, chemical reactions and material emissions associated with an unhealthy indoor environment. Slabs on the ground typically are prone to a degree of damage caused by moisture. Typical moisture failures of slab-on-ground structures are due to the lack of a capillary breaking drainage layer under the slab, lack of thermal insulation, and incorrect placement of the vapour barrier. In addition to the moisture problems, the soil may be a source of radon, methane and many volatile organic compounds (VOC) that may enter indoors through the slab on ground.



Because the construction of concrete floors on the ground necessarily focuses a great deal of attention on the performance of concrete, especially when the results of such construction are less than satisfactory, the concrete industry has the strongest incentives for doing everything possible to encourage the highest standards of workmanship. This is particularly true since the shortcomings of most slab-on-ground construction have far more to do with faults or oversights of workmanship than to inherent shortcomings in concrete itself.

Building designers and developers strive to assure better results and protect themselves and their product from criticism. They are constantly facing the following challenges when designing and installing slabs on ground:

- slab curling and shrinkage,
- radon,
- vapor intrusion,
- improving indoor air quality,
- reducing the environmental impact of building,
- lowering building costs and the carbon footprint,
- reduce the cycle time of building,
- reduce aggregate use,
- moisture and mold prevention,
- expansive and challenging soil conditions.

Water Vapor can readily pass through most building materials, and it is recognized today as being one of the most destructive of the forces that attack the modern home or building. It is a more severe problem today than ever before because of the many ways in which modern construction successfully lowers heat transfer through walls, doors, windows and roofs. Since we have thus made it harder for water vapor to escape from our modern homes and buildings, it has become correspondingly important that we take steps to prevent it from entering.

CUPOLEX®

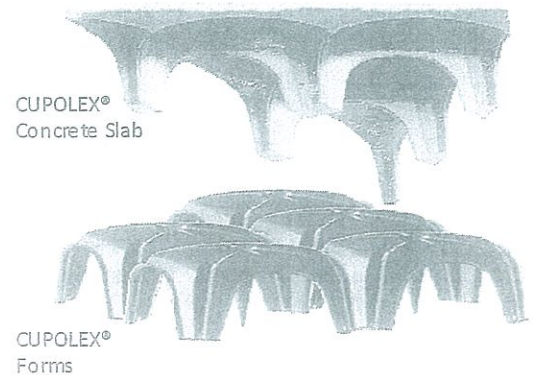
The Solution to the Problem

➤ CUPOLEX® is a patented concrete forming system for floors made from **100% recycled** plastic. Concrete is poured over the modular dome forms to create floating or structural slabs with an under slab void that results in minimal concrete contact with the soil, provides a capillary barrier against moisture - yet uses less concrete and rebar than a standard slab with equivalent load bearing capacity. This cutting edge slab on ground solution provides major advantages over a standard slab on grade:

1. Provides an excellent moisture barrier under slab void that can be vented in soil with high water content;
2. Water cannot leach up through the bottom of the concrete slab significantly protecting the structure from water damage;
3. Moisture cannot wick through the concrete by Maintaining the top and bottom of the concrete floor slab dry which cannot contribute to the growth of mold and mildew under flooring overlays and damage to expensive architectural flooring finishes, floor tiles or carpets;
4. Ventilating the CUPOLEX® under slab void space will effectively help control Vapor Intrusion, humidity levels, and temperature ranges, which standard slabs cannot control and have been linked to human health, learning, and productivity;
5. Replaces fill or gravel that typically is required to bring the slab to level and eliminates the costs associated with importing, compacting, certifying engineered fill and reduces any risk with post construction settlement of the underlying subbase;
6. Longer spans can be achieved in pile/beam structural slabs than flat standard slabs;
7. Assists designers to deliver Sustainable features which contribute to GREEN or LEED certified building;
8. Maximum control of concrete curing resulting in reduction of slab curling, shrinkage cracks thus providing a higher quality surface;
9. Provides under-slab space for running cables, conduits and pipes, simplifying post-construction installation of new wiring and utilities;
10. Can provide special CUPOLEX® slab designs on soils with very low bearing capacity, high compressibility, or highly expansive soils.



- CUPOLEX®, a patented concrete forming system for floors made from 100% recycled plastic
- Concrete is poured over the modular dome forms to create floating or structural slabs with an under slab void that can be ventilated to remove Vapors
- And provides a capillary barrier against moisture - yet
- Uses less concrete and rebar than a standard slab
- With equivalent load bearing capacity.

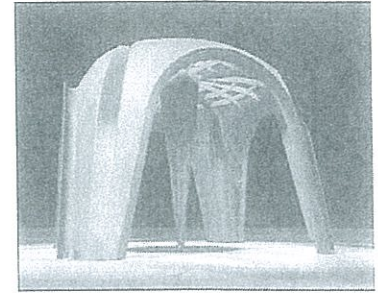


Design And Technical Support

➤ **Cupolex is Formwork, it is not an Engineered System!**

CUPOLEX® is not an engineered system such as truss system, engineered lumber, metal buildings, precast concrete, etc. CUPOLEX® is simply formwork modules which are not used twice. The modules are variously interlinked to create a formwork to complete a concrete casting and the characteristic attribute of this product is its' modular dome made of plastic materials. The slab design refers to the concrete over layer and to the level of reinforcement needed, as established according to the soil characteristics and loading types and levels.

Each CUPOLEX® floor is specifically designed to suit site conditions. Specific design calculations and sealed drawings should be provided for each design by a Chartered Professional Engineer.

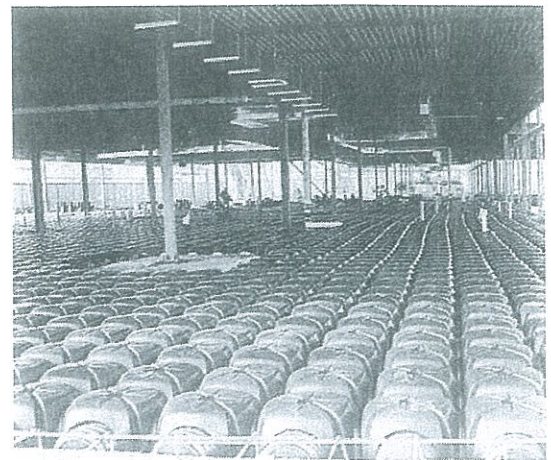


➤ **Can any Structural Engineer Design a Cupolex Slabs? YES**

Any structural engineer can design a CUPOLEX® slab. Cupolex Building Systems provides all the necessary design support and design tools to structural engineers to make every Cupolex slab a success.

➤ **Can Cupolex Building Systems provide Engineering Services and Engineered Drawings? YES**

Cupolex Building Systems also provides full engineering services. We understand slabs, foundations and mitigation. For an engineered product supply quote, please contact us at 1.866.766.8276



➤ **CUPOLEX® Support Services**

Cupolex Building Systems has available some of the most experienced structural and environmental engineers in the USA and Canada. Leaders in the industry that can provide:

- › Site specific design, including construction drawings and technical specifications for both structural and Vapor Ventilation design
- › Provide Engineering oversight, observation, quality control testing, or performance testing of the installed Cupolex system
- › Provide Vapor intrusion site investigations, including sub-surface investigations, indoor air testing and evaluations of the potential for Vapor Intrusion
- › Site visits for any reason can also be available, including meetings with customers, regulators, contractors, or other parties
- › Certified Installers

We have full time field and technical staff with extensive experience, ready to help when you need it. We know how to Design Slabs, foundations and Mitigation Systems. We have over 15 years experience helping engineers design Aerated Slabs and assist contractors in building with Cupolex all across North America and the rest of the world.

The Cupolex Building Systems in-house Technical Department team can provide design assistance to assess the available information and provide site-specific design recommendations, supported with calculations for each slab.

These services include:

1. Appropriate height and types of CUPOLEX® floor to you're your project's design requirements
2. Reinforcing requirements
3. Standard details
4. Quotation where appropriate.

From Cupolex slabs built at American Air force Bases to Cupolex slabs built at the Guggenheim Museum, from residential home slabs in the Nevada Dessert to slabs built in winter conditions in Canada. We've helped design and build Cupolex Slabs! *In fact over 500 million sq.ft of them.*



CUPOLEX® Technical Library

Design Guide and Specifications

Engineering Guide for Design

Specification Documents

CAD Details

Testing Reports

Technical Reports

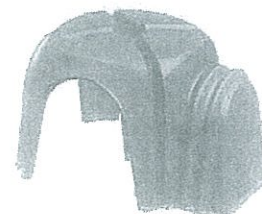
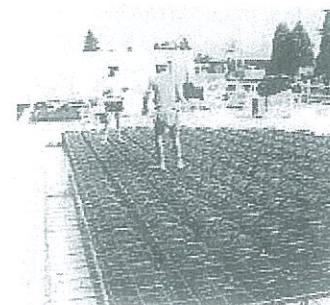
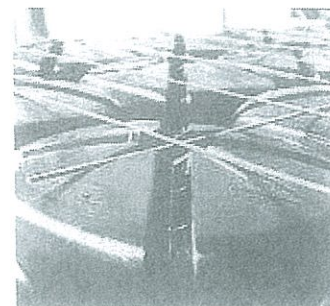
Case Histories

Installation Guide

CUPOLEX-PONTEX® FEM Program Software

EASY CUPOLEX® FEM Program Software

CUPOLEX® CAD Filler Program

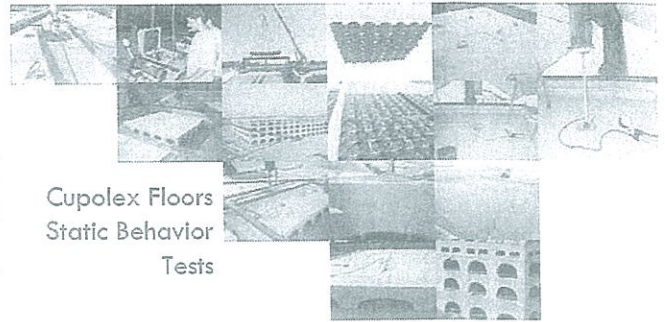


CUPOLEX®

The "ECO FLOOR" Assurance

➤ Backed by Research

Detailed studies have been conducted for by National Research Councils and renowned Universities in Europe, Australia and North America, comparing the static behavior of CUPOLEX® Floors and conventional uniform thickened floors on ground. The research was aimed at the definition of numerical models as well as their experimental validation with tests in situ. The project data refers to the concrete over layer and to the level of reinforcement needed, as established according to the soil characteristics and loading types and levels.



Cupolex Floors
Static Behavior
Tests

➤ ECO FLOOR™ Assurance

The CUPOLEX® "ECO FLOOR" Assurance provides healthier environments and offers many advantages over conventional floor slabs, including ease of construction, economical savings and reduces building cycle times.

Confidence

You can design CUPOLEX® floors with confidence knowing that our FORMING systems is used in over 500 million residential, commercial, industrial and institutional applications world-wide with no structural failures or callbacks

Flexibility

Any type floor design or site condition can be accommodated easily

Performance

Forms are molded in a variety of depths to deal with different levels of Vapor Emission

Reliability

CUPOLEX® forms are not only versatile, they are rated the strongest in the industry

Guarantee

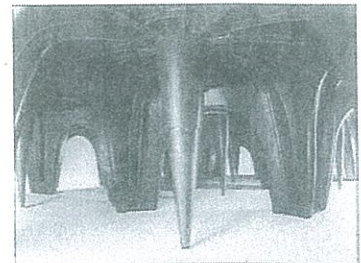
The manufacturer ensures that its' products are manufactured according to the quality standards of the ISO 9001:2000 certified manufacturing facilities

Advanced Design Tools

CUPOLEX® provides all necessary drawings and design software required to implement CUPOLEX® Aerated Floors

Time Tested Technology

CUPOLEX® is not a new or experimental concept – over **500 million square feet** have been installed in buildings around the globe for over 15 years, without any failures or structural call backs



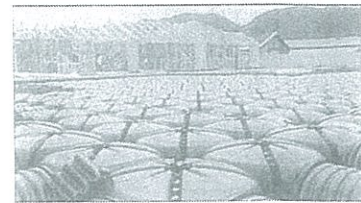
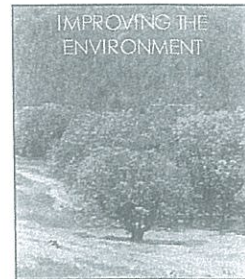
Low Cost Solution

The savings in labor and materials over conventional slabs usually can pay for the cost of CUPOLEX®, providing a highly efficient preemptive venting system at no additional cost. Compare this to the significant additional cost of installing the gravel venting layers and liners typically required to control vapors below conventional floor slabs.

► Sustainable Benefits

CUPOLEX® is the most sustainable solution for radon, vapor intrusion, and moisture control available, helping US federal facilities meet the requirements of Executive Order 13423 and assisting Architects and Design Engineers to deliver Sustainable features that include:

- Increased potential for wind and solar powered venting,
- made out of 100% non-toxic recyclable material,
- contributes to GREEN or LEED certified building,
- reduces dampness, mold and mildew creating a healthier building environment,
- reduces material (concrete and rebar) consumption,
- replaces aggregate and engineered fill under slabs,
- reduces construction time and labor, and
- Selected as the "Green" flooring system for the "American Home" at the 2010 International Builders Show in Las Vegas.



► Structural Benefits and Other Advantages

In Addition to providing more effective vapor and moisture control at lower costs, and the sustainable attributes, CUPOLEX®:

- reduces slab curling and shrinkage cracks, providing a higher quality surface,
- provides under-slab space for running cables, conduits and pipes, simplifying post-construction installation of new wiring and utilities,
- supports slabs on challenging and poor soil conditions, especially expansive soils,
- allows forming of complete structural suspended slabs on beam pile foundations,
- can be designed to create under-slab water reservoirs for storm water management and fire suppression water storage,
- approved for installation at USAF bases,
- manufactured to ISO 9001:2000 high quality standards,
- engineering support,
- Can provide Certified Installers throughout the USA and Canada.



CUPOLEX®

Product Design and Applications



THE BENEFITS

- Arrives on site packaged and ready to be installed
- Quick and simple to install with basic hand tools
- Can be easily adapted to site variations
- Minimizes concrete wastage
- made out of 100% non-toxic recyclable material which can contribute to GREEN or LEED certified building
- One pallet of CUPOLEX replaces 7.5 trucks of gravel or fill
- Minimizes construction traffic damage
- Manufactured to ISO 9001:2000 high quality standards
- A full range of accessories and field support ensures secure construction

► **CUPOLEX** is a unique forming system for the construction of slab-on-ground Aerated Floors. Over the past 15 years the idea of pouring concrete over CUPOLEX® permanent void forms have become an increasingly popular foundation method.

Both slab on grade and structural slabs can be created using this formwork. Besides these advantages, there are significant cost savings to the builder and owner by using the CUPOLEX® flooring formwork in the design of Aerated concrete slabs for Residential, Industrial, Commercial and Institutional applications in sites with challenging soil conditions.

Made from 100% recycled materials, the forms provide the maximum performance and guarantee superior characteristics of stability and resistance in its structure to allow operations that are completed directly above the plastic CUPOLEX® elements before the placement of the concrete.

CUPOLEX® Technical department will provide a full scheme detailing all necessary components, and the optimum height of forms to be used.

Accessory Components



BETON STOP BETON STOP® is for closing the side openings of the CUPOLEX® aerated forms. BETON STOP® compensates required dimensions different from those obtained by using the CUPOLEX® module, with no need to cut the CUPOLEX® units. BETON STOP® allows the CUPOLEX® aerated floor to be suitable for any project dimensions.



PONTEX PONTEX®, combined with CUPOLEX® can be used to create ribs in the slab so that aerated floors become self-bearing.



WINDI CUPOLEX WINDI® creates a ventilated floor on existing floors without affecting the structure of the building. The adoption of CUPOLEX WINDI® allows you to save on waterproof sheathing and guarantees a constant seal against dampness. CUPOLEX WINDI® may also be easily attached to walls to obtain an air space capable of ventilating and eliminating mould.



CUpoleX Rialto®: Forming system to create cast in place underground water slab tanks.

