

CITY OF LINDSAY
STATEMENT OF CASH FLOWS
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS
PROPRIETARY FUND
FOR THE YEAR ENDED SEPTEMBER 30, 2007

Cash flows from operating activities:	
Cash received from customers	\$ 244,499
Cash payments to suppliers for goods and services	(121,220)
Cash payments to employees and contractors for services	(26,489)
Net cash provided (used) by operating activities	<u>96,790</u>
Cash flows from capital and related financing activities:	
Principal payments on capital lease	(20,000)
Interest paid on capital lease	(19,211)
Purchases of fixed assets	(8,216)
Operating transfers in from general fund	43,411
Net cash provided (used) capital and related financing activities	<u>(4,016)</u>
Cash flows from investing activities:	
Interest income	27,704
Net (purchases)/maturities of certificates of deposits	(72,789)
Net cash provided (used) by investing activities	<u>(45,085)</u>
Net increase (decrease) in cash and cash equivalents	47,689
Cash and equivalents, beginning	<u>81,672</u>
Cash and equivalents, ending	<u>\$ 129,361</u>
Reconciliation of operating income to net cash provided (used) by operating activities:	
Operating income	
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:	\$ 56,830
Depreciation	
(Increase) Decrease in accounts receivable	29,795
Increase (Decrease) in accounts payable	505
Increase (Decrease) in customer deposits	8,265
Net cash provided (used) by operating activities	<u>1,395</u>
	<u>\$ 96,790</u>
Noncash investing, capital, and financing activities:	
There were no significant noncash investing, capital, and financing activities during the reported period.	

	Current Assets	Restricted Assets	Statement of Cash Flows Total
Cash and cash equivalents - beginning	\$ 77,387	\$ 4,285	\$ 81,672
Net increase (decrease)	46,369	1,320	47,689
Cash and cash equivalents - ending	<u>\$ 123,756</u>	<u>\$ 5,605</u>	<u>\$ 129,361</u>

See accompanying notes to financial statements.

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

A. Summary of Significant Accounting Policies

The basic financial statements of the City of Lindsay (the "City") have been prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP") applicable to governmental units. The City applies all relevant Governmental Accounting Standards Board (GASB) pronouncements and applicable Financial Accounting Standards Board (FASB) and Accounting Principles Board (APB) opinions issued on or before November 30, 1989, unless they conflict with GASB pronouncements. The Governmental Accounting Standards Board ("GASB") is the accepted standard setting body for establishing governmental accounting and financial reporting principles.

1. Reporting Entity

The City of Lindsay, Texas ("City"), is incorporated under the provisions of the laws of the State of Texas. The City is governed by a mayor and city council that are elected. The City provides the water and sewer services and garbage collection as authorized by charter. The City also collects taxes and fees to fund the general operations of the City.

2. Basis of Presentation, Basis of Accounting

a. Basis of Presentation

Government-Wide Statements: The statement of net assets and the statement of activities include the financial activities of the overall government, except for fiduciary activities. Eliminations have been made to minimize the double-counting of internal activities. Individual funds are not displayed but the statements distinguish governmental activities, generally supported by taxes and City general revenues, from business-type activities, generally financed in whole or in part with fees charged to external customers.

The statement of activities presents a comparison between direct expenses and program revenues for each function of the City's governmental activities. Direct expenses are those that are specifically associated with a program or function and, therefore, are clearly identifiable to a particular function. The City does not allocate indirect expenses in the statement of activities. Program revenues include (1) charges for services which report fees, fines and forfeitures, and other charges to users of the City's services; (2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular program. Revenues that are not classified as program revenues, including all taxes, are presented as general revenues.

Fund Financial Statements: The fund financial statements provide information about the City's funds, with separate statements presented for each fund category. The emphasis of fund financial statements is on major governmental funds, each displayed in a separate column. All remaining governmental funds are aggregated and reported as nonmajor funds.

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

Governmental Funds

The City reports the following major governmental fund:

General Fund: This is the City's primary operating fund. It accounts for all financial resources of the City except those required to be accounted for in another fund.

Proprietary Funds

The City reports the following major enterprise fund:

Water and Sewer Utilities Fund – This fund accounts for the operating activities of the City's water and sewer utilities services as well as water and sewer utilities construction, contracting, and debt.

b. Measurement Focus, Basis of Accounting

Government-Wide Financial Statements: These financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Proprietary fund financial statements also report using this same focus and basis of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when the related cash flows take place. Nonexchange transactions, in which the City gives (or receives) value without directly receiving (or giving) equal value in exchange, include property taxes, sales and liquor taxes, franchise fees, grants, and donations. On an accrual basis, revenue from property taxes is recognized in the fiscal year for which the taxes are levied. Revenue from grants and donations is recognized in the fiscal year in which all eligibility requirements have been satisfied.

Governmental Fund Financial Statements: Governmental funds are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Under this method, revenues are recognized when measurable and available. The City considers all revenues reported in the governmental funds to be available if the revenues are collected within sixty days after year-end. Major revenue sources susceptible to accrual include: sales and liquor taxes, property taxes, and franchise taxes (fees). In general, other revenues are recognized when cash is received because they are generally not measurable until actually received. Investment earnings are recorded as earned, since they are both measurable and available. Expenditures are recorded when the related fund liability is incurred, except for principal and interest on general long-term debt which are recognized as expenditures to the extent they have matured. General capital asset acquisitions are reported as expenditures in governmental funds. Proceeds of general long-term debt and acquisitions under capital leases are reported as other financing sources.

Operating income reported in proprietary fund financial statements includes revenues and expenses related to the primary continuing operations of the fund. Principal operating revenues for proprietary funds are charges to customers for sales or services. Principal operating expenses are the costs of providing goods or services and include administrative expenses and depreciation of capital assets. Other revenues and expenses are classified as non-operating in the financial statements.

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

When the City incurs an expenditure or expense for which both restricted and unrestricted resources may be used, it is the City's policy to use restricted resources first, then unrestricted resources.

3. Financial Statement Amounts

a. Cash and Cash Equivalents

For purposes of the statement of cash flows, highly liquid investments are considered to be cash equivalents if they have a maturity of three months or less when purchased. The City did not own any cash equivalents as of September 30, 2007.

b. Property Taxes

Property taxes are levied by October 1 on the assessed value listed as of the prior January 1 for all real and business personal property located in the City in conformity with Subtitle E, Texas Property Tax Code. Taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed. On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed. Property tax revenues are considered available (1) when they become due or past due and receivable within the current period and (2) when they are expected to be collected during a 60-day period after the close of the fiscal year.

Allowances for uncollectible tax receivables within the general fund are based upon historical experience in collecting property taxes. Uncollectible personal property taxes are periodically reviewed and written off, but the City is prohibited from writing off real property taxes without specific statutory authority from the Texas Legislature.

c. Capital Assets

Purchased or constructed capital assets are reported at cost or estimated historical cost. Donated fixed assets are recorded at their estimated fair value at the date of the donation. The cost of normal maintenance and repairs that do not add to the value of the asset or materially extend assets' lives are not capitalized.

Capital assets are being depreciated using the straight-line method over the following estimated useful lives:

<u>Asset Class</u>	<u>Estimated Useful Lives</u>
Buildings	50
Streets and Improvements	20
Vehicles	6
Furniture, Plant and Equipment	5-20

d. Receivable and Payable Balances

The City believes that sufficient detail of receivable and payable balances is provided in the financial statements to avoid the obscuring of significant components by aggregation. Therefore, no disclosure is provided which disaggregates those balances.

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

There are no significant receivables which are not scheduled for collection within one year of year end.

e. **Interfund Activity**

Interfund activity results from loans, services provided, reimbursements or transfers between funds. Loans are reported as interfund receivables and payables as appropriate and are subject to elimination upon consolidation. Services provided, deemed to be at market or near market rates, are treated as revenues and expenditures or expenses. Reimbursements occur when one fund incurs a cost, charges the appropriate benefiting fund and reduces its related cost as a reimbursement. All other interfund transactions are treated as transfers. Transfers in and Transfers Out are netted and presented as a single "Transfers" line on the government-wide statement of activities.

f. **Use of Estimates**

The preparation of financial statements in conformity with GAAP requires the use of management's estimates.