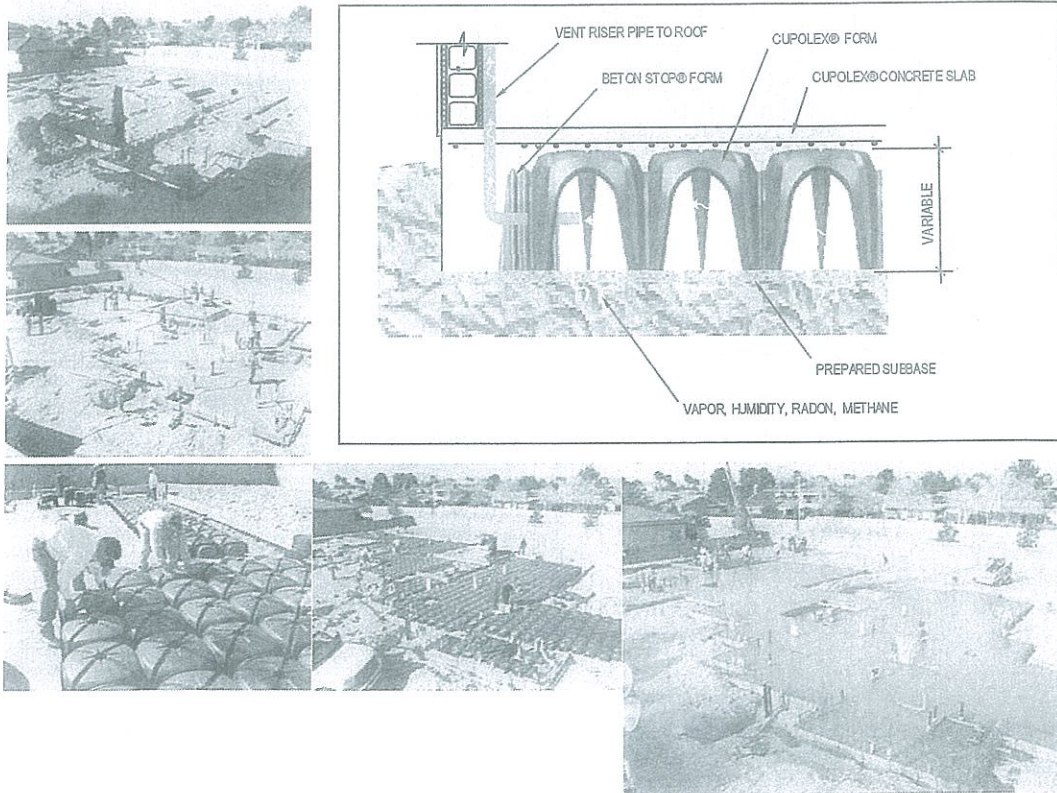
Overview of Applications

➤ STANDARD SLAB ON GRADE

Typically a 175mm (7") or a 300mm (12") thick CUPOLEX® floor slab is used for a standard floor such as residential or light commercial using CUPOLEX® H. 13.5mm (5") Forms and H. 260 mm (10") Forms and the corresponding accessory BETON STOP®.

152x152 MW25.8/25.8 (6x6 W2.9/2.9) welded wire mesh with saw cuts or 6x6 W5.4/5.9 (4152 x 152MW34.9/34.) mesh without saw cuts are used in the topping throughout the slab. Additional reinforcing is used where increased load capacity is required such as garage areas or heavy loaded floors.

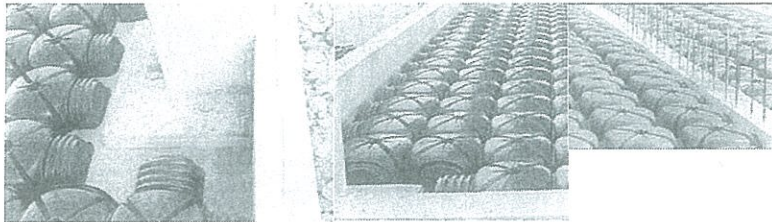
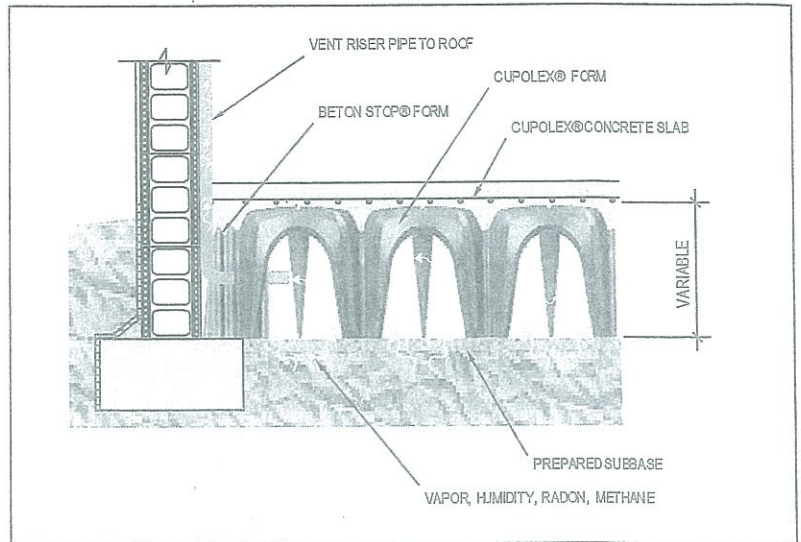
Where top soil layers are thick, higher CUPOLEX® can be used to create a deeper slab. This replaces the fill or gravel that typically is required to bring the slab to level and eliminate the costs associated with importing, compacting and certifying engineered fill.



➤ CONVENTIONAL SLAB ON GRADE

Compacted fill Replacement, Floating Slabs or Crawlspaces

CUPOLEX® domes can be placed between foundation walls to replace the compacted hard fill or gravel. The CUPOLEX® units can be installed flush against the foundation wall with or without using BETON STOP®. On sloping sites various heights CUPOLEX® from 135 mm (5") to 70cm (28") high can be used, stepping down the site to form a level upper surface. The CUPOLEX® slabs can also be stacked if finished floor elevations are required to be higher.



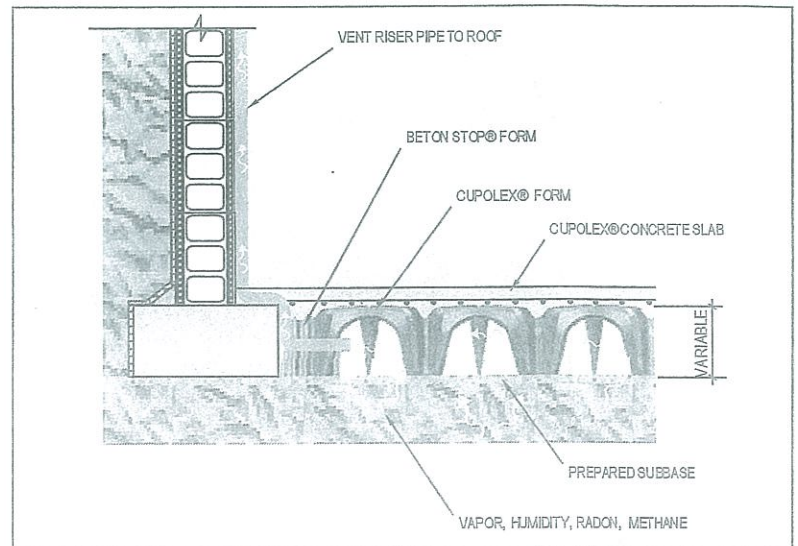
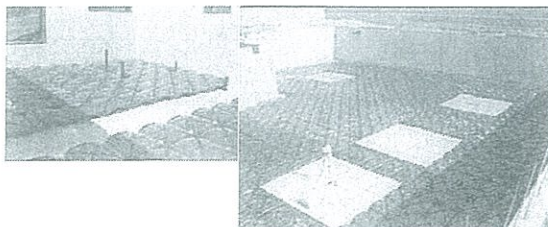
NOTE:

A range of Standard Details are available on our website and can be downloaded for incorporation into plans and drawings.

Please visit www.pontarolo.ca

➤ BASEMENT SLAB

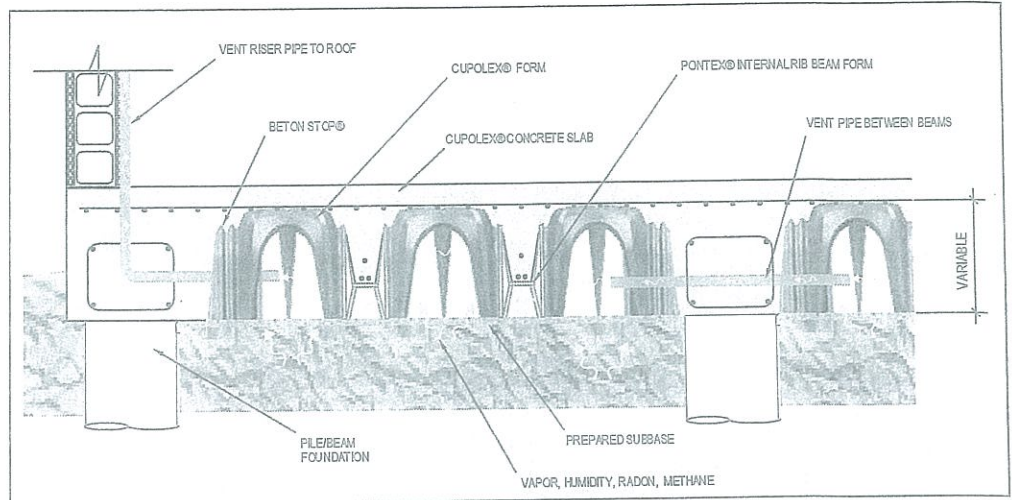
CUPOLEX® domes can be placed between basement footings to replace the gravel and perform as a venting and draining layer. The CUPOLEX® units can be installed flush against the footings without using BETON STOP®. The footings and slab can also be monolithically poured by using the BETON STOP®.



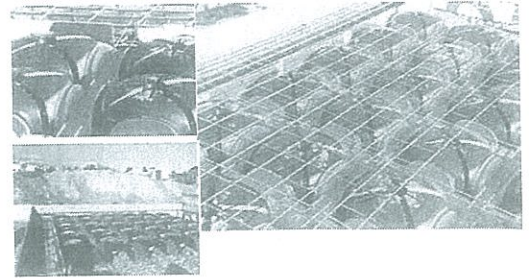
➤ STRUCTURAL SLAB

Fully Suspended Floor Slab on beam/pile or stem wall foundations and Structural Ribbed Slab - Reasons for a structural CUPOLEX® floor slab may include:

- Unsuitable ground conditions (very low bearing pressures) or expansive soils
- Bridging over public storm water and sewer lines
- Slope stability issues



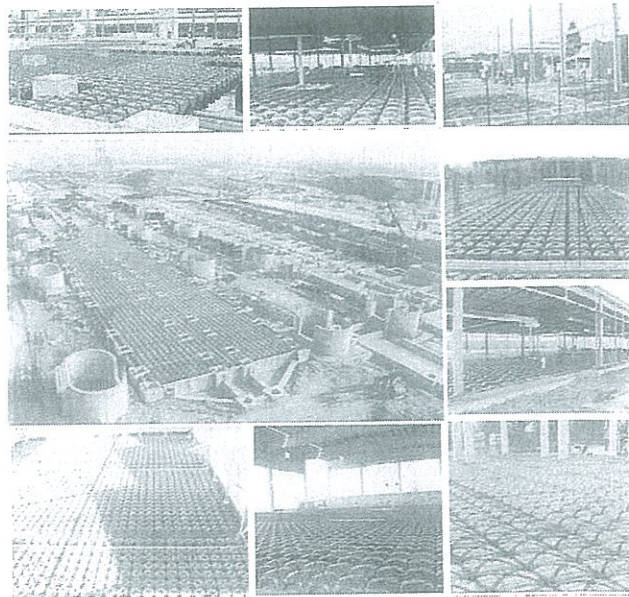
The CUPOLEX® floor slab can be fully suspended on reinforced concrete piles. Additional reinforced internal ribs are then used in the slab by introducing PONTEX®, the structural CUPOLEX® accessory to provide a structure capable of spanning between stem walls or pile locations. Very little additional work or material is required to provide a structural floor slab system and in many cases exterior footing reinforcement remains unchanged. As with all slabs, each structural CUPOLEX® floor is specifically designed to suit site conditions and pile numbers may be optimized to limit additional costs. Contact our technical department for specific design calculations, drawings and details. Design Certificates should be provided for each design by an Approved Registered Professional Engineer in your state or province.



➤ INDUSTRIAL AND COMMERCIAL FLOOR SLAB

CUPOLEX® Dome Forming System can be specifically designed for industrial floors. Loads of more than 10 kPa can be accommodated with thicknesses ranging from 50mm (2 ") to 120mm (5") over the CUPOLEX® elements.

In industrial applications, the reinforcing cages, pad foundations, load bearing wall lines can be fixed into place first. The CUPOLEX® can then be used between load bearing lines to act as hard fill and to bring the slab up to the required elevation. The footings and the floor slab can be poured in one operation.



CUPOLEX - SLAB ON GROUND SOLUTION

Design Factors

► Slab on Grade - Designing Aerated Floor Slabs with Cupolex Forms

Plain non-structurally reinforced CUPOLEX® slabs can be economically and successfully used for a wide variety of load and site conditions. However, soils with very low bearing capacity, high compressibility, or that are highly expansive may require remedial treatment or special CUPOLEX® slab designs (structural reinforced CUPOLEX® slab, possibly with stiffening beams (PONTEX®) or CUPOLEX® slabs not directly supported by the soil. The design factors involved in determining the required floor slab on grade thickness are:

- Strength of the concrete (Concrete Modulus of Rupture)
- Strength of the subgrade-subbase
- Nature and frequency of imposed loads

► Post Loads and Concentrated Loads

Concrete bearing and shear stresses for CUPOLEX® slabs are computed using Design Methods to see whether the stresses are within allowable limits. But for very heavy posts, the required thickness of CUPOLEX® concrete slabs may be great enough that alternative designs should be considered, such as:

- Integral or separate footings under each post or line of posts (post locations would have to be permanently fixed) and formed with BETON STOP®;
- Structurally reinforced CUPOLEX® slabs with steel designed to take the tensile stresses;
- One or more PONTEX® elements added in areas subject to greater loads or exceptional stress;
- Use of a cement-treated subbase under the CUPOLEX® concrete slab.

► CUPOLEX® DESIGN PROGRAM SOFTWARE FOR SLAB ON GRADE

Cupolex Building Systems provides free of charge a FEM Design Program Software called EASY CUPOLEX and CUPOLEX-PONTEX Software. The Programs use the schematizations "Plate Model" according to cap. 4 and 5. This numerical schematization is suitable for design purposes and supplies an adequate level of representation of the interaction of the CUPOLEX® floor with the ground. The research and testing document, available in our Technical Library, prove the validity of the numerical model for design purposes. Contact our technical department for more information on the CUPOLEX® software programs.

The following variables are considered by the CUPOLEX® Program

- Type of CUPOLEX®
 - Thickness of slab
 - Levels of reinforcement
- Type of soil

The static behavior of the CUPOLEX® concrete floor depends on the following factors:

- 1) Geometry:
 - Dome geometry
 - Minimum thickness of the slab above the cupolex elements
- 2) Type of soil or subbase
 - Position of loads on the CUPOLEX® slab
 - Beam grid model (fig.1)
 - Plate model (fig.2)
 - 3D model (fig.3)

Also a non-uniform contact with the soil is taken into account (for example different yielding)



FIG.1

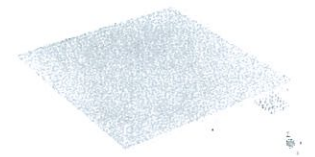


FIG.2

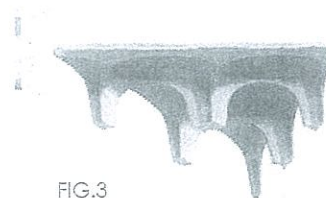


FIG.3

► CUPOLEX®

LOAD CHART

The values shown refer to the allowable uniformly distributed permanent dead-load depending on the slab thickness, type of subbase and soil bearing capacity.

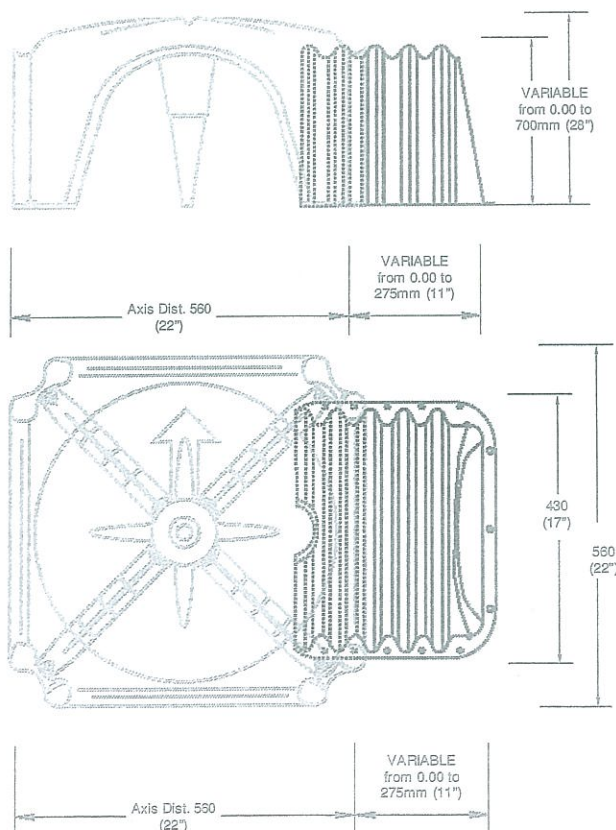
The following are not considered:

- concentrated or point loads in loading and unloading areas (live load);
- variations in the rigidity of the soil on site
- geometric singularities effects or applied restrictions

The above aspects are to be analyzed during the final design and testing phase.

LOAD CHART - CUPOLEX

Concrete Above Cuplex inches	Sub-Base		SOIL BEARING CAPACITY psf						
			12	15	17	22	29	36	43
1.25	Untreated Subbase	psf	31	41	61	92	133	184	205
	Mud slab 4"	psf	410	492	533	533	533	533	533
	Mud slab 4" + Gravel 4"	psf	533	533	533	533	533	533	533
1.5	Untreated Subbase	psf		35	56	88	123	184	205
	Mud slab 4"	psf	410	481	533	553	573	573	573
	Mud slab 4" + Gravel 4"	psf	573	573	573	573	573	573	573
2	Untreated Subbase	psf		31	51	82	123	174	195
	Mud slab 4"	psf	399	471	522	573	614	614	614
	Mud slab 4" + Gravel 4"	psf	614	614	614	614	614	614	614
3.25	Untreated Subbase	psf			31	72	113	164	184
	Mud slab 4"	psf	389	471	655	819	1045	1045	1045
	Mud slab 4" + Gravel 4"	psf	1045	1045	1045	1045	1045	1045	1045
4	Mud slab 4"	psf	410	492	655	819	922	1126	1126
	Mud slab 4" + Gravel 4"	psf	1045	1045	1045	1045	1045	1331	1639
4.75	Mud slab 4"	psf	420	543	655	819	1045	1413	1710
	Mud slab 4" + Gravel 4"	psf	1045	1393	1587	1997	2048	2048	2048



CUPOLEX - SLAB ON GROUND SOLUTION

Performance Characteristics

CUPOLEX ® Form	Overall Form Depth		Clear Void Equivalent		Concrete Consumption to top of Forms	
	[mm]	[inch.]	[mm]	[inch.]	[m³/m²]	[cy/sq.ft]
W005	50	2	40	1.57	0.008	0.0010
C1095	95	4	80	3.15	0.014	0.0017
W010	100	4	70	2.76	0.030	0.0036
C1013	135	5	110	4.33	0.030	0.0036
C1020	200	8	170	6.69	0.035	0.0043
C1026	260	10	220	8.66	0.045	0.0055
C1030	300	12	260	10.24	0.042	0.0051
C1035	350	14	310	12.20	0.045	0.0055
C1040	400	16	340	13.39	0.060	0.0073
C1045	450	18	390	15.35	0.064	0.0078
C1050	500	20	440	17.32	0.065	0.0079
C1055	550	22	490	19.29	0.065	0.0080
C1060	600	24	530	20.87	0.07	0.0085
C1065	650	26	580	22.83	0.071	0.0090
C1070	700	28	630	24.80	0.073	0.0095

CUPOLEX® Forms are molded in a variety of depths to deal with different levels of Vapor emission and for different depths of fill requirements

Standard Applications

TYPE OF LOAD	LIVE LOAD	DEAD LOAD	SLAB THICKNESS ABOVE CUPOLEX	PRESSURE AT THE PILLAR	CEMENT TREATED SUBBASE THICKNESS	PRESSURE UNDER CEMENT TREATED SUBBASE	GRAVEL THICKNESS UNDER SLAB	GROUND BEARING PRESSURE
UNIT OF MEASURE	psf	psf	.inch	psf	.inch	psf	.inch	psf
HOUSING	40	15	0	0.23	0	~	0	0.23
			1	0.25	0	~	0	0.25
			1.5	0.26	4	0.043	0	0.043
			1.5	0.26	0	~	10	0.032
			1.5	0.26	4	0.043	10	0.028
PUBLIC BUILDINGS	100	40	2	0.4	0	~	0	0.4
			2	0.4	4	0.066	0	0.066
			2	0.4	0	~	10	0.045
			2	0.4	4	0.066	10	0.032
GARAGES	60	40	2	0.31	0	~	0	0.31
			2	0.31	4	0.053	0	0.053
			2	0.31	0	~	10	0.037
			2	0.31	4	0.053	10	0.031
INDUSTRIAL BUILDINGS	350	60	3	0.95	0	~	0	0.95
			3	0.95	4	0.15	0	0.15
			3	0.95	0	~	10	0.096
			3	0.95	4	0.15	10	0.063

Housing

SUBBASE TYPE	DISTRIBUTED LIVE LOAD psf	SUPERIMPOSED DEAD LOAD psf	MIN CONCRETE ABOVE CUPOLEX .inch	MIN SOIL BEARING psf	MIN SOIL K-VALUE pci	MIN CONCRETE TYPE FOR SLAB psi	WELDED WIRE MESH type
UNTREATED SUBBASE	40	15	2	2000	100	3000	6x6 W2.9/2.9
2" COMPACTED GRAVEL	40	15	2	1500	50	3000	6x6 W2.9/2.9
1.25"(1500psi)CEMENT SUBABSE	40	15	2	1500	50	3000	6x6 W2.9/2.9

Public Buildings

SUBBASE TYPE	DISTRIBUTED LIVE LOAD psf	SUPERIMPOSED DEAD LOAD psf	MIN CONCRETE ABOVE CUPOLEX .inch	MIN SOIL BEARING psf	MIN SOIL K-VALUE pci	MIN CONCRETE TYPE FOR SLAB psi	WELDED WIRE MESH type
UNTREATED SUBBASE	100	40	3	5000	150	3500	6x6 W2.9/2.9
2" COMPACTED GRAVEL	100	40	2	2500	100	3500	6x6 W2.9/2.9
1.25"(1500psi)CEMENT SUBABSE	100	40	2	1500	50	3500	6x6 W2.9/2.9

Garages

SUBBASE TYPE	DISTRIBUTED LIVE LOAD psf	SUPERIMPOSED DEAD LOAD psf	MIN CONCRETE ABOVE CUPOLEX .inch	MIN SOIL BEARING psf	MIN SOIL K-VALUE pci	MIN CONCRETE TYPE FOR SLAB psi	WELDED WIRE MESH type
UNTREATED SUBBASE	60	40	3	3500	150	3500	6x6 W2.9/2.9
2" COMPACTED GRAVEL	60	40	2	2000	100	3500	6x6 W2.9/2.9
1.25"(1500psi)CEMENT SUBABSE	60	40	2	1500	50	3500	6x6 W2.9/2.9

NOTE*

Standard Designs have been verified to meet ACI and Canadian Standards.
Self Weight of concrete slab has been considered in verification of soil stress.



CUPOLEX®

BUILDING SYSTEMS

For more detailed CUPOLEX® literature or product information,
Please contact our technical sales department at 1-866-766-8276.

For a range of design led applications

For forming ribbed concrete floors

For protecting foundations against ground movement

For void forming, landscaping and fill applications

For preemptive mitigation solutions

For vapor intrusion protection

For improving indoor air quality

To reduce the environmental impact of building

For lowering building costs

For reducing building cycle times

For reducing aggregate use

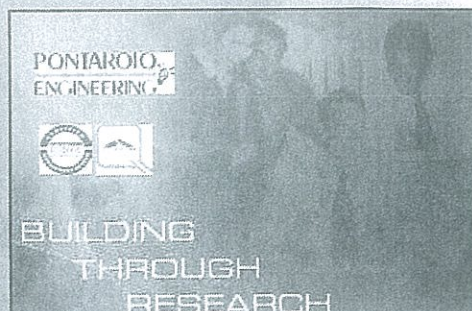
For protection against moisture and mold

For a range of product solutions and systems



If the contents of this brochure do not provide all the information you need for a full range of design and construction applications, we have a lot more to offer. Contact our technical sales department at 1-866-766-8276.

Our reputation is built on innovation and a wealth of problem solving experience for over 40 years.



CONTACT US

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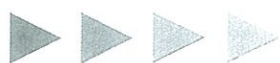
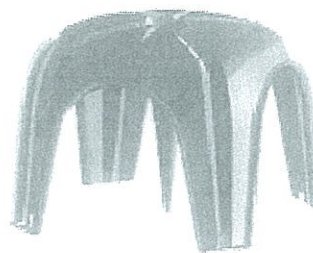


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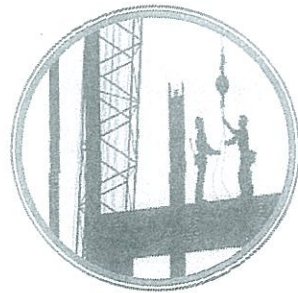
CUPOLEX®
Concrete Slab



CUPOLEX®
Forms



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TO KNOW ABOUT ►►► CUPOLEX®



NOTICE

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Consistent with manufacturer Pontarolo Engineering's policy of continued research and development, we reserve the right to modify or update the information contained in this or any other material published by Cupolex Building Systems®. The onus remains on the user of Cupolex® to obtain the most recent information available.

The most recent version of the CUPOLEX® Design Guide and Installation Manual are available on the CUPOLEX® Web site at www.pontarolo.ca.

Because Cupolex Building Systems has no control over the installation, workmanship, accessory materials or conditions of application, no responsibility or expressed or implied warranty, either as to merchantability or fitness for a particular purpose, is made as to the performance or results of an installation using CUPOLEX® Forms, except that the physical characteristics of CUPOLEX® Forms shall meet or exceed the specifications published by Cupolex Building Systems®.

Cupolex®, Beton Stop®, Pontex®, Cupolex Windi®, Cupolex Rialto®, Cupolex Building Systems®, and any other marks, drawings or symbols identifying products and/or services of Cupolex Building Systems are trademarks of Pontarolo Engineering Inc.

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CUPOLEX® Technical Library

Everything You Ever Wanted to Know About...CUPOLEX®

Design Guide
Specification Documents
CAD Details
Testing Reports
Technical Reports
Case Histories
Installation Guide
CUPOLEX® Software Programs
Analysis of Benefits
Estimating

www.pontarolo.ca

INTRODUCTION

As a design professional you already know that a Slab-on-ground is a well-used building solution in the US and Canada and they do not provide healthy interior environments. The slab on the ground is in contact with the draining layer typically gravel, sand or compacted/native subbase and under complicated hydrothermal conditions. When not properly applied, moisture damage in slab-on-ground structures may result, leading to mould growth, chemical reactions and material emissions associated with an unhealthy indoor environment. Slabs on the ground typically are prone to a degree of damage caused by moisture. Typical moisture failures of slab-on-ground structures are due to the lack of a capillary breaking drainage layer under the slab, lack of thermal insulation, and incorrect placement of the vapour barrier. In addition to the moisture problems, the soil may be a source of radon, methane and many volatile organic compounds (VOC) that may enter indoors through the slab on the ground.

This CUPOLEX® Technical Library is provided as an aid to Design Engineers, Specifiers and Architects for the preparation of design documents for projects using CUPOLEX® - the *reliable, low cost, and sustainable* solution for building designers and developers who need to address any or all of the following challenges:

- slab curling and shrinkage
- radon,
- vapor intrusion,
- improve indoor air quality,
- reduction in the environmental impact of building,
- lowering building costs and the carbon footprint
- reduce building cycle time,
- reduce aggregate use,
- moisture and mold, and
- expansive soil conditions

- CUPOLEX®, a patented concrete forming system for floors made from 100% recycled plastic
- Concrete is poured over the modular dome forms to create floating or structural slabs with an under slab void that can be ventilated to remove Vapors
- And provides a capillary barrier against moisture – yet
- Uses less concrete and rebar than a standard slab
- With equivalent load bearing capacity.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

2.1 What Can CUPOLEX® Offer

"ECO FLOOR" Assurance

The CUPOLEX® "ECO FLOOR" Assurance provides healthier environments and offer many advantages over conventional floor slabs, including ease of construction, economical savings and reduce building cycle times.....Features to satisfy the demands of the most discriminating clients.

Confidence

You can design CUPOLEX® floors with confidence knowing that our FORMING systems is used in over 500 million square feet of residential, commercial, industrial and institutional applications world-wide with no structural failures or callbacks. *See Case Histories in our technical library.*

Flexibility

Any type floor design or site condition can be easily accommodated with CUPOLEX®. CUPOLEX® Forms can be adapted to any design requirement. CUPOLEX® Forms come in standard heights starting at 2" up to 28". A special extender CUPOLEX® Rialto can accommodate heights of up to 8'-0" or more. All CUPOLEX® Forms and their ancillary products are built to accommodate the reinforcing so it stays properly aligned before, during and after the concrete pour.

Performance

The placement of the concrete represents one of the last procedures to be completed in the construction of a CUPOLEX® Aerated Floor. There remain a number of operations that are completed directly above the plastic CUPOLEX® form elements before the placement of the concrete. This is what is termed "IMPACT RESISTANCE". The positioning of the elements, the layout of the reinforcement, the creations of the under slab void are all tasks that see the workers walk on top on the elements with various working loads, and sometimes in difficult situations.

The primary goal of Cupolex Building Systems® was to provide the maximum performance and stability in their CUPOLEX® Forms. Pontarolo Engineering Inc. the Manufacturer and Innovator of the CUPOLEX® Forms has dedicated substantial financial investment to attain this goal with the most important result being the final concrete structure with its' superior resistance and longevity. *See Product Testing in our technical library.*

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

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Reliability

CUPOLEX® forms are not only versatile, they are rated the strongest in the industry due to the additional built-in plastic at all pressure point locations with the patented reinforced cone support of height equal to the element positioned in correspondence of the central region, which also guarantees the absorption of vibrations that occurs during the finishing of the slab and which CUPOLEX® has proven over years to provide the solution to contractors for the problem they face using other systems to create aerated floors.

Guarantee

Pontarolo Engineering Inc., the manufacturer ensures that its' products are manufactured according to the quality elements of the ISO 9000:2002 certified manufacturing facilities. CUPOLEX®, therefore, guarantees superior characteristics of stability and resistance in its structure and has positioned CUPOLEX® light years ahead of the competition. *See Certifications in our technical library.*

Advanced Design Tools

CUPOLEX® provides all necessary drawings and design software required to implement CUPOLEX® Aerated Floors. If you have any questions not answered by our drawings or manuals, please contact our technical department.

Time Tested Technology

CUPOLEX® is not a new or experimental concept – over **500 million square feet** have been installed in buildings around the globe for over 15 years, without any failures or structural call backs. *See Case Histories in our technical library.*

Low Cost Solution

The savings in labor and materials over conventional slabs usually can pay for the cost of CUPOLEX®, providing a highly efficient preemptive venting system at no additional cost. Compare this to the significant additional cost of installing the gravel venting layers and liners typically required to control vapors below conventional floor slabs.

See Cost Analysis in our technical library.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

.....

Sustainable Solutions

CUPOLEX® is the most sustainable solution for radon, vapor intrusion, and moisture control available, helping US federal facilities meet the requirements of Executive Order 13423., and assist Architect/Designers to deliver Sustainable features which include:

- Increased potential for wind and solar powered venting,
- made from 100% non-toxic recyclable material,
- contributes to GREEN or LEED certified building,
- reduces dampness, mould and mildew creating a healthier building environment,
- reduces material (concrete and rebar) consumption,
- replaces aggregate and engineered fill under slabs,
- reduces construction time and labor, and
- Selected as the "Green" flooring system for the "American Home" at the 2010 International Builders Show in Las Vegas.

Structural Benefits and Advantages

On top of providing more effective vapor and moisture control at lower costs, and its sustainable attributes, CUPOLEX® also:

- reduces slab curling and shrinkage cracks, providing a higher quality surface,
- provides under-slab void for running cables and pipes, simplifying post-construction installation of new wiring and utilities,
- supports slabs on challenging and poor soil conditions, especially expansive soils,
- allows forming of complete structural suspended slabs on beam pile foundations,
- can be designed to create under-slab water reservoirs for storm water management and fire suppression water storage,
- approved for installation at USAF bases,
- manufactured to ISO 9000:2002 high quality standards,
- comes with engineering support, and
- can provide Certified Installers throughout the US and Canada.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

.....