B. Deposits and Investments

The City's funds are required to be deposited and invested under the terms of a depository contract. The depository bank deposits for safekeeping and trust with the City's agent bank approved pledged securities in an amount sufficient to protect City funds on a day-to-day basis during the period of contract. The pledge of approved securities is waived only to the extent of the depository bank's dollar amount of Federal Deposit Insurance Corporation ("FDIC") insurance.

Cash Deposits:

At September 30, 2007, the carrying amount of the City's deposits (cash, certificates of deposit, and interest-bearing savings accounts) was \$1,380,839 and the bank balance was \$1,385,995. The City's cash deposits at September 30, 2007 were entirely covered by FDIC insurance or by pledged collateral held by the City's agent bank in the City's name.

In addition, the following is disclosed regarding coverage as of September 30, 2007:

- a. **Depositories:** First State Bank of Gainesville, American Bank of Texas, and Landmark Bank
- b. The total amount of FDIC coverage at September 30, 2007 was \$300,000.
- c. The market value of securities pledged at September 30, 2007 was \$2,006,825.

The cash deposits held at financial institutions can be categorized according to three levels of risk. These three levels of risk are as follows:

- Category 1 -** Deposits which are insured or collateralized with securities held by the City or by its agent in the City's name.
- Category 2 -** Deposits which are collateralized with securities held by the pledging financial institution's trust department or agent in the City's name.

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

Category 3 - Deposits which are not collateralized or insured.

Based on these three levels of risk, all of the City's deposits are classified as Category 1 as of September 30, 2007.

Investments:

The Public Funds Investment Act ("Act") requires an annual audit of investment practices. Audit procedures in this area conducted as a part of the audit of the basic financial statements disclosed that in the areas of investment practices, management reports and establishment of appropriate policies, the City adhered to the requirements of the Act. Additionally, investment practices of the City were in accordance with local policies.

Analysis of Specific Deposit and Investment Risks

GASB Statement No. 40 requires a determination as to whether the City was exposed to the following specific investment risks at year end and if so, the reporting of certain related disclosures:

a. Credit Risk

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The ratings of securities by nationally recognized rating agencies are designed to give an indication of credit risk. At year end, the City was not significantly exposed to credit risk.

b. Custodial Credit Risk

Deposits are exposed to custodial credit risk if they are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the City's name.

Investments are exposed to custodial credit risk if the securities are uninsured, are not registered in the name of the government, and are held by either the counterparty or the counterparty's trust department or agent but not in the City's name.

At year end, the City was not exposed to custodial credit risk.

c. Concentration of Credit Risk

This risk is the risk of loss attributed to the magnitude of a government's investment in a single issuer. At year end, the City was not exposed to concentration of credit risk.

d. Interest Rate Risk

This is the risk that changes in interest rates will adversely affect the fair value of an investment. At year end, the city was not exposed to interest rate risk.

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

e. Foreign Currency Risk

This is the risk that exchange rates will adversely affect the fair value of an investment. At year end, the City was not exposed to foreign currency risk.

Investment Accounting Policy

The City's general policy is to report money market investments and short-term participating interest-earning investment contracts at amortized cost and to report nonparticipating interest-earning investment contracts using a cost-based measure. However, if the fair value of an investment is significantly affected by the impairment of the credit standing of the issuer or by other factors, it is reported at fair value. All other investments are reported at fair value unless a legal contract exists which guarantees a higher value. The term "short-term" refers to investments which have a remaining term of one year or less at time of purchase. The term "nonparticipating" means that the investment's value does not vary with market interest rate changes. Nonnegotiable certificates of deposit are examples of nonparticipating interest-earning investment contracts.

C. Capital Assets

Capital asset activity for the period ended September 30, 2007, was as follows:

	Beginning Balances	Increases	Decreases	Ending Balances
<u>Governmental activities:</u>				
<i>Capital assets not being depreciated</i>				
Land	\$ 23,700	--	--	\$ 23,700
Total capital assets not being depreciated	<u>23,700</u>	<u>--</u>	<u>--</u>	<u>23,700</u>
<i>Capital assets being depreciated:</i>				
Buildings and improvements	450,288	10,979	--	461,267
Plant and equipment	129,186	10,237	--	139,423
Streets	<u>185,114</u>	<u>13,962</u>	--	<u>199,076</u>
Total capital assets being depreciated	<u>764,588</u>	<u>35,178</u>	<u>--</u>	<u>799,766</u>
Less accumulated depreciation for:				
Buildings and improvements	(58,604)	(9,370)	--	(67,974)
Plant and equipment	(75,188)	(10,624)	--	(85,812)
Streets	<u>(55,040)</u>	<u>(7,964)</u>	--	<u>(63,004)</u>
Total accumulated depreciation	<u>(188,832)</u>	<u>(27,958)</u>	<u>--</u>	<u>(216,790)</u>
Total capital assets being depreciated, net	<u>575,756</u>	<u>7,220</u>	<u>--</u>	<u>582,976</u>
Governmental activities capital assets, net	\$599,456	\$7,220	\$ --	\$606,776

Depreciation was charged to functions as follows:

General	\$12,178
Recreation	996
Court	1,525
Fire	832
Police	8,998
Disaster	1,011
Streets	<u>2,418</u>
	<u>\$27,958</u>

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

	Beginning	Ending		
	<u>Balances</u>	<u>Increases</u>	<u>Decreases</u>	<u>Balances</u>
<u>Business-type activities:</u>				
<i>Capital assets not being depreciated</i>				
Land	\$ 10,000	--	--	\$ 10,000
Total capital assets not being depreciated	<u>10,000</u>	<u>--</u>	<u>--</u>	<u>10,000</u>
 <i>Capital assets being depreciated:</i>				
Plant and equipment	<u>1,017,149</u>	<u>8,215</u>	--	<u>1,025,364</u>
Total capital assets being depreciated	<u>1,017,149</u>	<u>8,215</u>	--	<u>1,025,364</u>
Less accumulated depreciation for:				
Plant and equipment	<u>(491,664)</u>	<u>(29,795)</u>	--	<u>(521,459)</u>
Total accumulated depreciation	<u>(491,664)</u>	<u>(29,795)</u>	--	<u>(521,459)</u>
Total capital assets being depreciated, net	<u>525,485</u>	<u>(21,580)</u>	--	<u>503,905</u>
Business-type activities capital assets, net	\$535,485	\$ (21,580)	\$ --	\$513,905

Depreciation was charged to functions as follows:

Water and sewer utilities \$ 29,795

D. Transfers To and From Other Funds

Transfers to and from other funds at September 30, 2007, consisted of the following:

<u>Transfers From</u>	<u>Transfers To</u>	<u>Amount</u>	<u>Reason</u>
General fund	Water and sewer fund	\$ 43,411	Supplement other fund sources

E. Commitments under Capitalized Leases

During the fiscal year 1995, the City entered into a contract to construct and acquire a new water well under the provisions of a long-term capital lease agreement. Upon final payment (fiscal year 2015) the title of the water well will pass to the City.

Future obligations over the primary terms of the City's capital lease as of September 30, 2007 are as follows:

<u>Year Ending</u>	<u>Amount</u>
<u>September 30,</u>	
2008	41,160
2009	41,206
2010	42,788
2011	40,802
2012	40,469
2013-2015	<u>111,129</u>
Total	\$317,554

The effective interest rate on the capital lease is 6.55%.

CITY OF LINDSAY
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

F. Risk Management

The City is exposed to various risks of loss related to torts, theft, damage or destruction of assets, errors and omissions, injuries to employees, and natural disasters. During fiscal year 2007, the City purchased commercial insurance to cover general liabilities. There were not significant reductions in coverage in the past fiscal year and there were not settlements exceeding insurance coverage for each of the past three fiscal years.

G. Restricted Assets

As of September 30, 2007, the City had restricted assets of \$56,160. The City restricts assets and reserves a portion of its retained earnings to meet the requirements of its capital lease. The City restricts the money held on deposit for meter deposits. Motel tax revenue is restricted to expenditures relating to tourism.