2.2 How CUPOLEX® Works

CUPOLEX® is a patented concrete forming system for floors made from 100% *recycled* plastic. Concrete is poured over the modular dome forms to create floating or structural slabs with an under slab void that results in minimal concrete contact with the soil, while providing a capillary barrier against moisture - yet uses less concrete and rebar than a standard slab with equivalent load bearing capacity. This cutting edge slab on ground solution provides major advantages over a standard slab on grade:

1. Provides an excellent moisture barrier under slab with a void that can be vented in soil with high water content
2. Water cannot leach up through the bottom of the concrete slab significantly protecting the structure from water damage,
3. Moisture cannot wick through the concrete by maintaining the top and bottom of the concrete floor slab dry which therefore cannot contribute to the growth of mould or mildew under flooring overlays and damage expensive architectural flooring finishes, floor tiles or carpets,
4. Ventilating the CUPOLEX® under slab void space will effectively help control Vapor intrusion, humidity levels, and temperature ranges, that standard slabs cannot control,
5. Replaces fill or gravel that typically is required to bring the slab to the finished grade level and eliminates the costs associated with importing, compacting, certifying engineered fill and reduces any risk with post construction settlement of the underlying subbase,
6. Longer spans can be achieved in pile/beam structural slabs than with flat standard slabs,
7. Assists designers to deliver Sustainable features that contribute to GREEN and LEED certified building
8. Maximum control of concrete curing resulting in a reduction of slab curling, shrinkage cracks while providing a higher quality surface,
9. Provides under-slab void for running cables and pipes, simplifying post-construction installation of new wiring and utilities,
10. Can provide special CUPOLEX® slab designs on soils with very low bearing capacity, high compressibility, or soil that is highly expansive.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

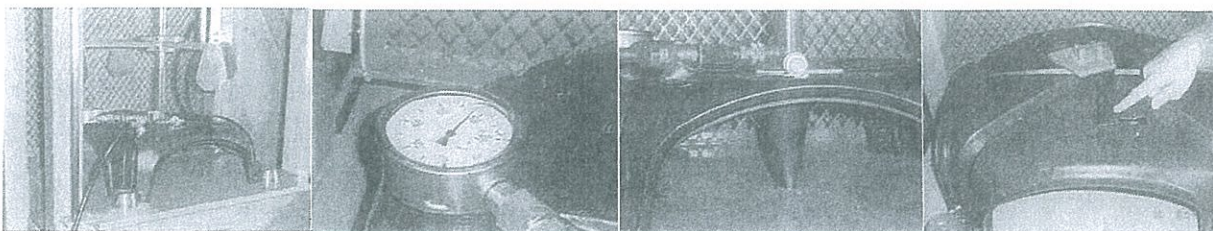
2.3 What CUPOLEX® is made of

The primary goal of Pontarolo Engineering Inc. from inception was to provide the maximum performance and stability in the plastic elements comprising the CUPOLEX® aerated flooring system.

Pontarolo Engineering has dedicated substantial financial resources to attain this goal with the most important result being the final concrete structure with its' superior resistance and longevity. The placement of the concrete represents one of the last procedures to be completed. There remain a number of operations that are completed directly above the plastic CUPOLEX® elements before the placement of the concrete. This is what is termed "impact resistance".

The positioning of the elements, the layout of the reinforcement, the creations of the ducts are all tasks that see the workers walk on top on the elements with various loads, and sometimes in difficult situations.

CUPOLEX®, therefore, guarantees superior characteristics of stability and resistance in its structure. Pontarolo Engineering guarantees these characteristics through scrupulous and systematic quality control procedures.



Pontarolo Engineering produces CUPOLEX® in recycled polypropylene; or rather, a thermoplastic material derived by a process of grinding selected and checked plastic objects, (for instance chairs, bumpers, etc....).

Usually, the principal elements that compose the recycled polypropylene are:

- Polypropylene PP and polyethylene PE (both LD low density and HD high density) in a co-polymer;
- Calcium carbonate /talc (it constitutes the so-called one "position" that it confers to the material characteristic of temperature and elevated external rigidity);
- Fluidity (necessary for molding process).

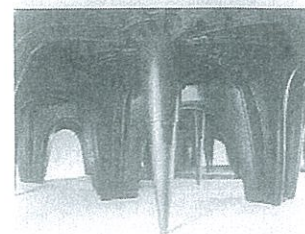
WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

Polypropylene

Polypropylene is a thermoplastic vinyl polymer made from ethylene and propylene, which are byproducts made of refined benzene gases. These gases are polymerized into polypropylene and polyethylene using high temperature and pressure in sludge systems in a closed process where no emissions are created in the atmosphere. The finished products are plastic grains of polypropylene and polyethylene consisting of hydrogen and carbon molecules. When incinerated the only substances released are carbon dioxide and water. As thermoplastics, they can be readily recycled, incinerated or disposed of in landfill sites. All production and post consumer waste can be recycled without difficulty. The finished product is very hard wearing, durable and able to withstand extreme temperatures and ageing without breakage or tearing.

CUPOLEX® SATISFIES THE FOUR REQUIREMENTS OF THE "ENVIRONMENT COMMISSION":

- Minimum use of natural resources
- Reduced emission of polluting substances
- Long working life
- Optimized reuse and recycling



WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

2.4 How CUPOLEX® Floors Protect Buildings from Vapor Intrusion

Vapor Intrusion and Radon Control

Years of research and application have shown that vapor intrusion, like radon, can be effectively controlled by using fans to pull air from the soil below the building (e.g., EPA 1994, ITRC 2007), a technology often known as sub-slab depressurization (SSD). CUPOLEX® is a patented flooring system that provides a highly efficient under-slab void network for a more effective application of SSD, at a lower cost than the less efficient sand or gravel venting layers.

More Efficient Venting

Traditionally, SSD requires pulling air through soil below an existing building or, for new buildings, pulling air through sand and gravel venting layers placed below the slab. Fans must be large enough to depressurize the soil and a number of suction points may be required to depressurize the entire building. Aerated floors like CUPOLEX® simply replace the sand and gravel layers with a network of interconnected, large open voids in the lower portion of the slab, a far more efficient, effective, and predictable medium for moving air than soil.

Passive Venting Potential

While SSD is the gold standard of vapor intrusion control, passive venting is the pot of gold at the end of the rainbow. The ability of traditional SSD systems to passively ventilate soils is questionable – and it's often simply too difficult to move air through soil without the reliable power of a fan (EPA 1994). CUPOLEX® however, creates new opportunities for passive venting, with a network of open voids that allows air to move much more easily under natural thermal gradients or wind. Ove Arup (1997) show that the amount of air moving through an open void system like Cupolex® is about 10 times larger than the volume moving through a gravel vent layer – greatly increasing the potential feasibility and effectiveness of a passive system.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

Detailed studies have been conducted by Arup Environmental and Kingston University, comparing Aerated Floors and other Vapor Intrusion mitigation alternatives. The graph below is based on CFD modeling undertaken by Arup Environmental.

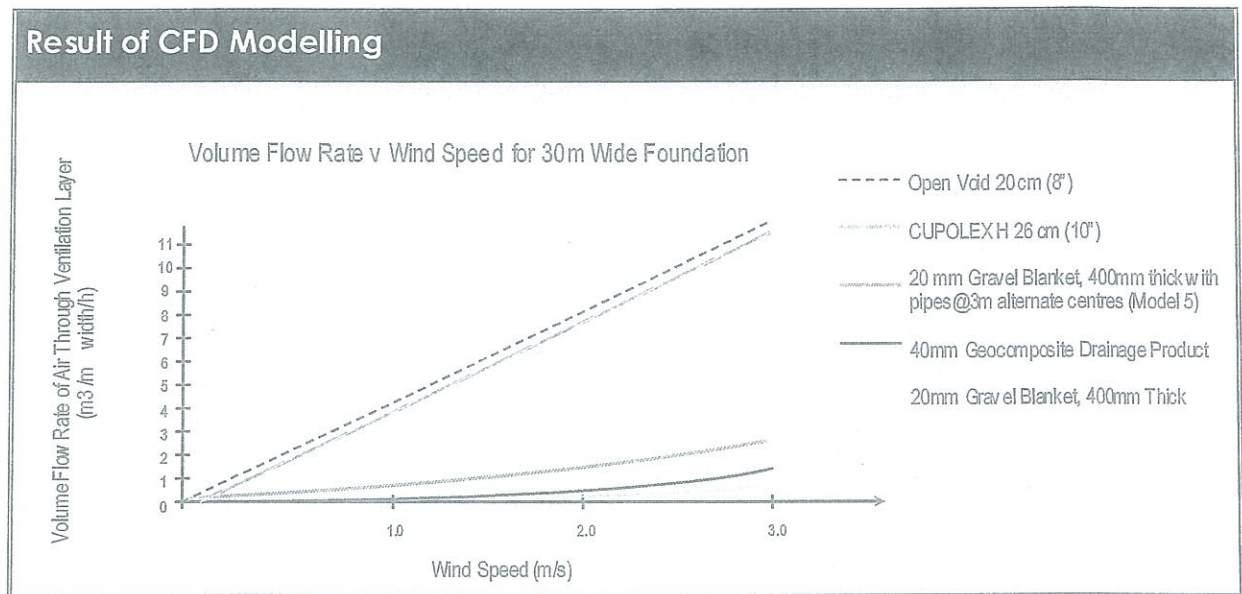


FIGURE 1. CONCLUSION OF STUDY HIGHLIGHTING THE OUTSTANDING PERFORMANCE OF AERATED FLOORS.

CUPOLEX® floors do not require membranes

While membranes are typically required for mitigation systems designed to function as barriers (essentially damming the flow of vapors), mitigation systems such as the CUPOLEX® aerated floor system that rely on ventilation or depressurization (diverting and diluting the vapors) do not require membranes. In fact, SSD systems were developed for installation in existing buildings where membranes could not be placed. Further, mitigation systems that result in the dilution of vapors below the floor and whose performance can be monitored and controlled (e.g., through fan operation and pressure measurements) have the advantage of not allowing vapor concentrations and pressures to build immediately below the building, which is not always the case with barrier systems.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

Solutions for Moisture and Mould Reduction and Improving Indoor Air Quality

Fact: Concrete slabs are known Culprits for indoor air quality problems.

Standard concrete slabs are in contact with the ground. As a result, moisture wicks through the concrete and contributes to the growth of mould and mildew under flooring overlays and damages expensive architectural flooring finishes, floor tiles or carpets. Keeping the top and bottom of the concrete floor slab dry reduces these problems and reduces excessive moisture in a building, which has been associated with adverse health effects, particularly asthma and respiratory diseases.

CUPOLEX® provides an under slab void and results in minimal concrete contact with the soil. The unique advantage over any other slab foundation system is the integrated void spaces under the concrete slab. There are three major aspects. First, since the void forming components are water-tight polypropylene, they provide an excellent moisture barrier and the under slab void can be vented in soil with high water content. Secondly, water cannot leach up through the bottom of the concrete slab. This is significant for protecting the structure from water damage, concrete wicking and mould. Finally, ventilating the CUPOLEX® under slab void space will effectively help control to reduce air pollutants, humidity levels, and temperature ranges, all factors that have been linked to human health, learning, and productivity levels.

Pre-emptive Vapor Intrusion Protection System

With CUPOLX®, Designers, Builders and Developers can provide cost effective preemptive mitigation control measures in new buildings and homes while saving concrete usage, reducing building cycle time and minimizing engineered fill requirements.

Even when soil and groundwater standards are met at some sites, vapors of volatile chemicals can migrate along subsurface pathways and find their way into neighbouring buildings at levels that compromise indoor air quality. Long time exposure to such chemicals can potentially have damaging effects on human health. The extent and likelihood of adverse human health effects are dependent on a number of factors including, but not limited to, the concentration of the contaminant and the duration of exposure. When a contaminant concentration in indoor air is high, it may be possible to detect it by a telltale odour, and the need for remediation can be recognized early and applied. However, in instances where concentrations are low and not readily discernable, the determination of the need for remediation is more challenging. Source: ITRC (Interstate Technology & Regulatory Council).

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

2.5 Product Design and Applications

CUPOLEX® is a unique forming system for the construction of slab-on-ground Aerated Floors. Over the past 15 years the idea of pouring concrete over CUPOLEX® permanent void forms have become increasingly popular foundation methods.

Both slab on grade and structural slabs can be created using this formwork. Besides these advantages, there are significant cost savings to the builder and owner by using the CUPOLEX® flooring formwork in the design of Aerated concrete slabs for Residential, Industrial, Commercial and Institutional applications in sites with challenging soil conditions.

Made from 100% recycled materials, the forms provide the maximum performance and guarantees superior characteristics of stability and resistance in its structure to allow operations that are completed directly above the plastic CUPOLEX® elements before the placement of the concrete. The CUPOLEX® Technical department will provide a full scheme detailing all necessary components, and the optimum height of forms to be used.



THE BENEFITS

- Arrives on site packaged and ready to be installed
- Quick and simple to install with basic hand tools
- Can be easily adapted to site variations
- Minimizes concrete wastage
- Made out of 100% non-toxic recyclable material which can contribute to GREEN or LEED certified building
- One pallet of CUPOLEX replaces 7.5 trucks of gravel or fill
- Minimizes construction traffic damage
- Manufactured to ISO 9000:2002 high quality standards
- A full range of accessories and field support ensures secure construction



BETON STOP® is for closing the side openings of the CUPOLEX® aerated forms. BETON STOP® compensates required dimensions different from those obtained by using the CUPOLEX® module, with no need to cut the CUPOLEX® units. BETON STOP® allows the CUPOLEX® aerated floor to be suitable for any project dimensions.



PONTLEX®, combined with CUPOLEX® can be used to create ribs in the slab so that aerated floors become self-bearing.



WINDI® CUPOLEX WINDI® creates a ventilated floor on existing floors without affecting the structure of the building. The adoption of CUPOLEX WINDI® allows you to save on waterproof sheathing and guarantees a constant seal against dampness. CUPOLEX WINDI® may also be easily attached to walls to obtain an air space capable of ventilating and eliminating mould.



Cupolex Rialto®: Forming system to create cast in place underground water slab tanks.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

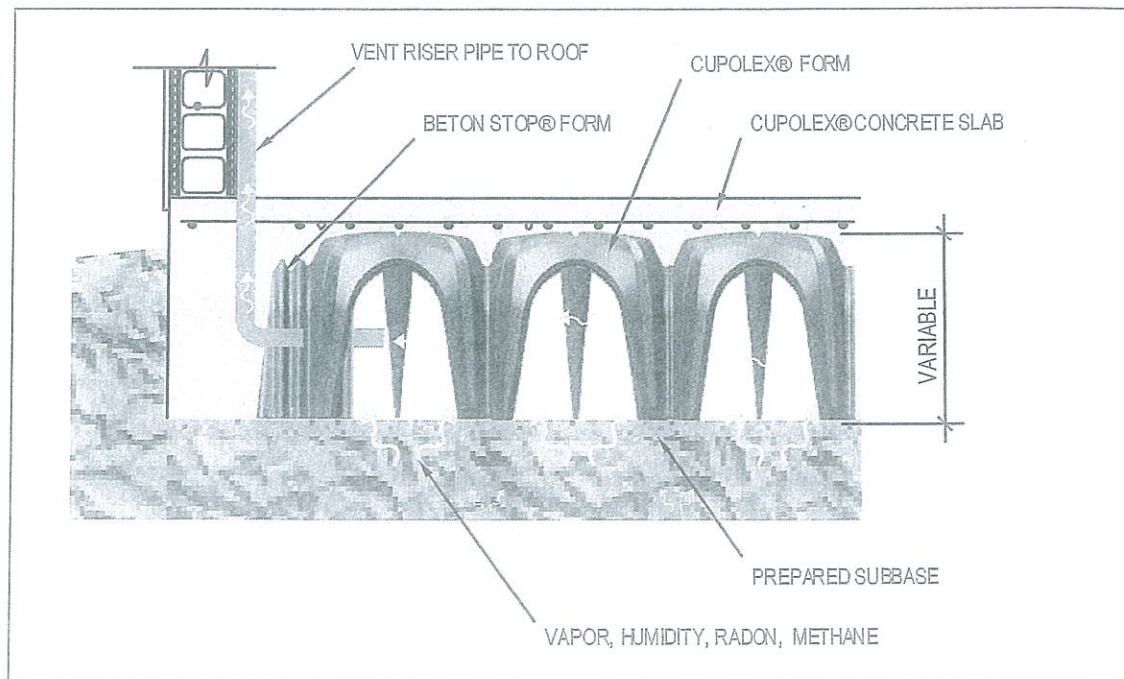
2.6 Overview of Application

STANDARD SLAB ON GRADE

Typically a 175mm (7") or a 300mm (12") thick CUPOLEX® floor slab is used for a standard floor such as residential or light commercial using CUPOLEX® H. 13.5mm (5") Forms and H. 260 mm (10") Forms and the corresponding accessory BETON STOP®.

152x152 MW25.8/25.8 (6x6 W2.9/2.9) welded wire mesh with saw cuts or 6x6 W5.4/5.9 (4152 x 152MW34.9/34.) mesh without saw cuts are used in the topping throughout the slab. Additional reinforcing is used where increased load capacity is required such as garage areas or heavy loaded floors.

Where top soil layers are thick, higher CUPOLEX® can be used to create a deeper slab. This replaces the fill or gravel that typically is required to bring the slab to level and eliminate the costs associated with importing, compacting and certifying engineered fill.

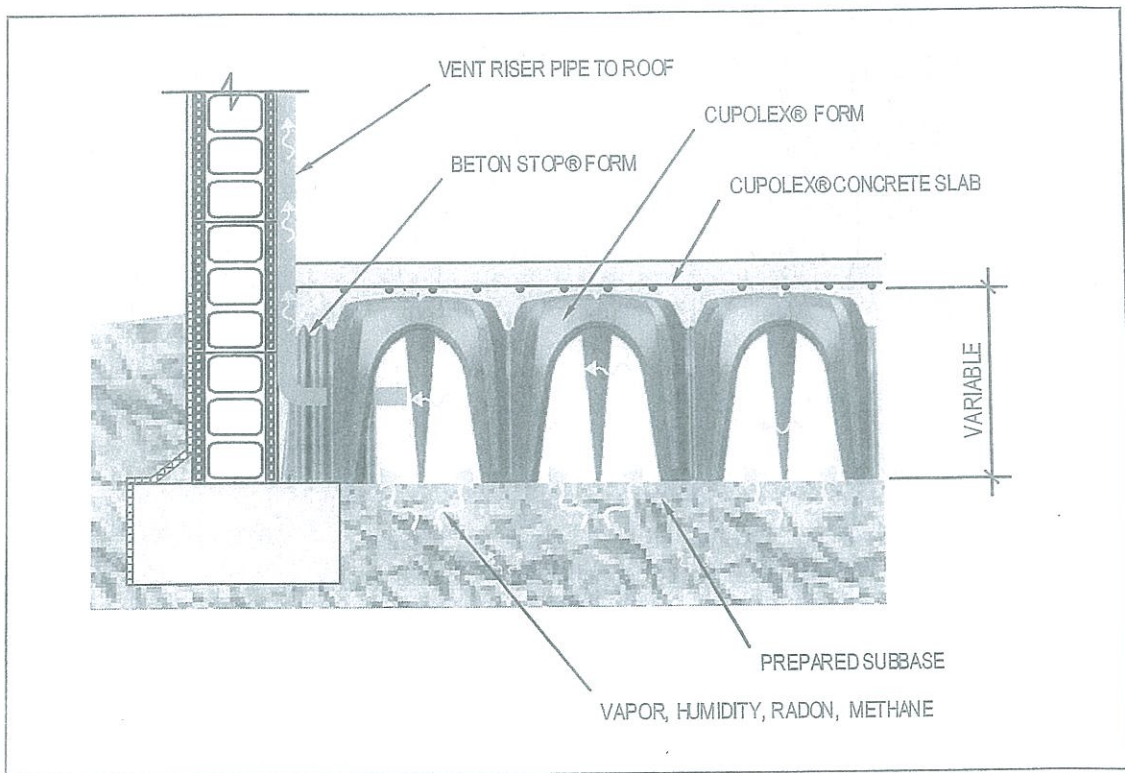


WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

CONVENTIONAL SLAB ON GRADE

Compacted fill Replacement, Floating Slabs or Crawlspace

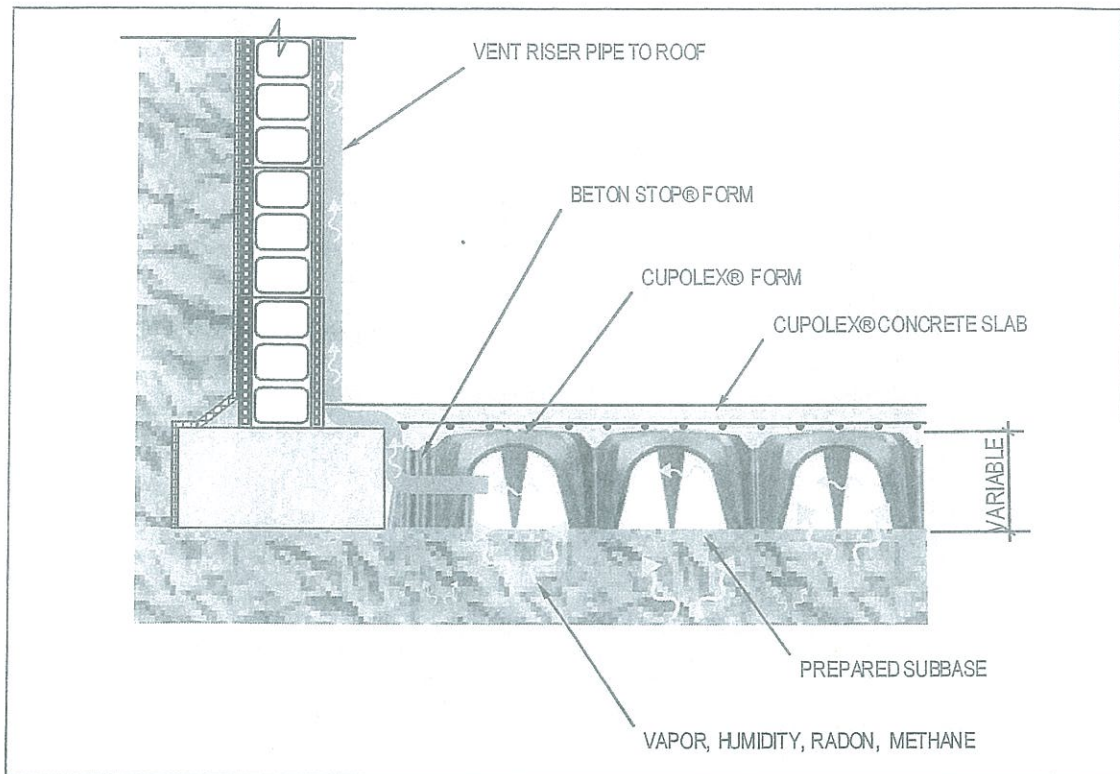
CUPOLEX® domes can be placed between foundation walls to replace the compacted hard fill or gravel. The CUPOLEX® units can be installed flush against the foundation wall with or without using BETON STOP®. On sloping sites various heights CUPOLEX® from 135 mm (5") to 70cm (28") high can be used, stepping down the site to form a level upper surface. The CUPOLEX® slabs can also be stacked if finished floor elevations are required to be higher.



WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

BASEMENT SLAB

CUPOLEX® domes can be placed between basement footings to replace the gravel and perform as a venting and draining layer. The CUPOLEX® units can be installed flush against the footings without using BETON STOP®. The footings and slab can also be monolithically poured by using the BETON STOP®.



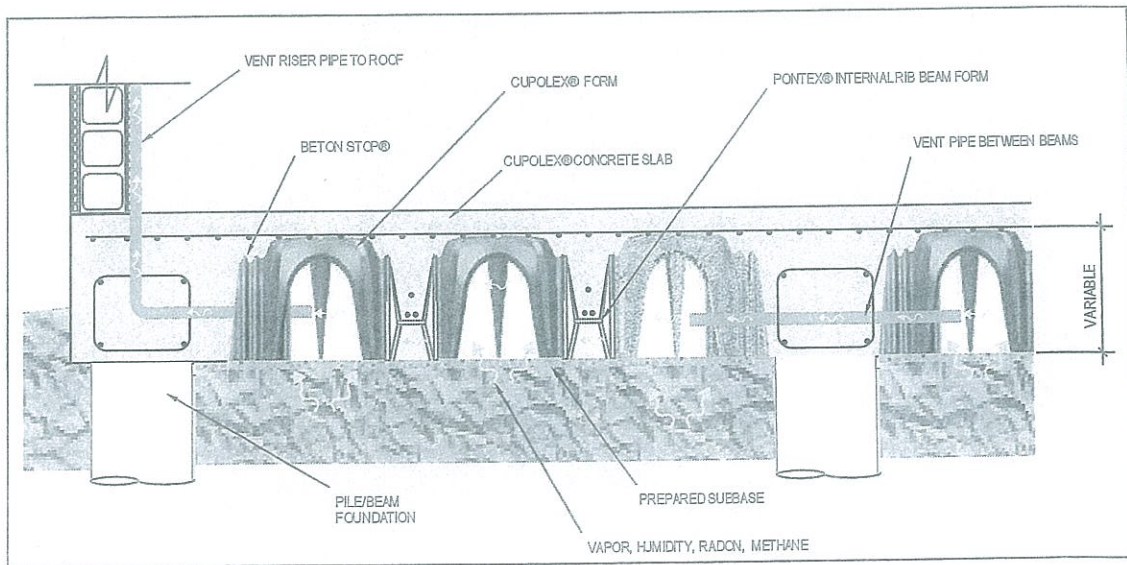
WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

STRUCTURAL SLAB

Fully Suspended Floor Slab on beam/pile or stem wall foundations and Structural Ribbed Slab - Reasons for a structural CUPOLEX® floor slab may include:

- Unsuitable ground conditions (very low bearing pressures) or expansive soils
- Bridging over public storm water and sewer lines
- Slope stability issues

The CUPOLEX® floor slab can be fully suspended on reinforced concrete piles. Additional reinforced internal ribs are then used in the slab by introducing PONTEX®, the structural CUPOLEX® accessory to provide a structure capable of spanning between stem walls or pile locations. Very little additional work or material is required to provide a structural floor slab system and in many cases exterior footing reinforcement remains unchanged. As with all slabs, each structural CUPOLEX® floor is specifically designed to suit site conditions and pile numbers may be optimized to limit additional costs. Contact our technical department for specific design calculations, drawings and details. Design Certificates should be provided for each design by an Approved Registered Professional Engineer in the local jurisdiction.

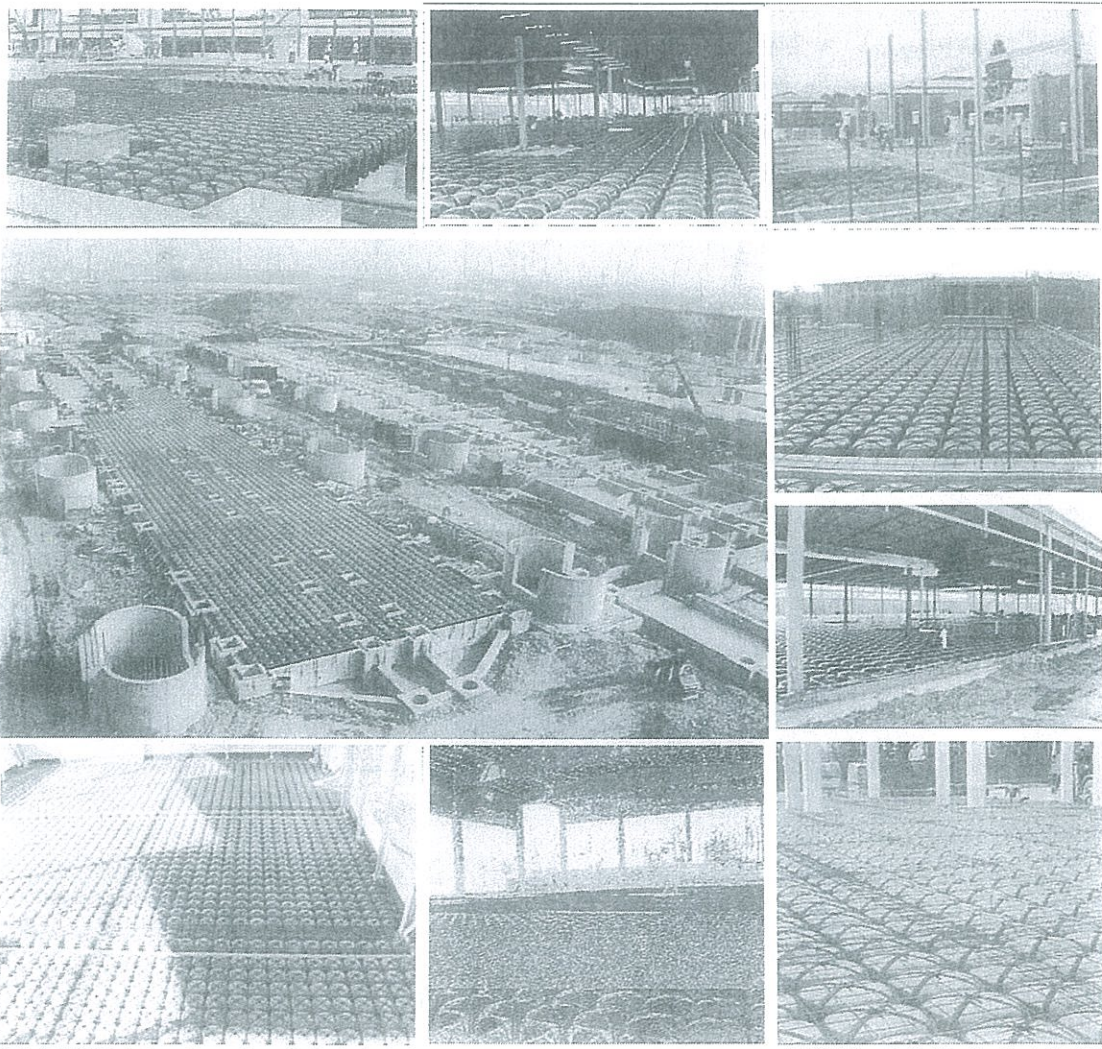


WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

INDUSTRIAL AND COMMERCIAL FLOOR SLAB

CUPOLEX® Dome Forming System can be specifically designed for industrial floors. Loads of more than 10 kPa can be accommodated with concrete thicknesses ranging from 50mm (2") to 120mm (5") over the CUPOLEX® elements.

In industrial applications, the reinforcing cages, pad foundations and load bearing wall lines can be fixed into place first. The CUPOLEX® can then be used between load bearing lines to act as hard fill and bring the slab up to the required elevation. The footings and the floor slab can be poured in one operation.



WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

2.7 Who Designs CUPOLEX® Aerated Floors?

Cupolex is Formwork, it is not an Engineered System!

CUPOLEX® is not an engineered system such as truss system, engineered lumber, metal buildings, precast concrete, etc. CUPOLEX® is simply formwork modules that are not used twice. The modules are variously interlinked to create a formwork to complete a concrete casting. A characteristic attribute of this product is its' modular dome made of plastic materials with plan dimensions of approximately 56 cm (22") x 56 cm (22"). Due to the distinctive domed shape of the modular elements, the concrete slab geometry it forms provides an internal orthogonal mesh allowing for air-circulation ducts in the slab. The slab design refers to the concrete over layer and to the level of reinforcement needed, as established according to the soil characteristics and loading types and levels.

Each CUPOLEX® floor is specifically designed to suit site conditions. Specific design calculations and sealed drawings should be provided for each design by a Chartered Professional Engineer. Each floor is inspected by an engineer and a Construction Review Producer Statement should be provided where required.

Can any Structural Engineer Design a Cupolex Slab? YES

Any structural engineer can design a CUPOLEX® slab. Cupolex Building Systems provides all the necessary design support and design tools to structural engineers to make every Cupolex slab a success.

Can Cupolex Building Systems provide you Engineering Services

and Sealed Drawings? YES

Cupolex Building Systems also provides full engineering services. We understand slabs, foundations and mitigation. For an engineered product supply quote, please contact our technical department at 1.866.766.8276

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

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CUPOLEX® Support Services

- Site specific design, including construction drawings and technical specifications for both structural and Vapor Ventilation design
- Provide Engineering oversight, observation, quality control testing, and performance testing of the installed Cupolex system
- Provide Vapor intrusion site investigations, including sub-surface investigations, indoor air testing and evaluations of the potential for Vapor Intrusion
- Site visits for any reason can also be available, including meetings with customers, regulators, contractors, or other parties
- Certified Installers

We have full time field and technical staff with extensive experience, ready to help when needed. We know how to Design Slabs, foundations and Mitigation Systems. We have over 15 years experience helping engineers design Aerated Slabs and assisting contractors in building with Cupolex all across North America and globally.

The Cupolex Building Systems in-house Technical Department team can provide design assistance to assess the available information and provide site-specific design recommendations, supported with calculations for each slab.