H. Deferred Revenue

Deferred revenue at year end consisted of the following:

<u>Revenue Description</u>	<u>Fund</u>	<u>Deferred Amount</u>
Net property tax revenue	General	\$92,098
Police training grant	Special Revenue	<u>542</u>
		\$92,640

I. Commitments and Contingencies

1. Contingencies

The City participates in grant programs which are governed by various rules and regulations of the grantor agencies. Costs charged to the respective grant programs are subject to audit and adjustment by the grantor agencies; therefore, to the extent that the City has not complied with the rules and regulations governing the grants, refunds of any money received may be required and the collectibility of any related receivable may be impaired. In the opinion of the City, there are no significant contingent liabilities relating to compliance with the rules and regulations governing the respective grants; therefore, no provision has been recorded in the accompanying combined financial statements for such contingencies.

2. Litigation

No reportable litigation was pending against the City at September 30, 2007.

J. Grant agreements

In July 2007, the City entered into a contract and grant agreement with the Office of Rural Community Affairs. Under the terms of the contract, the City is to receive \$125,000 to be used for street repairs, which are required to be completed by July 3, 2009. The City also received a \$30,300 Planning Grant in connection with the grant for street improvements. The City council has pledged to match the grant funds. The \$225,000 pledged for street improvements is shown on the accompanying Statement of Net Assets as Reserved for improvements related to grant. As of September 30, 2007, the City had incurred no expenditures in connection with these grant agreements, and no grant revenue had been received.

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Required Supplementary Information

Required supplementary information includes financial information and disclosures required by the Governmental Accounting Standards Board but is not considered a part of the basic financial statements.

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CITY OF LINDSAY
GENERAL FUND
BUDGETARY COMPARISON SCHEDULE
FOR THE YEAR ENDED SEPTEMBER 30, 2007

	Budgeted Amounts		Actual	Variance with Final Budget Positive (Negative)
	Original	Final		
REVENUES				
Property taxes	\$ 96,179	\$ 96,179	\$ 98,736	\$ 2,557
Franchise taxes (fees)	41,603	41,603	40,440	(1,163)
Liquor taxes	5,582	5,582	7,498	1,916
Motel taxes	8,600	8,600	7,158	(1,442)
Sales taxes	83,234	83,234	97,222	13,988
Licenses and permits	10,000	10,000	11,202	1,202
Fees	13,586	13,586	25,586	12,000
Interest	27,054	27,054	36,088	9,034
Total revenues	<u>285,838</u>	<u>285,838</u>	<u>323,930</u>	<u>38,092</u>
EXPENDITURES				
General government	118,183	118,183	84,339	33,844
Public safety				
Court	10,305	10,305	9,277	1,028
Police	52,067	52,067	53,733	(1,666)
Fire	2,500	2,500	5,063	(2,563)
Disaster	586	586	6,154	(5,568)
Recreation	22,750	22,750	17,042	5,708
Streets	203,600	203,600	28,678	174,922
Total expenditures	<u>409,991</u>	<u>409,991</u>	<u>204,286</u>	<u>205,705</u>
Excess (deficiency) of revenues over (under) expenditures	<u>(124,153)</u>	<u>(124,153)</u>	<u>119,644</u>	<u>243,797</u>
OTHER FINANCING SOURCES (USES)				
Transfers to other fund	124,400	124,400	(43,411)	(167,811)
Total other financing sources (uses)	<u>124,400</u>	<u>124,400</u>	<u>(43,411)</u>	<u>(167,811)</u>
Net change in fund balance	247	247	76,233	75,986
Fund balance - beginning	694,817	694,817	694,817	-
Fund balance - ending	<u>\$ 695,064</u>	<u>\$ 695,064</u>	<u>\$ 771,050</u>	<u>\$ 75,986</u>

NOTE: The City of Lindsay did not have any budget amendments for the fiscal year 2006-2007; therefore, the original budget and final budget presented above are identical.

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Other Supplementary Information

This section includes financial information and disclosures not required by the Governmental Accounting Standards Board and is not considered a part of the basic financial statements. It may, however, include information which is required by other entities.

HESS & ROHMER, P.C.

CERTIFIED PUBLIC ACCOUNTANTS

BRIAN D. HESS, CPA
MELODY ROHMER, CPA
LESLIE DANGELMAYR, CPA
CURTIS HOENIG, CPA
DAVID STOFFELS, CPA
LISA MELTON, CPA

Independent Auditors' Report

Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards

Honorable Steven Zwinggi, Mayor and
Members of the City Council
City of Lindsay, Texas
P.O. Box 153
Lindsay, Texas 76250

Members of the City Council:

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of City of Lindsay, State of Texas, as of and for the year ended September 30, 2007, which collectively comprise the City of Lindsay, State of Texas' basic financial statements, and have issued our report thereon dated January 7, 2008. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the City of Lindsay, State of Texas' internal control over financial reporting as a basis for designating our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City of Lindsay, State of Texas' internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the City of Lindsay, State of Texas' internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the City of Lindsay, State of Texas' ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the City of Lindsay, State of Texas' financial statements that is more than inconsequential will not be prevented or detected by the City of Lindsay, State of Texas' internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the City of Lindsay, State of Texas' internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over

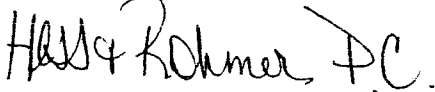
financial reporting that we consider to be material weaknesses, as defined above.

Compliance

As part of obtaining reasonable assurance about whether the City of Lindsay, State of Texas' financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of management, others within the organization and the Members of the City Council and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Hess & Rohmer P.C.", is written over the printed name.

Hess & Rohmer, P.C.

January 7, 2008

CITY OF LINDSAY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

A. Summary of Auditor's Results

1. Financial Statements

Type of auditor's report issued:

Unqualified

Internal control over financial reporting:

Material weakness(es) identified?

☐ Yes ☒ No

Reportable condition(s) identified that are
not considered to be material weaknesses?

☐ Yes ☒ None Reported

Noncompliance material to financial
statements noted?

☐ Yes ☒ No

B. Financial Statement Findings

Our procedures detected no material findings that require disclosure in this report.

CITY OF LINDSAY
SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDED SEPTEMBER 30, 2007

<u>Finding/Recommendation</u>	<u>Current Status</u>	<u>Management's Explanation If Not Implemented</u>
There were no findings in the 2005-2006 Annual Financial Report.		

In the State of Texas

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County of Cooke

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I, Betsy Fleitman, City Secretary for the City of Lindsay, Texas, hereby certify that the attached document is a true and correct copy of a document taken from the official City files of the City of Lindsay, Texas, and is maintained in the regular course of business of the City of Lindsay, Texas.

Given under my hand and the seal of office on October 1, 2008.



City Secretary
City of Lindsay, Texas

CITY OF LINDSAY, TEXAS
ORDINANCE NO. 0808-1

**AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, AMENDING THE
SCHEDULE OF FEES FOR WATER, AND SEWER; PROVIDING FOR A
PENALTY FOR EACH INSTANCE OF VIOLATION OF THE ORDINANCE;
PROVIDING A REPEAL AND SEVERANCE CLAUSE; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City of Lindsay is providing for the supply and distribution of water, and the treatment of wastewater to promote the health, safety, and convenience of its citizens and for the safeguarding of water resources common to all residents of the community and adjacent areas; and,

WHEREAS, for the protection of its citizens there is a need to amend the schedule of fees relating to the operation of those services within the City of Lindsay and adjacent areas; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINDSAY THAT:

SECTION 1: Adoption Provision

The attached Schedule of Fees (*Exhibit A*) is hereby adopted.

SECTION 2: Penalty Provision

Any person, firm or corporation violating any provision of this Code shall be deemed guilty of a misdemeanor and upon final conviction thereof fined in an amount not exceeding two thousand dollars (\$2,000.00) for violations of all provisions that govern fire safety, public health, and sanitation, and not exceeding five hundred dollars (\$500.00) for all other violations. Each and every day any such violation continues shall constitute a separate offense punishable hereunder.

SECTION 3: Repeal Clause

All parts of any ordinance in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

SECTION 4: Savings Clause

If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

SECTION 5: Effective Date

This ordinance shall be effective upon the posting and/or publication of its caption as required by law and the City Secretary is hereby directed to implement such posting and/or publication.