These services include:

1. Appropriate height and types of CUPOLEX® floor to meet your project's design requirements
2. Reinforcing requirements
3. Standard details
4. Quotation where appropriate.

WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

2.8 CUPOLEX® Installation

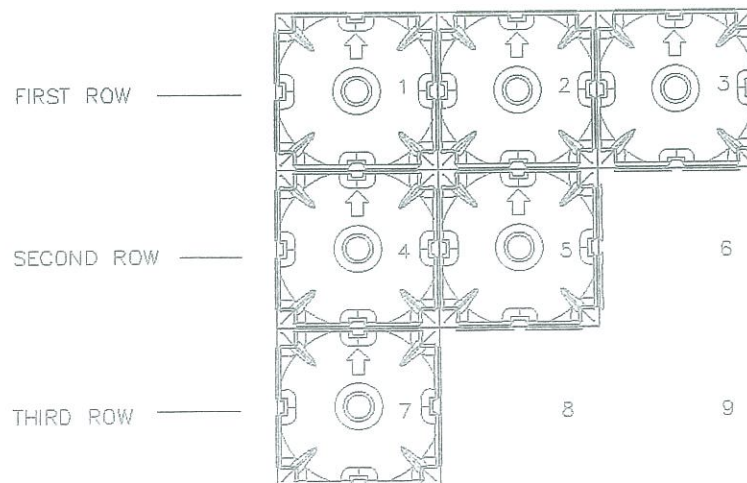
The main characteristics of the system are speed and simplicity, with maximum benefits being realized when the CUPOLEX® system is engineered during the early design stages in assessing the site and soil conditions, considering elevations of various sections that may have to be raised or for example if strip footings, walls or other typically formed sections can be incorporated within the system, cost savings and environmental benefits can be realized.

CUPOLEX® Placement and Assembly

CUPOLEX® provides Excellent Flexibility in Working with Existing Building Layouts And challenging Site Conditions. On average two laborers set 1200sq.ft/h (110 sq.m./hr)

Assembly:

- Layout complies with a grid system
- Each CUPOLEX® Form has an installation arrow
- Forms are Installed by starting from left to right and top to bottom
- Pouring and finishing of the slab in the conventional manner
- 3-5 m³ less concrete to place for a typical 1500 sq.ft. slab



WHAT YOU SHOULD KNOW ABOUT CUPOLEX®

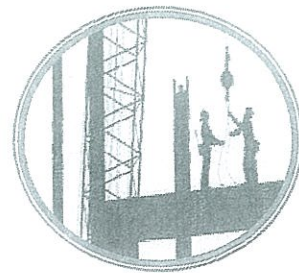
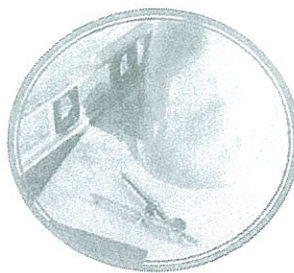
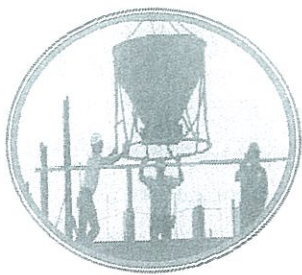
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Certified Applicators, On-Site Support and Training

CUPOLEX® Forms typically are purchased and installed by concrete floor finishers or flat work contractors. For commercial, industrial and institutional projects, CUPOLEX® Aerated Floors are recommended by Cupolex Building Systems to be installed only by Approved Registered Applicators to ensure proper installation requirements, quality and liability. All potential applicators are eligible to be approved and registered by CUPOLEX® Building Systems in a specific Territory.

We've trained more than 20,000 contractors around the globe. We developed a comprehensive on site training course that's focused on the nitty gritty details required to put a CUPOLEX® slab together quickly and efficiently. We can show your contractor what to do, and what not to do, so that your project gets done on budget and on schedule.

For information on installation refer to the Installation Guide in our Technical Library on our website at www.pontarolo.ca



NOTES

SECTION 4. FOUNDATION REQUIREMENTS

4. Foundation Requirements:

- a. Structural Fill. Strip building area of all vegetation. Install SELECT FILL by the "bagging" method in 8" lifts, consolidating the select fill with a hand operated vibratory compactor at optimum moisture content. This select fill shall have a liquid limit less than 40% and PI less than 15. Fill shall be a granular material, with maximum aggregate size of 3" and shall provide an adequate binder for compaction and stability. Bagging of the sides of the grade beams may be required.
- b. Stabilizing Base Course: The stabilizing base course below the concrete slab shall be a compacted, inert, non-expansive, flexible base material (crushed limestone) conforming to Texas Highway Department Specifications No. 248, Type A or B, Maximum particle size shall be 3", Base shall be compacted, as noted above at optimum moisture content and shall be 6" minimum in thickness.
- c. Where trees exist within five feet (5') of the foundation, grade beams shall be deepened to extend a minimum of twenty-four inches (24") below grade for a distance of five feet (5') in each direction of the tree (total length of ten feet (10')). All roots extending under the foundation shall be cut off and treated so as to prevent any future growth under the foundation.
- d. All beam soffits shall penetrate the exposed subgrade surface a minimum of six inches (6").
- e. Waterproofing below all slab areas and beams shall be equal to six (6) millimeter "visqueen" with all joints lapped a minimum of twelve inches (12").
- f. Minimum concrete strength of 2500 PSI in 28 days. (3000 handwritten?)
- g. Reinforcing shall meet ASTM615-68 grade 60. #3 may be grade 40.
- h. Reinforcing shall be lapped 30 bar diameters at splices.
- i. Additional external corner and "T" intersection tie bars shall be provided, equal in size and number, to grade beam reinforcing and lapped 30 diameters.
- j. All conduit and plumbing lines in the slab shall be placed below the slab reinforcing.
- k. Provide a maximum concrete cover of at least two inches (2") over all reinforcing.
- l. Provide #4 Z-Bars located on center as required by the slab length, where the slab steps down. Z-Bars are to lap the main slab reinforcing by 30 diameters.
- m. All openings in the slab (for piping, tub trap, etc.) shall be sealed with a minimum of twelve inches (12") of hot tar or asphalt.
- n. Beam reinforcing. Beam reinforcing will be two #6 bars (continuous) at top and bottom of beam (exterior and interior). Stirrups for exterior beam will be #3 bars, spaced at twenty-four inches (24") on-center. Stirrups for interior beams will be #3 bars, spaced at eighteen inches (18") on-center.

SECTION 4. FOUNDATION REQUIREMENT (CONTINUED)

- o. Slab Reinforcing. Typical slab reinforcing will be #4 bars, spaced at twelve inches (12") on-center each way (O.C.E.W.), centered in five inch (5") thick concrete. Slab steel is to extend to top outside bar of perimeter beam. Start slab steel spacing no more than six inches (6") from top inside beam bar. If any panel length or width is greater than sixteen feet (16'), zero inches (0") between beams, the slab steel in the entire house, garage, patio and porches is to be placed ten inches (10") on-center each way (O.C.E.W.). Under no circumstances shall a five inch (5") concrete floor panel span be greater than twenty feet (20') zero inches (0").
- p. Interior beams must be eighteen inches (18") deep and penetrate natural grade six inches (6"). If the depth of the interior beams becomes excessive in order to reach the natural grade, an alternate is permitted - "Beams must be eighteen inches (18") deep and a pier the size of the beam intersection (ten inches X ten inches (10" X 10")) may be poured extending six inches (6") into the natural grade and reinforced with four (4) #4 vertical bars with #3 ties at eighteen inches (18") on center vertically."
- q. Site drainage during construction shall be controlled to a positive drainage scheme to prevent ponding of water on the subgrade.
- r. Following construction foundation, backfill around slab perimeter to provide positive drainage away from the slab a minimum of ten feet (10') in all directions.
- s. Concrete driveways shall be a minimum of four (4) inches thick. Reinforcing shall be #12 X 6" X 6" wire mesh except for the first twenty-five feet (25') of the approach which is to be #6 X 6 X 6 wire mesh. Knockout panels will be provided per drawing D-O7 in Attachment #2.

May 24, 2016

To: Mayor Knaus and City Council

From: City Administrator Cain

Research has been conducted concerning due dates and penalties from other local area utilities as follows:

<u>Utility</u>	<u>Due</u>	<u>Penalty</u>
City of Schertz	15 days per attached bill	10%
City of Kirby	15 th of the month	10%
City of Selma	15 th of the month	10%
City of Universal City	20 th of the month	10%
GVEC	15 days per attached bill	\$10
SAWS	15 days per attached bill	5%
City of Garden Ridge	15 th of the month	10%

The City of Garden Ridge sends out between 100 to 125 late notices per month out of approximately 1550 water bills. In the 2015 fiscal year the City of Garden Ridge collected \$10,200 in late fees and said amount is budgeted for the 2016 fiscal year.

Sec. 90-10. - Billing; when and where due and payable.

All charges to a consumer for water, wastewater and garbage service shall be billed to the customer on one bill. Such bill shall be due and payable upon receipt and must be postmarked or paid at our office no later than the due date printed on bill.

(Code 1976, § 19-10)

Sec. 90-11. - Penalty for delinquency.

If a bill for water, wastewater and/or garbage service is not paid on or before the due date printed on the bill, it shall be deemed delinquent and ten percent of the total amount of such bill shall be added to same as a penalty for nonpayment. Mail postmarked on or before the due date shall be accepted without penalty. Payments in the drop-box at 8:00 a.m. the day after the due date, with checks or money orders dated on or before the due date, shall be accepted without penalty. An additional ten percent of the balance due shall be added for each additional 30-day period for which such customer is delinquent. On the business day following the date on which an account becomes delinquent, the city shall mail a notice of delinquency to the account address notifying the account holder that service will be disconnected if the account balance, including all penalties, is not paid in full by 12:00 noon on the business day referenced in such letter, which shall normally be ten days after date of such letter.

(Code 1976, § 19-11; Ord. No. 10-F-16, § 1, 6-15-2010)

SCHERTZ

COMMUNITY*SERVICE*OPPORTUNITY

OFFICE HOURS 8 A.M. to 5 P.M. MON-FRI

Water Dept (210) 619-1100

ACCOUNT NAME:

ACCOUNT ADDRESS:

ACCOUNT NO.

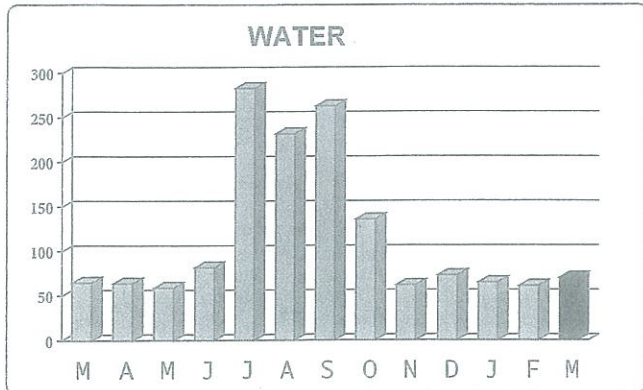
Bill Date	Due Date*
04/15/2016	05/02/2016

Messages:

YEAR-ROUND SPRINKLER SYSTEM
WATERING BETWEEN 10AM AND 8PM IS
PROHIBITED. FOR MORE INFORMATION,
VISIT <http://WWW.SCHERTZ.COM> OR CALL
210-619-1000

PREVIOUS READING	SERVICE FROM	PRESENT READING	WATER CONSUMPTION
1,219 0	03/04/2016 THRU 04/06/2016	1,289 0	7,000 0

CHARGES	AMOUNT
WATER	38.99
SEWER	32.50
GARBAGE	12.05
DRAINAGE FEE	5.20
RECYCLE	1.99
Sales Tax	0.99
Sub-Total	91.72
Previous Balance	0.00
TOTAL AMOUNT DUE	\$91.72
AMOUNT DUE AFTER 05/02/2016	PAID BY DRAFT
SERVICES WILL BE DISCONNECTED IF NOT PAID BY NOON ON 05/16/2016.	



WATER USAGE (X 100 GALLONS)

*Previous balance due immediately to avoid disconnection.

Current	1-30 Days	31-60 Days	61-90 Days	91+ Days	Total Due
91.72	0	0	0	0	91.72

PLEASE BRING ENTIRE FORM WHEN PAYING IN PERSON

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic funds transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic funds transfer, funds may be withdrawn from your account as soon as the same day your payment is received, and you will not receive your check back from your financial institution. Items returned for insufficient or uncollected funds, you expressly authorize your account to be electronically debited or bank drafted for the amount of the check plus any applicable fees as allowed by state law. The use of a check is your acknowledgement and acceptance of this policy and its terms and conditions.

Please return the bottom portion with your check

MAKE CHECKS PAYABLE TO:

City of Schertz

PHONE: (210) 619-1100

PAYMENT IS DUE ON
OR BEFORE: May 02, 2016



1491 *****AUTO**5-DIGIT 78154

PAYMENT DUE DATE	PAY THIS AMOUNT	ACCOUNT NO.
05/02/2016	\$91.72	18-2710-00
SHOW AMOUNT PAID HERE \$		

Here is a friendly neighborhood reminder from Schertz Animal Services:

City Licenses are required by City ordinance and are issued with proof of current rabies certificate. In order to receive your City License please go to 800 Community Circle with your Rabies Certificate. The prices are \$5.00 /yr (spayed/neutered) and \$10.00 /yr (unaltered). We also accept three year rabies certificates. If you have any questions or concerns please contact Schertz Animal Services at 210-619-1550 where we will be happy to assist you.

CITY OF SCHERTZ
1400 SCHERTZ PARKWAY
SCHERTZ, TX 78154-1634

§ 50.10 UTILITY SERVICES RESIDENTIAL/COMMERCIAL.

(A) All persons utilizing water, sewer, and garbage service in the city shall be required to as a condition of such service, pay over to the Utility Billing Clerk a utility deposit. Every person, firm or corporation within the city shall be charged the monthly water and sewer service rates as shown in § 50.20. No free service from either of said system or any part of it shall be rendered to any firm, person or corporation whatsoever.

(B) Residential accounts shall be assessed a utility deposit of \$100. In addition, \$5 fee for the recycling bin (residential accounts only) will be added to the \$100 deposit for a total of \$105. New residential accounts will be charged 100% sewer until the completion of a winter averaging period.

(C) Commercial accounts will be assessed a utility deposit based on the monthly average of the previous occupant. If it is a new business, the City Manager shall determine the deposit on the type of business. A minimum commercial deposit of \$100 is required. All commercial account sewer rates will be based on each month's consumption (100%).

(D) Residential/commercial deposits shall be held in trust by the city until such time as the first three year period expires and shall be reimbursed, in full with no interest, upon written request and the account in good standing for the preceding 12 months of the demand. The city shall have the right to deduct any amount owed to the city for water, sewer, or garbage service from the deposit prior to reimbursement of same.

(Ord. 2013-743, passed 1-9-14)

§ 50.11 DUE DATE, PENALTY DATE AND CHARGES.

All charges for water service furnished by the city shall be due upon receipt (the first of each month at the Kirby Water Department) and if not paid by the 15th of the month shall be assessed a 10% penalty of total amount due. If the 15th falls on a Saturday, Sunday, or holiday, customers will be allowed to pay the net amount on the next business day between 8:00 a.m. and 5:00 p.m. without penalty or additional charges. If water service has been terminated for non-payment and is in the process of being closed out, utility service may be restored if all arrears are paid.

(Ord. 2013-743, passed 1-9-14)

§ 50.12 TERMINATION OF SERVICE DUE TO NON-PAYMENT.

(A) Customers whose accounts remain unpaid on the 27th of any given month shall have their services terminated on the Wednesday next following the 27th of any given month at 10:00 a.m. In such event, charges for reconnecting water service shall be as follows:

(1) To re-instate services that have been terminated due to non-payment, a charge of \$25 dollars will be added to the amount due and the account must be paid in full between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday prior to services being re-instated.

(2) Such reconnection fee shall be assessed in addition to the charge of water actually used by such customer, as indicated by the water meter reading.

(B) The City Manager shall institute a procedure to advise citizens with delinquent accounts of their rights prior to termination of service. Such procedures shall be consistent with the laws of the United States, the laws of the State of Texas, and city ordinances.

(C) The City Manager, only subject to a written request, shall have the authority:

(1) *Adjust a bill.* The Billing Clerk can make an adjustment unless the adjusted amount exceeds \$25, any adjustments exceeding \$25 shall be authorized by the City Manager. Adjustments may be made to the sewer bill, if the average has been affected by a water leak during the winter averaging period. The request must be made in writing with proper receipt that the leak has been repaired.