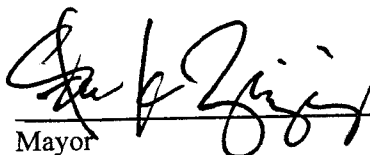
PASSED AND APPROVED by the City Council of the City of Lindsay on this the 19th day of August, 2008.

ATTEST:

APPROVED:



City Secretary



Mayor

DLM-16

**CITY OF LINDSAY
SCHEDULE OF FEES**


Billing Code	Description	Class	Quantity	Price	Rate
WATER					
0.75	3/4" Meter Water Rate	W-Nontax	Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$13.20 \$13.20 \$26.40	XXXXXXXXXXXXXXXXXXXX \$2.20 per 1,000 gallons \$2.75 per 1,000 gallons
.75B	Outside City Limits Rate + 1/2 (3/4" Meter) Water Rate	W-Nontax	Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$19.80 \$19.80 \$39.60	XXXXXXXXXXXXXXXXXXXX \$3.30 per 1,000 gallons \$4.12 per 1,000 gallons
1	1" Meter Water Rate	W-Nontax	Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$16.50 \$16.50 \$29.70	XXXXXXXXXXXXXXXXXXXX \$2.20 per 1,000 gallons \$3.85 per 1,000 gallons
1.5	1.5" Meter Water Rate	W-Nontax	Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$22.00 \$22.00 \$36.52	XXXXXXXXXXXXXXXXXXXX \$2.86 per 1,000 gallons \$3.85 per 1,000 gallons
1B	Outside City Limits Rate + 1/2 (1" Meter) Water Rate	W-Nontax	Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$24.75 \$24.75 \$44.55	XXXXXXXXXXXXXXXXXXXX \$3.30 per 1,000 gallons \$5.77 per 1,000 gallons
2	2" Meter Water Rate	W-Nontax	Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$30.80 \$30.80 \$48.62	XXXXXXXXXXXXXXXXXXXX \$2.97 per 1,000 gallons \$3.85 per 1,000 gallons
3	3" Meter Water Rate	W-Nontax	Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$41.80 \$41.80 \$61.60	XXXXXXXXXXXXXXXXXXXX \$3.30 per 1,000 gallons \$3.85 per 1,000 gallons
SEWER					
S00	Sewer Rate-No Water Meter	S-Nontax	Base (Minimum) 3,000 gallons	\$12.10	XXXXXXXXXXXXXXXXXXXX
S01	Residential Sewer Rate	S-Nontax	Base (Minimum) 3,000 gallons 3,001 and greater	\$12.10 \$12.10	XXXXXXXXXXXXXXXXXXXX \$1.10 per 1,000 gallons of water
S02	Residential Sewer Rate-Outside CL	S-Nontax	Base (Minimum) 3,000 gallons 3,001 and greater	\$18.15 \$18.15	XXXXXXXXXXXXXXXXXXXX \$1.65 per 1,000 gallons of water
S03	Commercial Sewer Rate	S-Nontax	Base (Minimum) 3,000 gallons 3,001 and greater	\$22.00 \$22.00	XXXXXXXXXXXXXXXXXXXX \$1.10 per 1,000 gallons of water
S03	Commercial Sewer Rate-Outside CL	S-Nontax	Base (Minimum) 3,000 gallons 3,001 and greater	\$33.00 \$33.00	XXXXXXXXXXXXXXXXXXXX \$1.65 per 1,000 gallons of water

In the State of Texas

§
§
§

County of Cooke

I, Betsy Fleitman, City Secretary for the City of Lindsay, Texas, hereby certify that the attached document is a true and correct copy of a document taken from the official City files of the City of Lindsay, Texas, and is maintained in the regular course of business of the City of Lindsay, Texas. Given under my hand and the seal of office on June 3, 2008.



City Secretary
City of Lindsay, Texas

CITY OF LINDSAY, TEXAS
ORDINANCE NO. 0907-3

**AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, AMENDING THE
SCHEDULE OF FEES FOR WATER, AND SEWER; PROVIDING FOR A
PENALTY FOR EACH INSTANCE OF VIOLATION OF THE ORDINANCE;
PROVIDING A REPEAL AND SEVERANCE CLAUSE; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City of Lindsay is providing for the supply and distribution of water, and the treatment of wastewater to promote the health, safety, and convenience of its citizens and for the safeguarding of water resources common to all residents of the community and adjacent areas; and,

WHEREAS, for the protection of its citizens there is a need to amend the schedule of fees relating to the operation of those services within the City of Lindsay and adjacent areas; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINDSAY THAT:

SECTION 1: Adoption Provision

The attached Schedule of Fees (*Exhibit A*) is hereby adopted.

SECTION 2: Penalty Provision

Any person, firm or corporation violating any provision of this Code shall be deemed guilty of a misdemeanor and upon final conviction thereof fined in an amount not exceeding two thousand dollars (\$2,000.00) for violations of all provisions that govern fire safety, public health, and sanitation, and not exceeding five hundred dollars (\$500.00) for all other violations. Each and every day any such violation continues shall constitute a separate offense punishable hereunder.

SECTION 3: Repeal Clause

All parts of any ordinance in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

SECTION 4: Savings Clause

If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.


SECTION 5: Effective Date

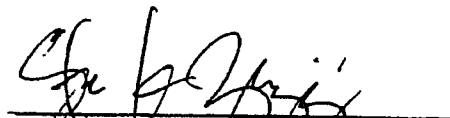
This ordinance shall be effective upon the posting and/or publication of its caption as required by law and the City Secretary is hereby directed to implement such posting and/or publication.

PASSED AND APPROVED by the City Council of the City of Lindsay on this the 10th day of September, 2007.

ATTEST:

APPROVED:


City Secretary


Mayor

**CITY OF LINDSAY
SCHEDULE OF FEES**

Billing Code	Description	Class	Income	Quantity	Price	Rate
WATER						
0.75	3/4" Meter Water Rate	W-Nontax		Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$12.00 \$12.00 \$24.00	XXXXXXXXXXXXXXXXXXXX \$2.00 per 1,000 gallons \$2.50 per 1,000 gallons
.75B	Outside City Limits Rate + 1/2 (3/4" Meter) Water Rate	W-Nontax		Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$18.00 \$18.00 \$36.00	XXXXXXXXXXXXXXXXXXXX \$3.00 per 1,000 gallons \$3.75 per 1,000 gallons
1	1" Meter Water Rate	W-Nontax		Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$15.00 \$15.00 \$27.00	XXXXXXXXXXXXXXXXXXXX \$2.00 per 1,000 gallons \$3.50 per 1,000 gallons
1.5	1.5" Meter Water Rate	W-Nontax		Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$20.00 \$20.00 \$33.20	XXXXXXXXXXXXXXXXXXXX \$2.60 per 1,000 gallons \$3.50 per 1,000 gallons
1B	Outside City Limits Rate + 1/2 (1" Meter) Water Rate	W-Nontax		Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$22.50 \$22.50 \$40.50	XXXXXXXXXXXXXXXXXXXX \$3.00 per 1,000 gallons \$5.25 per 1,000 gallons
2	2" Meter Water Rate	W-Nontax		Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$28.00 \$28.00 \$44.20	XXXXXXXXXXXXXXXXXXXX \$2.70 per 1,000 gallons \$3.50 per 1,000 gallons
3	3" Meter Water Rate	W-Nontax		Base (Minimum) 2,000 gallons 2,001 to 8,000 gallons 8,001 gallons and up	\$38.00 \$38.00 \$56.00	XXXXXXXXXXXXXXXXXXXX \$3.00 per 1,000 gallons \$3.50 per 1,000 gallons
SEWER						
S00	Sewer Rate-No Water Meter	S-Nontax		Base (Minimum) 3,000 gallons	\$11.00	XXXXXXXXXXXXXXXXXXXX
S01	Residential Sewer Rate	S-Nontax		Base (Minimum) 3,000 gallons 3,001 and greater	\$11.00 \$10.00	XXXXXXXXXXXXXXXXXXXX \$1.00 per 1,000 gallons of water
S02	Residential Sewer Rate-Outside CL	S-Nontax		Base (Minimum) 3,000 gallons 3,001 and greater	\$16.50 \$16.50	XXXXXXXXXXXXXXXXXXXX \$1.50 per 1,000 gallons of water
S03	Commercial Sewer Rate	S-Nontax		Base (Minimum) 3,000 gallons 3,001 and greater	\$20.00 \$20.00	XXXXXXXXXXXXXXXXXXXX \$1.00 per 1,000 gallons of water
S03	Commercial Sewer Rate-Outside CL	S-Nontax		Base (Minimum) 3,000 gallons 3,001 and greater	\$30.00 \$30.00	XXXXXXXXXXXXXXXXXXXX \$1.50 per 1,000 gallons of water