(2) Requests for adjustments shall be received no later than the May billing (service from April through May, due June)

(D) *Non-sufficient checks (NSF).* A fee of \$25 for each non-sufficient check will be charged. The check must be picked up within three working days and full payment must be paid in cash, money order, or cashier's check to include a \$25 fee. A personal check will not be accepted in lieu of cash, money order, or cashier's check for the payment of the NSF check. For utility accounts that have not fulfilled this requirement are subject to having water service terminated and charged an additional fee of \$30 for reinstatement of water service. The city will not accept checks from customers that have submitted two returned checks for any of the city funds (system, general, or meter funds) for two years from the date of the second check.

(E) *Tampering with meters.* It shall be unlawful for any plumber or individuals other than those authorized by the city to connect, disconnect, move, damage, or tamper with any such meter; or to turn water on/off at the curb stop, valve, meters; open or tamper with any meter box. Kirby Water Department crews will make all repairs and renewals from the main to the meter and it shall be unlawful for any person(s) to repair or renew service pipes from the main to the meter.

(F) *Unauthorized use of water.*

(1) Where it can be shown that a customer has had the benefit of the use of water from the city waterworks at a residence or place of business, as the case may be, such customer shall be assessed a fee of \$75 fee for each such incidence of unauthorized use of water. Such fee shall be assessed in addition to the utility deposit and any water usage, as indicated by the water meter reading.

(2) *Reconnection charge where the water meter has been removed.* A reconnection fee of \$50 shall be applicable where the meter has been removed.

(3) Damage to meters or valves:

(a) Where damage occurs to meters or valves due to tampering or unauthorized use of water, such customer shall be assessed the actual costs of repair plus the reconnection fee set out in division (F)(2) above.

(b) All applicable charges shall be added to the account and the account must be paid in full prior to services being reinstated.

(G) *Transfer fee.* A fee in the amount of \$25 and any outstanding balance shall be required for subsequent changes of locations within the city.

(H) *Excavation fee.* In the event, that the city is required to excavate a water/wastewater utility line for the purpose of ascertaining the location of a leak and such leak is found to originate on a private, rather than a city-owned, water/wastewater line or connection, the cost of such excavation

Water bill is due and payable upon receipt.

) If water bills are not paid before the fifteenth day (15th) following the date of billing, a ten percent (10%) penalty shall be added to the bill.

) If bills are not paid by the 27th day of the month, service may be discontinued and the premises may be disconnected from the water system.

\$25.00 reconnection fee will be charged for re-connections.

CITY OF KIRBY
112 BAUMAN ST
KIRBY, TX 78219-1004
PHONE: (210) 661-4671
FAX: (210) 661-4525

Please direct inquiries which you may have to: (210) 661-4671

Office Hours
8:00 AM - 5:00 PM
MONDAY - FRIDAY

We Accept

VISA & MASTERCARD
Credit & Debit Cards

In Our Office With a 5% Convenience Fee

UNAUTHORIZED WATER USAGE
It is a violation of TEXAS LAW to cut meter locks or otherwise tamper with meters.
Violators will be prosecuted & assessed a fee.

FAILURE TO RECEIVE A BILL
DOES NOT EXEMPT YOU FROM
MONTHLY PAYMENT, LATE CHARGE,
OR DISCONNECTION

DROP BOX AVAILABLE,
24 HOURS A DAY, EVERY DAY,
AT 112 BAUMAN ST

ONLINE PAYMENTS
Online Payments can be made
@www.KirbyTX.org with a \$2.50
Convenience Fee.

Sec. 62-172. - Computation of charges.

- (a) All charges due to the city for the previous month's service for water, sewer, garbage service, and stormwater management are due and payable on the 15th of each month. Billings for water service will reflect charges computed under a net rate and a gross rate. The net rate applies if the charges are paid on or before the 15th day of the month following the billing month. If the 15th day of the month falls on a holiday or a weekend, the due date is the close of regular business on the first day following the weekend or holiday. The gross rate applies if charges are paid after the 15th day of the month following the billing month.
- (b) The gross rate is a combination of the net rate, plus an additional service charge of ten percent of the net rate. An additional five percent of the net rate shall be added for each additional month (based on the 15th day of the month) after the month in which the gross rate was first assessed.

(Ord. No. 060711-04, § 5, 6-7-2011)

Sec. 62-173. - Bills rendered when sent.

- (a) All bills shall be considered rendered when delivered to a U.S. post office with postage prepaid for mailing to the customer. Failure of the customer to receive any such bill shall in no way relieve the customer of the duty and obligation to pay for the services rendered.
- (b) Charges for each account shall be on a continuous basis, from the date of the initial connection until an application for discontinuance is received and accepted by the water department. Upon receipt and acceptance of an application for discontinuance, the water meter shall be removed or plugged and read at that time, and no additional charges imposed. Service and charges shall resume when an application for such resumption has been made and accepted and applicable fees paid by the applicant.
- (c) Payment may be by any method authorized by the water department. Public works field personnel are not allowed to collect payments.

(Ord. No. 060711-04, § 5, 6-7-2011)

Sec. 62-174. - Responsibility for payment.

The person who makes application for city water service shall be responsible for payment of all charges provided for in this article until written notice is given to the water department by such person for the intention to discontinue such service. See section 62-143 for the city's policy toward customers who rent or lease their property to other parties.

(Ord. No. 060711-04, § 5, 6-7-2011)

Sec. 2-10-6. - Same—Billing and payment.

- (a) Bills will be prepared and mailed promptly after the start of the billing period.
- (b) Each bill shall include for that billing period all fixed charges, an amount based on volume and any other charges due.
- (c) Where the volume is significantly higher than usual and the cause is promptly corrected, the volume may be adjusted downward. Where the volume is significantly lower than usual and the cause is determined to be metering, the volume shall be adjusted upward.
- (d) Payment is due and shall be received at the Municipal Building on or before the twentieth day after the last read date of the billing cycle. If the twentieth day occurs when the Municipal Building is closed, it shall be extended to the next business day. A ten (10) percent penalty will be assessed on accounts paid after the due date.
- (e) If payment is not received on or before the specified date and time, the service shall be turned off. The administration may, in recognition of the specific circumstances, delay the turn-off for up to five (5) days. With respect to single-family residential, the City Manager may approve additional time beyond the five (5) days where specific circumstances justify further time before turn-off.
- (f) The bill shall be the only notice required of the charges due and the deadline for payment. The bill shall clearly state this information.
- (g) Where service has been turned off due to payment not being received in time, service shall be turned on only after payment has been received for all unpaid charges (which includes but not limited to Water, Sewer, Garbage, Garbage Tax, Storm Water Fee, Edwards Aquifer Management Fee and Brush Chipping Fee), the amount due for the current billing period and a reconnection fee.
- (h) If the charges due have not been paid, the service shall be subject to discontinuance as provided in this section and a lien may be filed in the Deed Records of Bexar County, Texas, against such real property to which the service has been extended. Such lien is to comply in form to the form of a Mechanic's and Materialman's Lien, but shall not of necessity be governed any further by such laws. Such lien may be filed at any time after the time has occurred which would permit the City to discontinue the service. The lien is a cumulative remedy and is not exclusive. Foreclosure of such lien shall be by suit in the District Court in the same manner as foreclosure of Materialman's and Mechanic's Liens in Texas.

(Ord. No. 149, § 5, 3-15-66; Ord. No. 149-G, § 1, 12-15-70; Ord. No. 149-L, § 5, 3-1-77; Ord. No. 149-M, § 4(B), 2-7-78; Ord. No. 149-M-30-04, §§ 1, 2, 11-16-04; Ord. No. 149-M-34-2014, § 1, 8-19-14)

Sec. 2-10-4. - Service charges—Water Department, schedule.

(a) *General.*

- (1) Service charges for each billing period are payable on a current basis and are due when rendered. They are rendered when the bills are delivered to the United States Post Office in Universal City for mailing. Failure to receive any bill shall not relieve such customer of the duty and necessity of paying such bill in accordance with the regulations.
- (2) The rates and charges herein established shall be collected from the owners, occupants or users of the premises from and after the effective date of this section.
- (3) There shall be one bill issued to one customer for each water meter for each billing period. The charges for that meter shall not be prorated by the Utility Department Administration except where the customer, by proper application, is changed during the billing period.
- (4) Charges for each account shall be on a continuous basis from the date of the initial connection until an application for discontinuance of service is received and accepted. Upon receipt and acceptance of such application, the water meter shall be removed or plugged and/or the sewer line disconnected and no additional charges imposed. Service and charges shall resume when an application for such resumption is made and accepted, payment made for all charges including, past due charges for the remainder of the current and the next billing period where the remainder of the current billing period is less than two-fifths, a reconnection charge and the service is restored.
- (5) Where it is permitted to bill a customer for a part of the billing period and an application is made in advance by the customer and accepted, the fixed and/or average charges shall be prorated to the nearest fifth of the period.
- (6) Volumes used shall be measured to the nearest one hundred (100) gallons. Where meters register in cubic feet, the volumes shall be converted to the nearest one hundred (100) gallons at the rate of seven and forty-eight one hundredths (7.48) gallons per cubic feet.

(b) *Schedule.*

- (1) Billing period charges for water service shall be as per section 1-4-40(Z)(2), dated February 8, 1978, and as it may be amended, which is an integral part of this section. These charges shall be applied from the date of initial connection to the system until the connection is removed or service discontinued as provided elsewhere.
- (2) Initial volume charges shall be based on an anticipated use of water and subsequent volume charges shall be based on the actual consumption for the previous billing period.
- (3) Application for a permit to draw construction water from fire hydrants shall be made in advance and for each separate construction project. Each permit shall specify the contractor to whom the permit is issued, the project for which it is issued and the calendar month for which the permit is granted. At the time of issuance of the permit, additional copies will be available to provide one for each vehicle or crew to be drawing water. A copy of the permit must be in the possession of whomever is drawing the water and it must be shown upon request. Any failure to comply with this paragraph is a violation of section 2-10-8.

(Ord. No. 149, § 3, 3-15-66; Ord. No. 149-I, 9-21-71; Ord. No. 149-L, § 3, 3-1-77; Ord. No. 149-M, § 4(A), (C), 2-7-78; Ord. No. 149-M-1, 6-20-78; Ord. No. 149-M-8, § 3, 8-4-81)



GUADALUPE VALLEY ELECTRIC COOPERATIVE, INC.
P.O. BOX 118
GONZALES, TX 78629-0118

CUSTOMER SERVICE M-F | 7:30 AM – 6:00 PM
800.223.4832
www.gvec.org

Page 1 of 2

INTERNET | ELECTRIC | HOME

4488 1 AV 0.373

5 4488
C-15 P-25

ACCOUNT

BILLING DATE 04/16/2016

CURRENT BILL AMOUNT	\$	145.00
AMOUNT DUE DRAFTED ON 05/02/2016	\$	145.00
AMOUNT DUE AFTER 05/02/2016	\$	155.00

PAID BY DRAFT



ACCOUNT # 51445001

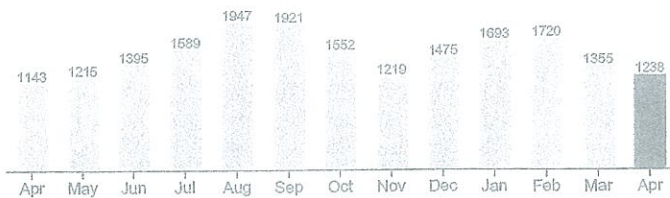
SERVICE DATES: 03/07/2016 – 04/06/2016 (30 Days) METER # 4721770

ADDRESS: 2701 KINGSLAND

SERVICE TYPE: RESIDENTIAL HOME

RATE: RES ALL-ELEC SNGL PH TOTAL BILL \$ 145.00

(33818 — 32580) x 1 = 1,238 kWh
CURRENT READING PREVIOUS READING METER MULTIPLIER KWH USAGE



GENERATION AND TRANSMISSION

1,238 kWh x \$0.079 = \$ 97.80

DISTRIBUTION

Delivery Charge 1,238 kWh x \$0.02184 = \$ 27.04
Service Availability Charge \$ 15.00

OTHER

City Sales Tax \$ 2.14
City Municipal Franchise Fee \$ 2.80
POWER UP Contribution \$ 0.22

COMPARISONS	DAYS	TOTAL kWh	AVG. kWh	DAILY COST
CURRENT BILLING	30	1,238	41	\$4.66
PREVIOUS BILLING	30	1,355	45	\$5.05
LAST YEAR BILLING	29	1,143	39	\$4.49

It is time to start thinking about making your home more energy efficient for the summer. Visit the Slow Your Roll Energy Efficiency Q&A on gvec.org for information and quick-tip videos!



INTERNET | ELECTRIC | HOME

CUSTOMER SERVICE M-F | 7:30 AM – 6:00 PM
800.223.4832
www.gvec.org



ACCOUNT # [REDACTED]

BILLING DATE 04/16/2016

CURRENT BILL AMOUNT	\$	145.00
AMOUNT DUE DRAFTED ON 05/02/2016	\$	145.00
AMOUNT DUE AFTER 05/02/2016	\$	155.00

PAID BY DRAFT

GUADALUPE VALLEY ELECTRIC CO-OP, INC.
P.O. BOX 118
GONZALES, TX 78629-0118



460940051445001000014500000015500041520162

CURRENT BILL CALCULATION

SERVICE DATES FOR THIS STATEMENT JUN 06-JUL 06 2013
 RESIDENTIAL/TOL SERVICE ACCOUNT: 012346789-0123456-7890
 TOTAL DAYS OF SERVICE 31
 DOMESTIC METER READING ON JUN 06 2013 292
 DOMESTIC METER READING ON JUL 06 2013 299
 METER WATER USE (GALLONS) 5,237
 (3/4) INCH METER CHARGE (MINIMUM BILL) 10.01
 5,237 GALS @ .0948 PER 100 GALS 4.96
 DOMESTIC METER CHARGE 5.66
 5,237 GALS @ 1080 PER 100 GALS 1.79
 DOMESTIC METER CHARGE 4.25
 5,237 GALS @ .03425 PER 100 GALS 1.81
 RESIDENTIAL LOT MORE THAN 4,999 SQ/FT 4.25
 TOTAL 11.49
 YOUR WINTER AVERAGE IN GALLONS 4,489
 FIRST 1,496 GALLONS (MINIMUM CHARGE) 11.49
 2,993 GALS @ .3047 PER 100 GALS 9.12
 TOTAL 20.61

0 0 2 9 9 X X

YOUR METER HAS A NUMBER DISPLAY SIMILAR TO THE ONE PICTURED ABOVE. (DISREGARD NUMBERS WITH A BLACK BACKGROUND.) SUBTRACT THE PREVIOUS METER READING (PROVIDED ON YOUR STATEMENT) FROM THE CURRENT ONE. THE RESULT WILL BE THE AMOUNT OF WATER USED SINCE THE LAST READING (IN HUNDRED CUBIC FEET). TO CONVERT TO GALLONS, MULTIPLY THIS AMOUNT BY 7.48.1.
 NOTE: WASTEWATER-ONLY AND STORMWATER-ONLY CUSTOMERS WILL NOT HAVE A METER READING SHOWN.

SUBTRACT PREVIOUS
READING FROM CURRENT:CONVERT TOTAL
TO GALLONS:

5,237 GALS

20,610 GALS

Winter Averaging
Saving Water Means
Saving Money

Using less water this winter can actually lower your SAWS bill throughout 2014. SAWS bases residential sewer service fees on average use in the winter months when water use drops dramatically.

Winter averaging monitors the amount of water you use during three complete consecutive billing periods between mid-November and mid-March to calculate your sewer fee for the whole year.

If your SAWS
account
number
starts with:Your 3-month
winter
averaging
begins:

16	Nov. 15
17	Nov. 16
18	Nov. 19
19	Nov. 20
20	Nov. 21
1	Nov. 25
2	Nov. 26
3	Nov. 27
4	Dec. 2
5	Dec. 2
6	Dec. 4
7	Dec. 5
8	Dec. 6
9	Dec. 9
10	Dec. 10
11	Dec. 11
12	Dec. 12
13	Dec. 13
14	Dec. 16
15	Dec. 17

SAWS will determine your winter average based on the City of San Antonio. For questions or comments, please call SAWS at 781-667-1616.

Payments mailed will be processed electronically.



Payments can be made by phone or online at www.saws.org

CHOOSE A BILL PAYMENT THAT WORKS FOR YOU!