effective 10/01/20

**SOAH DOCKET NO. 582-06-2023
TCEQ DOCKET NO. 2006-0272-UCR**

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
LINDSAY TO AMEND WATER AND	§	
SEWER CERTIFICATE OF	§	OF
CONVENIENCE AND NECESSITY	§	
(CCN) NOS. 13025 AND 20927 IN	§	
COOKE COUNTY, TEXAS	§	
APPLICATION NOS. 35096-C & 35097-C	§	ADMINISTRATIVE HEARINGS
	§	

**DIRECT TESTIMONY
OF
KERRY D. MARONEY, P.E.**

**ON BEHALF OF
THE CITY OF LINDSAY**

JUNE 9, 2008

LINDSAY EXHIBIT APP-3

1 ~~WASTEWATER TREATMENT PLANT (TCEQ ID PERMIT NO.~~
2 ~~WQ0010923-001)?~~

3 ~~A. Lindsay is permitted to discharge .066 million gallons of treated wastewater per day.~~
4 ~~Lindsay received notice of one alleged violation from an investigation performed on~~
5 ~~March 10, 2008. After an investigation by the City, the City determined that no such~~
6 ~~violation should occur in the future. A copy of the Notice of Violation and the City's~~
7 ~~response is attached to my testimony as Attachment KDM 2.~~

8
9 **Q. HAVE YOU REVIEWED LINDSAY'S WATER SYSTEM TO DETERMINE**
10 **THE QUALITY OF SERVICE IT CAN PROVIDE?**

11 A. Yes. The City is currently in compliance with all applicable water quality and service
12 standards. The City meets or exceeds each requirement the Commission has
13 established for the provision of potable water.

14 **B. CCN APPLICATION**

15 **Q. DURING YOUR REVIEW OF THE APPLICATION, WHAT STANDARDS**
16 **DID YOU CONSIDER?**

17 A. I reviewed the Application based on the criteria enumerated in Texas Water Code
18 Chapter 13 and Title 30, Texas Administrative Code Chapter 291 ("Chapter 291").
19 Specifically, 30 Tex. Admin. Code § 291.102 contains the criteria for considering and
20 granting new or amended CCNs.

1 **Q. MR. MARONEY, ARE YOU AWARE THAT THE CRITERIA FOR**
2 **CONSIDERING NEW OR AMENDED CERTIFICATES OF CONVENIENCE**
3 **AND NECESSITY HAVE CHANGED?**

4 A. I am aware that new rules were adopted on December 14, 2005, and effective January
5 5, 2006.

6
7 **Q. PURSUANT TO WHICH RULES ARE YOU EVALUATING LINDSAY'S**
8 **APPLICATION? PLEASE EXPLAIN.**

9 A. I am evaluating Lindsay's application pursuant to pre-January 5, 2006, TCEQ rules,
10 as the Application was filed prior to that date.

11
12 **Q. WHAT IS LINDSAY PROPOSING TO DO IN ITS APPLICATION?**

13 A. Lindsay is proposing to amend water CCN No. 13025 ~~and sewer CCN No. 20927~~
14 (Application Numbers 35096-C ~~and 35097-C~~) to extend its service territory. Since
15 the application was filed, the TCEQ amended the City's water service territory. An
16 official copy of the City's water service area is attached to my testimony as
17 Attachment KDM-3. A copy of the City's proposed water service area is attached to
18 my testimony as Attachment KDM-11 ("Proposed Service Territory").

19
20 **Q. WHAT IS THE ADEQUACY OF THE SERVICE CURRENTLY PROVIDED**
21 **TO THE PROPOSED SERVICE TERRITORY?**

22 A. There is currently no other water service provider in the Proposed Service Territory.

23 Lindsay Pure Water Company is currently protesting the application filed by
24 Lindsay. On April 1, 2002, the City of Lindsay, Walter Lutkenhaus, and Lindsay

- 1 Pure Water Company executed a Settlement Agreement in another contested docket

1 concerning an application filed by Lindsay. Provision no. 2 under the "Agreement"
2 section required that Lindsay Pure Water Company file an application to amend its
3 water CCN within 10 days of the date of the execution of the Agreement by the
4 Parties. To date, Lindsay Pure Water Company has not filed an application to amend
5 its water CCN. I have attached a copy of the April 1, 2002, Settlement Agreement to
6 my testimony as Attachment KDM-4.

7
8 **Q. IS THERE A NEED FOR ADDITIONAL SERVICE IN THE PROPOSED**
9 **SERVICE TERRITORY?**

10 A. Yes. There is a need for water service in the Proposed Service Territory. Lindsay has
11 received requests for service within the Proposed Service Territory, which are
12 attached to my testimony as Attachment KDM-5. The map shown in Attachment
13 KDM-6 shows the same Proposed Service Territory requested in Attachment KDM-
14 11, but includes the locations and approximate property size of each requestor for
15 retail water service from the City. ~~The map shown in Attachment KDM-7 shows the~~
16 ~~same water and sewer requested service area requested in APP Exh. 1, Bates page~~
17 ~~No. 1015, but includes the locations and approximate property size of each requestor~~
18 ~~for retail sewer service from the City. The maps do not show our current water~~
19 ~~service territory as amended as a result of the City's Motion Nunc Pro Tunc discussed~~
20 ~~by Mr. Metzler.~~

21 Lindsay had a population of 788 in 2000 and a population of 1,003 in 2006
22 according to the U.S. Census Bureau. I have attached the population estimates for
23 Lindsay as Attachment KDM-8. The growth in population in and around the City

1 **Q. HOW WILL THE ENVIRONMENTAL INTEGRITY BE AFFECTED BY THE**
2 **GRANTING OF AN AMENDMENT TO WATER CCN NO. 13025 AND**
3 **~~SEWER CCN NO. 20927~~ TO LINDSAY?**

4 A. The environmental integrity will be affected by granting the amendment of water
5 CCN No. 13025 ~~and sewer CCN No. 20972 in that central sewer service will now be~~
6 ~~available in the Proposed Service Territory. Additionally,~~ in that potable water
7 meeting the State Standards will be provided to customers within the Proposed
8 Service Territory. A more thorough discussion on environmental integrity is
9 previously provided in my testimony.

10
11 **Q. WILL GRANTING AN AMENDMENT TO THE CCN IMPROVE SERVICE**
12 **OR LOWER COSTS TO CONSUMERS IN THE PROPOSED SERVICE**
13 **TERRITORY?**

14 A. Water and sewer service in the area will be improved by the fact that water and sewer
15 service will now be available in areas where it is currently not. A utility providing
16 both water and sewer service is currently unavailable in the Proposed Service
17 Territory. Additionally, Lindsay is not in danger of running out of water in the
18 foreseeable future and this type of certainty is an improvement in the Proposed
19 Service Territory.

20
21 **Q. IS IT FEASIBLE TO OBTAIN WATER AND SEWER SERVICE FROM AN**
22 **ADJACENT RETAIL PUBLIC UTILITY?**

23 A. There are two (2) other public utilities within two miles of the Proposed Service
24 Territory. Lindsay Pure Water Company has protested the application. Lindsay has

1 the financial, managerial, and technical wherewithal to provide sewer service to the
2 Proposed Service Territory. Lindsay Pure Water Company does not have the
3 managerial or technical capability to provide sewer service to the requested service
4 territory. It has no experience in providing such service nor has it shown a desire to
5 provide sewer service. There is no other utility providing centralized sewer service in
6 the Proposed Service Territory.

7 Regarding the provision of water service, Lindsay's system is more reliable
8 and, thus, in my opinion, there is no feasible alternative for water service in the
9 Proposed Service Territory. ~~Furthermore, Lindsay Pure Water Company has not~~
10 ~~shown a good faith effort to comply with the terms of the Settlement Agreement they~~
11 ~~sought to have executed in a previous docket where they protested an expansion of~~
12 ~~Lindsay's CCN.~~ Lindsay Pure Water Company has made no attempts to amend its
13 CCN to seek any of the area now being requested by Lindsay.

14 The City of Gainesville has not protested Lindsay's CCN application.
15

16 **Q. DOES LINDSAY HAVE THE TECHNICAL AND MANAGERIAL ABILITY**
17 **TO ADEQUATELY PROVIDE SEWER SERVICE TO THE PROPOSED**
18 **SERVICE TERRITORY?**

19 A. Yes. Lindsay has four (4) contract operators that are certified by TCEQ as
20 groundwater treatment operators and/or wastewater treatment operators. One of the
21 City's operators has a D-level certification for water treatment and is working
22 towards a C-level certification, one has a C-level certification for water treatment, one
23 has a C-level certification for wastewater treatment, and one has a B-level

1 certification for wastewater treatment. This allows them to operate the City's water
2 and wastewater system.

3
4 **Q. BASED ON YOUR REVIEW OF THE APPLICATION AND TESTIMONY**
5 **PRESENTED AT THIS TIME, PLEASE DETAIL YOUR**
6 **RECOMMENDATION FOR THE REQUEST TO AMEND WATER CCN**
7 **NO. 13025 AND SEWER CCN NO. 20927.**

8 A. I recommend that the amendment to water CCN No. 13025 ~~and sewer CCN~~
9 ~~No. 20927~~ be granted. It is my opinion that Lindsay has met its burden to prove that
10 they can provide continuous and adequate service to the Proposed Service Territory.
11 Lindsay has no outstanding violations and has the technical and managerial capability
12 to provide water ~~and sewer~~ service to the Proposed Service Territory.

13
14 **Q. DO YOU HAVE A RECOMMENDATION ON WHETHER A CERTIFICATE**
15 **IS NECESSARY FOR THE SERVICE, ACCOMMODATION,**
16 **CONVENIENCE, OR SAFETY OF THE PUBLIC?**

17 A. Yes.

18
19 **Q. WHAT IS YOUR RECOMMENDATION?**

20 A. At this time granting the amendment to water CCN No. 13025 ~~and sewer CCN~~
21 ~~No. 20927~~ to Lindsay is necessary for the service, accommodation, convenience,
22 and/or safety of the public.

1 **Q. WHAT IS THE EFFECT OF GRANTING THE WATER ~~AND SEWER~~ CCN**
2 **AMENDMENT TO CCN NOS. 13025 ~~AND 20927~~ TO LANDOWNERS IN THE**
3 **CITY'S PROPOSED SERVICE TERRITORY?**

4 A. The landowners will be benefited by Lindsay's Application. Now, landowners will
5 have access to a safe water ~~and sewer~~ utility. Lindsay runs an efficient, safe water
6 ~~and sewer~~ utility that meets and/or exceeds the State's safety standards. Lindsay has
7 demonstrated that it provides continuous and adequate service to its current
8 customers. Lindsay has the financial, managerial, and technical ability to provide this
9 service to its Proposed Service Territory.

10

11 **Q. DOES LINDSAY HAVE THE ABILITY TO ADEQUATELY PROVIDE**
12 **WATER AND SEWER SERVICE TO THE PROPOSED SERVICE**
13 **TERRITORY?**

14 A. Yes. Lindsay currently meets and exceeds all standards for the provision of water
15 and sewer service. With Lindsay's demonstrable ability to add connections to its
16 water and sewer utility, Lindsay has the ability to provide service to its Proposed
17 Service Territory.

18

19 **Q. WHAT WILL BE THE EFFECT ON THE LAND TO BE INCLUDED IN THE**
20 **CERTIFICATED AREA?**

21 A. There will be temporary disruptions to the land during line extensions and
22 maintenance of water and sewer lines and facilities. However, over the long-term, the

**SOAH DOCKET NO. 582-06-2023
TCEQ DOCKET NO. 2006-0272-UCR**

APPLICATION OF THE CITY OF LINDSAY TO AMEND WATER AND SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NOS. 13025 AND 20927 IN COOKE COUNTY, TEXAS APPLICATION NOS. 35096-C & 35097-C	§ § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**PREFILED TESTIMONY OF
KERRY D. MARONEY, P.E.**

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<u>SECTION</u>	<u>PAGE</u>
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II. SCOPE AND PURPOSE OF TESTIMONY	5
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A. QUALITY OF SERVICE	6
B. CCN APPLICATION	7

ATTACHMENTS

ATTACHMENT KDM-1	KERRY D. MARONEY, P.E. RESUME
ATTACHMENT KDM-2	NOTICE OF VIOLATION LETTER DATED APRIL 29, 2008, AND THE CITY'S RESPONSE TO THE TCEQ
ATTACHMENT KDM-3	COOKE COUNTY CCN MAP
ATTACHMENT KDM-4	SETTLEMENT AGREEMENT BETWEEN THE TOWN OF LINDSAY, WALTER LUTKENHAUS, AND LINDSAY PURE WATER COMPANY
ATTACHMENT KDM-5	WRITTEN REQUESTS FOR SERVICE
ATTACHMENT KDM-6	MAP DEPICTING LOCATION OF PROPERTY OWNERS WHO MADE A WRITTEN REQUEST FOR SERVICE WITHIN THE CITY'S REQUESTED WATER SERVICE AREA
ATTACHMENT KDM-7	MAP DEPICTING LOCATION OF PROPERTY OWNERS WHO MADE A WRITTEN REQUEST FOR SERVICE WITHIN THE CITY'S REQUESTED SEWER SERVICE AREA
ATTACHMENT KDM-8	U.S. CENSUS BUREAU CITY POPULATION PROJECTIONS FOR TOWN OF LINDSAY
ATTACHMENT KDM-9	STUDY TO DETERMINE THE MAGNITUDE OF, AND REASONS FOR, CHRONICALLY MALFUNCTIONING ON-SITE SEWAGE FACILITY SYSTEMS IN TEXAS, EXECUTIVE SUMMARY
ATTACHMENT KDM-10	TPDES PERMIT ISSUED BY TCEQ TO TOWN OF LINDSAY ON JUNE 23, 2006, WQ10923-001

SOAH DOCKET NO. 582-06-2023
TCEQ DOCKET NO. 2006-0272-UCR

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
LINDSAY TO AMEND WATER AND	§	
SEWER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	OF
(CCN) NOS. 13025 AND 20927 IN	§	
COOKE COUNTY, TEXAS	§	
APPLICATION NOS. 35096-C & 35097-C	§	ADMINISTRATIVE HEARINGS
	§	

PREFILED TESTIMONY OF
KERRY D. MARONEY, P.E.

1 I. INTRODUCTION AND QUALIFICATIONS

2 Q. WHAT IS YOUR NAME?

3 A. Kerry Don Maroney.

5 Q. WHAT IS YOUR BUSINESS ADDRESS AND TELEPHONE NUMBER?

6 A. My business address is 2500 Brook Avenue, Wichita Falls, Texas, 76301. My
7 telephone number is (940) 766-0156.

9 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

10 A. I received a Bachelor of Science degree in Civil Engineering from the University of
11 Texas at Arlington, in December 1974.

1 **Q. ARE YOU A REGISTERED PROFESSIONAL ENGINEER?**

2 A. Yes, I am a Registered Professional Engineer in the State of Texas and the State of
3 Oklahoma. My Texas License No. is 44639 and my Oklahoma License No. is 20730.