Pay by Phone: 704-SAWS(7297)
 Pay Online: www.SAWS.org
 Pay in Person:

CUSTOMER SERVICE LOCATIONS

---803 Castroville Road(Las Palmas) 8:00 am - 5:00 pm
 ---403 S.W.W. White Rd(Comerica Bldg) 8:00 am - 5:00 pm
 ---2800 U.S. Hwy 281 North 8:00 am - 5:00 pm
 ---2706 W. Southcross Blvd. 8:00 am - 5:00 pm

MAILING ADDRESS CHANGE

Number Street Apt#

City State Zip

New Home Phone: ()

San Antonio Water System

P.O. Box 2990
San Antonio, Texas 78299-2990
(210) 704-SAWS (7297)

CURRENT BILL SUMMARY

PUBLIC, JOHN Q.
1234 E MAIN ST
ACCOUNT # 012345789-0123456-7890

DOMESTIC WATER SERVICE CHARGE	14.97
WATER SUPPLY FEE	5.66
EDWARDS AQUIFER AUTHORITY FEE	1.78
FEDERAL STORMWATER FEE	4.25
SEWER SERVICE CHARGE	20.61
STATE-IMPOSED TCEQ FEE	0.22
PREVIOUS BALANCE	37.82

ACTIVATE EMS PLAN		10.00
5% LATE FEE AFTER JUL 24 2013		2.06
TOTAL WITH LATE FEE		87.48

(Detailed bill calculation on back)

EDWARDS AQUIFER WATER LEVEL

Record high June 1992, 703.2 ft.

Stage I Begins 660.0 ft.

Stage II Begins 650.0 ft.

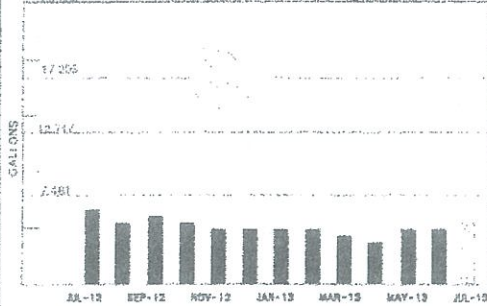
Stage III Begins 640.0 ft.

Record Low Aug 1956, 612.9 ft.



** Measured in feet above sea level

YOUR WATER USE IN GALLONS



YOUR WATER USE WAS
5,237 GALLONS

YOUR NEIGHBORHOOD
AVERAGE WATER USE
WAS 14,542
GALLONS

SAWS RESIDENTIAL
AVERAGE WATER USE
WAS 35,028
GALLONS

YOUR WATER USAGE IS
LESS THAN THE SAME
TIME LAST YEAR

YOUR CURRENT MONTH USAGE IS LESS THAN
THE SAME TIME LAST YEAR

YOUR WINTER AVERAGE IS 4,489
GALLONS. THIS AVERAGE, BASED ON YOUR
USAGE BETWEEN NOVEMBER 15 AND MARCH 15,
GENERALLY REPRESENTS INDOOR WATER USE.
WATER USE IN EXCESS OF THIS AVERAGE MAY
BE ATTRIBUTED TO OUTDOOR APPLICATION.
THIS MONTH YOUR WATER USE IS 748
GALLONS ABOVE YOUR WINTER AVERAGE.

DETACH HERE

SAVE A STAMP: PAY ONLINE AT WWW.SAWS.ORG

DETACH HERE

Please return this bill to the water utility
department for recycling.

RETURN BOTTOM PORTION WITH PAYMENT

ACCT# 012345789-0123456-7890
34678

Please check your bill for any address changes.
If you move, please notify the water utility.



PUBLIC JOHN Q.
1234 E MAIN ST
SAN ANTONIO TX 78214-2751



STAMP OUT NOW

STAMP OUT NOW

0123457890123456789000008748000000

Council Ideas/Suggestions List by Category

Updated: April 12, 2016

Ongoing items

Items	Status	Completed Council Approval
1. Issues with 2013 CIP project		
a. Warranty issues –		
i. Letter to contractor	sent	
ii. Meeting with contractor	March 24, 2016	
iii. Status of repairs/corrections	Ongoing and to be completed by May 10	
2. Concealed handguns (Councilman Thompson)		
a. Letter/contact with Judge	Presented at May 5, 2016 Council meeting	Completed-Awaiting Councilman Thompson's approval
b. Cost of wands or other monitoring devices	Presented at May 5, 2016 Council meeting Included in FY 2016 Budget Amendment #1	Completed-Awaiting Councilman Thompson's approval
3. Sewer Along 2252 (Councilman Lantzy)	City Council, City Engineer, staff, City Attorney, Financial Advisor continue gathering information, discussions and study. Continue as Executive Session item monthly until ready for Council action	
4. iPerl Meter Installation and registration questions (Councilman Trial)	iPerl meter installation ongoing Audit of 80 random iPerl meters ongoing (in 2 nd month) Sensus software update complete Tablets utilized for meter reading in April Audit results will be presented to	

	Council upon completion	
5. Personnel Policy (Mayor Knaus) Incentive Pay (Councilman Thompson)	Meeting scheduled for May 18, 2016 with City Council, staff, City Attorney to begin review of draft document Incentive Pay will be discussed during Personnel Policy draft document discussions	
6. Hickory Bend erosion /Maintenance (Councilman Thompson)	Meeting with RCE, Staff & homeowners met March 30 City Engineer completing plans and acquiring cost estimate	
7. Council Chamber Sound System (Mayor Knaus)	Met with contractors and awaiting proposals/cost estimates FY 2017 Budget item	
8. Electronic Payments (Councilman Thompson) Electronic Water Billing (Councilman Thompson)	Researched & cost included in FY 2016 Budget Amendment #1 Software upgrade for Incode on May 19 Service Charge and Convenience fee Ordinance to Council June/July Contract with new credit card provider Design website link Goal for full implementation Oct. 1, 2017 Software upgrade on May 19 Include in FY 2017 Budget Begin implementation FY 2017 Full implementation	Convenience Fee Ordinance adopted May 2016 Software upgrade completed Cost of project included in FY2016 Budget Amendment #1 Software upgrade completed

	TBD	
9. Community Center (Councilman Lantzy)	Comparing pricing of similar venues Developing fully loaded cost for facility Acquiring estimates for removal of overhead doors, sound system, commercial stove, AC system Developing list of aesthetical improvements to center that may affect lighting, energy and electrical improvements Staff working on maintenance items Comparing contracts from other venues for revisions to current contract Bring information at hand to Council in June for discussion and direction	
10. Training for Commissioners (Councilman Thompson)	Continuous/Ongoing Staff will advise Commissioners of training/seminars as information available Budget Training/Travel annually	
11. Update Ordinances (Councilmen Thompson and Lantzy)	Cost for Codifying to be included in FY 2017 Budget Work with legal to develop plan for updating Identify ordinances to be updated	
12. Assistant City Administrator (Mayor Knaus and Councilman Lantzy)	City Administrator to develop job	

	description Include position in FY 2017 Budget	
13. Code Compliance (Councilman Thompson)	City Council discussion on need for Code Compliance Officer Council objectives for Code Compliance Officer Obtain legal requirement for Code Compliance Officer Determine budgetary impact Place on Council agenda in June for discussion of above Possible inclusion in 2017 Budget	
14. Quarterly Issues Town Hall Meeting (Councilman Lantzy)	Determine dates for Meetings	
15. Interface with Businesses (Councilman Trial)	Review Grapevine Policy with comments from legal Review website link with comments from from legal Placement of above on June/July agenda	
16. Freezing of Taxes for persons over 65 and/or disabled (Councilman Lantzy)	Placed on April agenda	Discussed in April Council Meeting –Awaiting Councilman Lantzy's approval
17. Bat Cave Road widening (Councilman McCaw)	General briefing on future agenda	
Completed Items	Status	Completed Council Approval
1.City Concerns/Ideas (Councilman Thompson)	Review of existing process Communication with Council	Done Done-Monthly list of complaints/issues submitted to Council

	Process Improvement	Done-Call to citizens in April/May Grapevine to submit qualifications for reengineering experience
2. Agenda Tracking (Mayor Knaus)	Short term – methodology developed and in use Long term – Determination to made if needed at later date	Done
3. Citizen Input to Budget (Councilman Lantzy)	Placed in Grapevine – contact your Councilman	Done
4. Training for Council members (Councilman Thompson)	List of recommended training developed and submitted to Council	Done
5. Grapevine and inserts policy (Councilman Thompson)	Policy sent to Councilman – per Councilman, no action required at this time	Done
Pending	Status	Completed Council Approval
1. Annual or semi-annual inspection of buildings and other City facilities (Councilman Trial)	To be implemented semi-annually	Implemented Monthly
2. Disaster recovery plan for City (Councilman Trial)	Discuss at future Council meeting to determine the scope of recovery plan	
3. Disaster recovery plan for Water Department (Councilman Trial)	Discuss at future Council meeting to determine the scope of recovery plan	
4. Complaint system process reengineering (Councilman Thompson)	Pending citizen volunteer response to determine next step	
5. Location of middle school (Councilman Arvidson and Councilman Trial)	Discussions have begun with CISD	
6. Interpretive Services for meetings (Councilman Thompson)	Identified source for various interpretive services Devices for hearing impaired could be	

	part of sound system upgrade in Council room	
7. Video stream Council meetings (Councilman Trial)	Discuss with legal pros/cons Sound system in Council room can be planned for future streaming capabilities Requires additional technology upgrades and equipment Budget impact	
8. Permit for feeding deer (Councilman Trial)	Discuss at future Council meeting	
9. Videos for website (Councilman Trial)	Maybe prepared by GRES or students to increase civic involvement	
10. Coffee with Mayor and Council (Councilman Trial)	Discuss at future Council meeting and determine dates	
11. Improve attendance at National Night Out Food trucks (Councilman Trial)	Discuss with Chief Eberhardt ways to improve attendance at event and having food trucks at event	
12. Business outreach by Council – walk businesses (Councilman Trial)	Discuss at future Council meeting	
13. Finish seating areas for Community Center (Councilman Trial)	Painting of benches can be accomplished by Public Works Future discussion if necessary when Community Center is discussed	Benches painted in May – Awaiting Councilman Trial's approval
14. Solar screens for City Hall and Community Center (Councilman Trial)	Discuss during budgeting process	

2016 Rolling Agenda

Red=City Council Purple=Quarry Commission
Planning & Zoning =Green Water Commission= Blue

June 15, 2016 at 6pm

- TCEQ MS4 presentation
- Bexar 9-1-1
- Update on Comal County dispatch outage
- Community Center discussion
- Possible action on Library Science Club
- Personnel Policy

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July 6, 2016

Red=City Council Purple=Quarry Commission
Planning & Zoning =Green Water Commission= Blue

Topics on Rolling Agenda: (19 days before mtg) 6/17/16
Items Due to City Secretary: (15 days before mtg) 6/21/16
Agenda locked @ 10am
CAadm Final Approval: (13 days before mtg) 6/23/16
Draft Agenda to Mayor/City Atty (9 days before mtg) 6/27/16
Agenda posted on (6 days before mtg) 6/30/16

Sun Mon Tue Wed Thu Fri Sat

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Proclamations/Awards (Before Citizen Comment Period)

Consent Agenda

1. Minutes 6-1-16
2. Minutes 6-6-16
3. Minutes 6-15-16
4. Financial Report
5. Staff Reports (Admin, Library, Public Works, Water, PD)

Public Hearings

Sahota Holdings (convenience store/car wash) rezoning R1 to B1 and recommendation for P&Z

Non-Consent Agenda

Ordinances and Resolutions and CIP presentation

1. CIP
 - a. 2013 Water, Streets and Drainage
 - b. 2016 Water, Streets and Drainage
 - c. Trinity Well and Infrastructure
 - d. Projects & Remaining Funds (River City priorities and add additional projects if needed)
2. Quarry Commission recommendation for meeting time change
3. Water Commission recommendation for Sahota water rights
4. Planning and Zoning recommendation Sahota Holdings Master Development

Discussion

1. Future Agenda Items requested by City Council

Updates

1. Animal Ordinance
2. City Council concerns and direction matrix
3. Personnel Policy Update
4. Deer Management
5. Parks Committee (Trial)
6. Sign Ordinance
7. Council Idea/Suggestions
8. Citizen/ Issue Process

Executive Session

August 3, 2016

Topics on Rolling Agenda: (20 days before mtg) 7/14/16
Items Due to City Secretary: (15 days before mtg) 7/19/16
Agenda locked @ 10am
CAAdm Final Approval: (13 days before meeting) 7/21/16
Draft Agenda to Mayor/City Atty (9 days before mtg) 7/25/16
Agenda posted on (6 days before meeting) 7/28/16

Red=City Council Purple=Quarry Commission
Planning & Zoning =Green Water Commission= Blue

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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28	29	30	31			

Proclamations/Awards (Before Citizen Comment Period)

Consent Agenda

1. Minutes 7-6-16
2. Minutes 7-20-16
3. Financial Report
4. Staff Reports (Admin, Library, Public Works, Water, PD)

Public Hearings

Non-Consent Agenda

Ordinances and Resolutions and CIP presentation

1. CIP
 - a. 2013 Water, Streets and Drainage
 - b. 2016 Water, Streets and Drainage
 - c. Trinity Well and Infrastructure

Discussion

1. Future Agenda Items requested by City Council

Updates

1. Animal Ordinance
2. City Council concerns and direction matrix
3. Parks Committee (Trial)
4. Sign Ordinance
5. Council Idea/Suggestions
6. Citizen/ Issue Process

Executive Session

September 2, 2016

Topics on Rolling Agenda: (21 days before mtg) 8/14/16
Items Due to City Secretary: (15 days before mtg) 8/18/16
Agenda locked @ 10am
CAAdm Final Approval: (13 days before meeting) 8/20/16
Draft Agenda to Mayor/City Atty (9 days before mtg) 8/24/16
Agenda posted on (6 days before meeting) 8/27/16

Red=City Council Purple=Quarry Commission
Planning & Zoning =Green Water Commission= Blue

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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27	28	29	30			

Proclamations/Awards (Before Citizen Comment Period)

Consent Agenda

1. Minutes 8-5-16
2. Minutes 8-19-16
3. Financial Report
4. Staff Reports (Admin, Library, Public Works, Water, PD)

Public Hearings

Non-Consent Agenda

Ordinances and Resolutions and CIP presentation

1. CIP
 - a. 2013 Water, Streets and Drainage
 - b. 2016 Water, Streets and Drainage
 - c. Trinity Well and Infrastructure

Discussion

1. Future Agenda Items requested by City Council

Updates

7. Animal Ordinance
8. City Council concerns and direction matrix
9. Parks Committee (Trial)
10. Sign Ordinance
11. Council Idea/Suggestions
12. Citizen/ Issue Process

Executive Session

PENDING FUTURE AGENDA ITEMS

- 1) Ball field repairs and timing.....*S. Steinmetz and S. Trial*
- 2) Budget hearings and adoption schedule...*N. Cain*
- 3) 2/2/16 Discussion of issues surrounding Bat Cave Road will be placed on future Council agenda...*J. McCaw*
- 4) Grapevine and Inserts policy.....*L. Thompson & Legal*
- 5) Website Link to businesses.....*Legal*
- 6) Ordinance update plan....*Legal & S. Goodwin*
- 7) Asst. City Administrator...*N. Cain*
- 8) 2017 Earth Day Proclamation...*N Knaus*
- 9) *Adoption of MS4(possible action on 6-15-16)*

Items for further discussion before adding to list

State of City (January).....*N. Cain*

Monthly Meeting Report

Nadine Knaus

Mayor

May, 2016

Northeast Partnership General Meeting

- Freedom Rider's event next year

Comal County Luncheon

- Various issues

Greater Bexar County Council of Cities

- MPO - Alamo Area and Capitol Area MPO's met to discuss the "way forward" for light rail considering UP has pulled out – looking at alternate routes, whether to continue the environmental impact assessment – use of banked funds, etc.
- EPA – Alamo Area and Capitol Area COG's met to discuss the EPA's proposed air quality attainment standards – passed resolution opposing the standards which would place the area in non-attainment – resolution asked the area to be designated "unclassified"
- VIA
 - New bus routes – Pearl to Alamo, Alamo to Missions, east west Centro route
 - VIA 2040 plan includes a major Park and Ride center for the area just west of Rolling Oaks Mall
 - VIA 2040 plan took into account the City of San Antonio's comprehensive plan and looked at the entire region, not just San Antonio
- SA Tomorrow –
 - Brief overview of City of SA's Comprehensive Plan
 - Higher density growth
 - Adding 1.1M to the area by 2040
 - Utilize annexation "strategically"
 - Integrated multi-modal transportation hubs and sustainability plans
 - One large multi-modal and sustainable urban center planned for the Rolling Oaks area

JBSA – MAC

- Presentation on tree trimming and thinning to combat BASH issue

Comal Trails

Met with Nancy Pappas to discuss the Comal Trails program and its integration into our long range plans for the City and the Parks