4

5 **Q. WHEN DID YOU BECOME A REGISTERED PROFESSIONAL ENGINEER**
6 **IN THE STATE OF TEXAS?**

7 A. January 25, 1979.

8

9 **Q. DO YOU HOLD ANY OTHER PROFESSIONAL LICENSES IN THE STATE**
10 **OF TEXAS?**

11 A. Yes. I also hold registered professional land surveyor license number 2855, which I
12 received on May 30, 1980.

13

14 **Q. ARE YOU CURRENTLY EMPLOYED AS AN ENGINEER?**

15 A. Yes.

16

17 **Q. WHERE ARE YOU CURRENTLY EMPLOYED?**

18 A. Biggs & Mathews, Inc.

19

20 **Q. HOW LONG HAVE YOU BEEN WITH BIGGS & MATHEWS, INC.?**

21 A. Since July 1976, or about 32 years.

1 **Q. WHAT IS YOUR PREVIOUS EMPLOYMENT HISTORY?**

2 A. Prior to joining Biggs & Mathews, Inc., I was employed by the City of Grand Prairie,
3 Texas, as a Staff Civil Engineer.

4

5 **Q. PLEASE DESCRIBE WHAT BIGGS & MATHEWS DOES AND WHAT YOU**
6 **DO FOR THEM.**

7 A. Biggs & Mathews is a 53 year old consulting engineering firm that provides
8 professional consulting engineering and design services involving water, wastewater,
9 land development, drainage, solid waste and land surveying services for both the
10 municipal and private sector. I am a Principal and Vice-President of the firm and my
11 responsibilities include Project Management, Project Design, and Contract
12 Administration for all types of Civil Engineering projects including water,
13 wastewater, solid waste, land development and surveying services. I am also
14 President of Biggs & Mathews Environmental, Mansfield Office.

15

16 **Q. WHO ARE YOU TESTIFYING ON BEHALF OF IN THIS PROCEEDING?**

17 A. I am testifying on behalf of the City of Lindsay ("Lindsay" or the "City").

18

19 **Q. WHAT WERE YOU ASKED TO DO BY LINDSAY IN CONNECTION WITH**
20 **THIS CASE?**

21 A. I was asked to evaluate and analyze the City of Lindsay's application for amended
22 water and sewer certificates of convenience necessity ("CCN") and to render a
23 professional opinion as to Lindsay's ability to provide continuous and adequate water

1 and sewer service to its requested CCN service territory. Also, I was asked to review
2 and comment on Lindsay's planning for improvements to meet the future demands in
3 its requested CCN service territory.

4
5 **Q. IS YOUR RESUME ATTACHED TO THIS PREFILED TESTIMONY?**

6 A. Yes. It is attached as Attachment KDM-1.

7
8 **Q. IS ATTACHMENT KDM-1 AN ACCURATE REFLECTION OF YOUR**
9 **EDUCATION, PROFESSIONAL HISTORY, AND QUALIFICATIONS?**

10 A. Yes.

11
12 **Q. ARE YOU FAMILIAR WITH THE TEXAS COMMISSION ON**
13 **ENVIRONMENTAL QUALITY ("TCEQ" OR "COMMISSION")**
14 **REGULATIONS CONCERNING GRANTING NEW OR AMENDED**
15 **CERTIFICATES OF CONVENIENCE AND NECESSITY?**

16 A. Yes.

17
18 **Q. HOW ARE YOU FAMILIAR WITH THE TCEQ'S REGULATIONS**
19 **CONCERNING CERTIFICATES OF CONVENIENCE AND NECESSITY?**

20 A. As a professional engineer, I have submitted applications for new and amended CCNs
21 to the TCEQ and its predecessor agencies. Additionally, I have evaluated systems to
22 determine if they are in compliance with the TCEQ's rules on the provision of
23 continuous and adequate service for CCN certificate holders. I have also spent many

1 years designing water and sewer systems, including water and wastewater treatment
2 facilities. Recently, I was engaged by the cities of Anna, Melissa, and McKinney to
3 evaluate North Collin Water Supply Corporation's system, and also the City of
4 Liberty Hill in its protest of the City of Leander's amended sewer CCN application.
5 Although these cases settled right before the hearing on the merits, I prepared prefiled
6 testimony and intended to testify in those proceedings. Additionally, I recently was
7 engaged by the City of Meridian in its application to amend its water and sewer CCN
8 and provide prefiled testimony as well as live testimony at the Hearing on the Merits.

9 **II. SCOPE AND PURPOSE OF TESTIMONY**

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

11 A. I will present my professional opinion as to Lindsay's proposed amendment to its
12 water and sewer CCNs, in Cooke County, Texas. My participation in this proceeding
13 can be summarized as follows:

- 14 1. I reviewed and evaluated the application to amend water CCN No. 13025 and
15 sewer CCN No. 20927 filed by Lindsay on August 31, 2005, ("Application")
16 with respect to the criteria necessary to amend a CCN.
- 17 2. I reviewed Lindsay's most recent water and wastewater compliance
18 evaluation.
- 19 3. I reviewed the information filed by all parties as part of formal discovery.
- 20 4. I reviewed the Settlement Agreement between the Town of Lindsay, Walter
21 Lutkenhaus, and Lindsay Pure Water Company.
- 22 5. I reviewed the TPDES Permit No. WQ0010923-001, issued to the City of
23 Lindsay on June 23, 2006.

1 Q. HAVE YOU INCLUDED ANY ATTACHMENTS TO YOUR TESTIMONY?

2 A. Yes, I have attached a copy of my resume (Attachment KDM-1), a copy of the April
3 29, 2008, Notice of Violation for the compliance investigation conducted on March
4 10, 2008, of the City's wastewater treatment plant and a copy of the City's response
5 (Attachment KDM-2), a copy of the official CCN map for Cooke County
6 (Attachment KDM-3), Settlement Agreement Between the City of Lindsay, Walter
7 Lutkenhaus, and Lindsay Pure Water Company (Attachment KDM-4), Written
8 Requests for Service (Attachment KDM-5), map depicting location of property
9 owners who made a written request for service within the City's requested water
10 service area (Attachment KDM-6), map depicting location of property owners who
11 made a written request for service within the City's requested sewer service area
12 (Attachment KDM-7), the U.S. Census Bureau Population Projections for the City of
13 Lindsay (Attachment KDM-8), the Study to Determine the Magnitude of, and
14 Reasons for, Chronically Malfunctioning On-Site Sewage Facility Systems in Texas,
15 Executive Summary (Attachment KDM-9), and the most recent TPDES permit issued
16 to the City of Lindsay (Attachment KDM-10).

17 III. TESTIMONY

18 A. QUALITY OF SERVICE

19 Q. WHAT WERE YOUR FINDINGS AFTER REVIEWING LINDSAY'S MOST
20 RECENT COMPREHENSIVE COMPLIANCE EVALUATION OF ITS

1 **WASTEWATER TREATMENT PLANT (TCEQ ID PERMIT NO.**
2 **WQ0010923-001)?**

3 A. Lindsay is permitted to discharge .066 million gallons of treated wastewater per day.
4 Lindsay received notice of one alleged violation from an investigation performed on
5 March 10, 2008. After an investigation by the City, the City determined that no such
6 violation should occur in the future. A copy of the Notice of Violation and the City's
7 response is attached to my testimony as Attachment KDM-2.

8
9 **Q. HAVE YOU REVIEWED LINDSAY'S WATER SYSTEM TO DETERMINE**
10 **THE QUALITY OF SERVICE IT CAN PROVIDE?**

11 A. Yes. The City is currently in compliance with all applicable water quality and service
12 standards. The City meets or exceeds each requirement the Commission has
13 established for the provision of potable water.

14 **B. CCN APPLICATION**

15 **Q. DURING YOUR REVIEW OF THE APPLICATION, WHAT STANDARDS**
16 **DID YOU CONSIDER?**

17 A. I reviewed the Application based on the criteria enumerated in Texas Water Code
18 Chapter 13 and Title 30, Texas Administrative Code Chapter 291 ("Chapter 291").
19 Specifically, 30 Tex. Admin. Code § 291.102 contains the criteria for considering and
20 granting new or amended CCNs.

1 Q. MR. MARONEY, ARE YOU AWARE THAT THE CRITERIA FOR
2 CONSIDERING NEW OR AMENDED CERTIFICATES OF CONVENIENCE
3 AND NECESSITY HAVE CHANGED?

4 A. I am aware that new rules were adopted on December 14, 2005, and effective January
5 5, 2006.

6

7 Q. PURSUANT TO WHICH RULES ARE YOU EVALUATING LINDSAY'S
8 APPLICATION? PLEASE EXPLAIN.

9 A. I am evaluating Lindsay's application pursuant to pre-January 5, 2006, TCEQ rules,
10 as the Application was filed prior to that date.

11

12 Q. WHAT IS LINDSAY PROPOSING TO DO IN ITS APPLICATION?

13 A. Lindsay is proposing to amend water CCN No. 13025 and sewer CCN No. 20927
14 (Application Numbers 35096-C and 35097-C) to extend its service territory. See
15 maps contained in APP EX. 1, Attachment A, which detail the proposed service area
16 ("Proposed Service Territory"). An official CCN map of Cooke County is attached to
17 my testimony as Attachment KDM-3.

18

19 Q. WHAT IS THE ADEQUACY OF THE SERVICE CURRENTLY PROVIDED
20 TO THE PROPOSED SERVICE TERRITORY?

21 A. There is currently no other water or sewer service in the Proposed Service Territory.
22 Lindsay Pure Water Company is currently protesting the application filed by
23 Lindsay. On April 1, 2002, the City of Lindsay, Walter Lutkenhaus, and Lindsay
24 Pure Water Company executed a Settlement Agreement in another contested docket

1 concerning an application filed by Lindsay. Provision no. 2 under the "Agreement"
2 section required that Lindsay Pure Water Company file an application to amend its
3 water CCN within 10 days of the date of the execution of the Agreement by the
4 Parties. To date, Lindsay Pure Water Company has not filed an application to amend
5 its water CCN. I have attached a copy of the April 1, 2002, Settlement Agreement to
6 my testimony as Attachment KDM-4.

7
8 **Q. IS THERE A NEED FOR ADDITIONAL SERVICE IN THE PROPOSED**
9 **SERVICE TERRITORY?**

10 A. Yes. There is a need for water and sewer service in the Proposed Service Territory.
11 Lindsay has received requests for service within the Proposed Service Territory,
12 which are attached to my testimony as Attachment KDM-5. The map shown in
13 Attachment KDM-6 shows the same water and sewer requested service area
14 requested in APP Exh. 1, Bates page No. 1014, but includes the locations and
15 approximate property size of each requestor for retail water service from the City.
16 The map shown in Attachment KDM-7 shows the same water and sewer requested
17 service area requested in APP Exh. 1, Bates page No. 1015, but includes the locations
18 and approximate property size of each requestor for retail sewer service from the
19 City. The maps do not show our current water service territory as amended as a result
20 of the City's Motion *Nunc Pro Tunc* discussed by Mr. Metzler.

21 Lindsay had a population of 788 in 2000 and a population of 1,003 in 2006
22 according to the U.S. Census Bureau. I have attached the population estimates for
23 Lindsay as Attachment KDM-8. The growth in population in and around the City

1 coupled with the requests for service received by the City demonstrates that the need
2 for services in the requested service area is growing.

3 Mr. Stowe addresses the economic reasons for the need for service in his
4 direct testimony. Additionally, there are environmental reasons that service in the
5 Proposed Service Territory is needed. Both water and sewer services will be more
6 reliable if provided from a central source. Regarding water, one will not be
7 dependent on one water source (i.e. a well). If the water well becomes inoperative,
8 then the owner will lose water service. Through a central provider, like the City, if a
9 water well goes down, water could still be provided through the City's other water
10 wells in addition to the City's elevated tank.

11 With no sewer service provider in the Proposed Service Territory, landowners
12 are forced to utilize septic or on-site sewage facilities ("OSSF"). By granting the
13 City's sewer CCN amendment, landowners will have the option to seek sewer service
14 from the City. This is important from an environmental standpoint as OSSF systems
15 have limited life and are prone to failure. Discharge from a failed OSSF system may
16 contain bacteria and viruses that are potentially harmful to humans, animals, and
17 aquatic life. In addition, pollutant levels can be such that ground and surface water
18 can be adversely affected.

19 In addition, according to the Cooke County, Texas Soil Survey (May, 1979),
20 as published by the United States Department of Agriculture Soil Conservation
21 Service, the soils within the Proposed Service Territory have low permeabilities and
22 are, therefore, severely restrictive for use as septic drain fields.

1 It should also be noted that the Proposed Service Territory is located
2 approximately 13 miles upstream and within the water shed of Lake Ray Roberts,
3 which is a major water supply to millions of people within Region C, including
4 municipalities in Denton and Collin County.
5

6 **Q. HAVE YOU REVIEWED ANY DOCUMENTS OR STUDIES THAT**
7 **DEMONSTRATE THE FAILURE RATE OF OSSF SYSTEMS?**

8 A. Yes. I reviewed the study performed by Mr. Stowe's former company, Reed, Stowe
9 & Yanke, LLC. I agree with the study's conclusions. I have attached the Executive
10 Summary to my testimony as Attachment KDM-9. The study found that an estimated
11 13% of OSSF systems in the State of Texas not just failed, but chronically failed.
12 The region in which the City is located had a chronic failure rate of 12%, with soil
13 quality being the highest contributor to OSSF malfunction. According to the
14 Environmental Protection Agency ("EPA"), the recognition of system failures is
15 limited by reliance on individual on-site inspections and the lack of techniques for
16 detecting system failures; therefore, the chronic failure rates could be understated.
17

18 **Q. WHAT WILL BE THE ENVIRONMENTAL IMPACT OF THE CITY**
19 **PROVIDING WASTEWATER SERVICE TO THE AREA BEING**
20 **REQUESTED IN THIS APPLICATION?**

21 A. The wastewater service that will be provided by the City is required by State and
22 federal law to comply with routine and systematic testing and inspections to ensure
23 compliance with the State's water quality standards. The wastewater facilities of the

1 City are managed by professionals licensed to operate and perform work on
2 wastewater facilities.

3 With the City providing the wastewater service, the requested service area's
4 environmental integrity will be preserved as the sewer system replaces failing OSSF
5 systems.

6
7 **Q. WHAT IS THE EFFECT OF GRANTING THE WATER AND SEWER CCN**
8 **AMENDMENT TO CCN NOS. 13025 AND 20927 TO LINDSAY AND ON ANY**
9 **PUBLIC UTILITY OF THE SAME KIND ALREADY SERVING THE**
10 **PROXIMATE AREA?**

11 A. Granting Lindsay's requested amendment to water CCN No. 13025 and sewer CCN
12 No. 20927 as proposed will increase both the number of connections and the area for
13 which Lindsay is required to provide continuous and adequate water and sewer
14 service. There are two (2) other public utilities serving within two miles of the
15 Proposed Service Territory. Lindsay Pure Water Company is the only utility that
16 protested the Application.

17 Lindsay's sewer application will have no impact on Lindsay Pure Water
18 Company as it does not provide sewer service and has no plans to get into the sewer
19 service business.

20 Lindsay's water application should have minimal impact on Lindsay Pure
21 Water Company as it does not have the legal authority to provide water service in
22 Lindsay's Proposed Service Territory nor has it filed an application to amend its

1 current CCN. Thus, there should be minimal impact on Lindsay Pure Water
2 Company.

3 The City of Gainesville has not protested Lindsay's water or sewer CCN
4 Application.

5
6 **Q. HOW WILL THE GRANTING OF THE CITY'S WATER AND SEWER CCN**
7 **AFFECT THE LANDOWNERS IN THE REQUESTED AREA?**

8 A. Landowners will be positively affected by the granting of the City's requested water
9 and sewer CCN. They will now have access to a reliable water and sewer system. As
10 explained by Mr. Stowe, the City has strong financial ability to provide service to the
11 area, and the City has excess capacity to serve the Proposed Service Territory. In
12 addition, the City has certified operators that are dedicated to ensuring the both the
13 City's water and sewer systems comply with the TCEQ's safety regulations. By not
14 being dependent on individual water wells or OSSF systems, landowners will be able
15 to receive service from a reliable water and sewer system.

16 By granting the requested CCN amendments to the City, the City will be
17 providing a municipal level of service to an area that has not previously been
18 provided such service. This is a positive result of the City's Application.