MEMO

March 6, 1978

To: Lubbock Bank Presidents and Directors
Lubbock Savings and Loan Associations and Directors

From: Jimmy Marshall

As most of you will recall I have had as my concern for the past twenty years to observe the actions of the Lubbock City Council. For the past four years I have felt compelled to point out deviations from the Lubbock City Charter and bad calls in judgement of the council.

For the most part Lubbock citizens have been blessed with real good qualified people to set policy for our city government, but for the past four years we have had the weakest, slippery, evasive, tainted group of minds at both the council level and staff level that the City has ever had. It is a worsening condition. The staff has worked in consort with the council to completely eliminate any act of straightforwardness but to act as conspirators against the citizens and taxpayers. The geniune integrity so long manifested by our council, has completely vanished. It is quite a shame for them to promote in wholesale fashion unprecedented malfeasenses of fiscal matters.

Some of you will remember that I was a par golfer for many years (my last hole-in-one was reported in the Avalanche Journal, 1976) but long before I became proficient at the game I learned the rules and played by the rules. As bankers you know that it is a folly to deviate too far from the regulations on which your charter is based. You may tread over into the gray area now and then but you know better than to get into the black area. The present city council has been in the black area consistently for the past four years. They have told in writing (and have sponsored) in writing many untruths to citizens to get the people to vote bonds and then have told the same untruths to prospective bond purchasers to influence them to purchase the bonds. There has been a complete breach of faith on the council's part. It is sad but true. The Lubbock Mayor and Council have falsified the financial statement that they have furnished which was used to sell the bonds.

If I should come into your bank and request a loan on a doctored up financial statement what would be your attitude? If I got gross revenue mixed up with net revenue (most of the Council people don't seem to know the difference) what would be your attitude? If I said in writing that I was going to use the money to add a room on one of my rent houses but instead took the money you loaned me and purchased a new boat what would be your attitude? If I formed a corporation and wanted to borrow money, would you require a resolution from my Board of Directors stating their approval of the borrowing? There is no resolution issueing current airport revenue bond; instead it is being done by a contract (enclosed) without a vote of the citizens.

As you know, the Lubbock citizens in 1973 voted a bond issue (LP & L) for $18,800,000.00. We were told that $3.6 million of the funds were to be used for an "Interconnect." I have asked for an accounting on such funds and the City Council refused to give me an accounting of the money or to tell me for what the funds were used. I had to file a lawsuit against the City for such determinations. In the meantime the Lubbock citizens had voted a $26.4 million dollar bond issue and when I saw the ordinance was so vague I filed another lawsuit asking for an injunction against the sale of bonds until the City Council would set out in detail, as required by the City Charter, stating for what purpose the funds were to be used. The first lawsuit held in Judge Clinton's 99th District Court was finally settled by judgement on the basis that they were to furnish the Court operating statements and financial audits on Lubbock Power and Light and the bond funds. They have renigged on giving Judge Clinton such data. They have been in a first class frenzy ever since. The suit against the last suit is now at the Appeals level in Amarillo. Is it not customary to tell the stockholders how the money is to be used? Is it not customary to tell the Lender how the money is to be used? Is it not customary to use the money as stated? The Council is so amatuerish in fiscal matters that it is nothing more than a barefaced comic opera.

As mentioned above the latest chapter of their roughshod ridiculous fiscal tactics. Like all people working in an air of hypocrisy, mistakes have bred mistakes and now those mistakes are causing mistakes. They are desperate for money. Much like a house building contractor that needs to make a draw on a house under construction to pay bills on the one he completed two months ago. They looked around for a source of money and came up with the idea of building a parking garage at the airport by selling revenue bonds without revenue and without a vote of citizens.

By this time we know that they do not plan to build a parking garage immediately but if they can sell the bonds supposedly for this purpose it will give them some juggling money to pay for some capital improvement bills that they badly need to pay now, which perhaps are past due. Mayor Bass had the police to bodily remove me from the council chambers for asking on another occasion for what use money was being used. They are unyielding in any information to which any taxpayer is rightly entitled. The Staff is unexplainably rude and unrecptive to giving out any information. It is sad but there *is* corruption in City Hall.

I read in the Avalanche Journal that the City planned to sell $1.7 million dollars worth of bonds. I went to City Hall on Friday, February 24, and requested to see the council minutes regarding the bond issue. I was told that there was no ordinance relative to such a bond sale. After staying a long time and asking many questions I found that the bonds were to be sold on "contract". I finally upon threat of a court order got a copy of the contract, which is attached. To me this arrangement, as sad as it may be, is the final straw for fiduciary responsibility on the part of the staff, the mayor and the council. Let me point out a few glowing concessions so extraordinary in character relative to the defiance to both precedent and the law:

1. There is no ordinance spread upon the minutes giving or directing the Mayor to sign such a contract with First Southwest Company to do the work outlined in the agreement. Furthermore there is no ordinance stating permission to pay First Southwest Company $15,755 or from what source the sum is to be paid. Lubbock City Charter to Civil Statute Title 22 sets out <u>such must be done by Ordinance of the Corporation in such procedures for such obligations.</u>

2. The Lubbock City Charter provides for the method of re-issuing bonds <u>the governing authority (Corporation) shall have the power.</u> A copy is attached hereto.

3. State of Texas statutes further provides for the method of issuing bonds. A copy is attached hereto.

4. There is no ordinance in the minutes that authorize the sale of such bonds.

5. How can the bonds possibly bring the best advantage to the city if the prospectus does not say that the bonds were voted on by the people and were incubated by the City Council. They can in the market be construed as wildcat bastard obligations without the City Council saying that they will set up a sinking fund for retiring them, or what the bond funds will be used.

Allow me to tell you some sidelights. Joe Smith can only earn a fee by getting bonds sold. He is a good salesman and has been successful in selling the City off and on to concoct some need for bonds. I have watched him do this with the piousness of a preacher.

Joe sells the City on a bond issue. The Council passes a vague ordinance which is supposed to set out in detail how the money is to be used. How the money is to be repaid etc. This is then sold to the citizens by a New York bank, and in the last four years with vagueness and untruths. The people vote on the bonds, which quite frankly they do not thoroughly understand. Because past councils have been more honest and scrupulous in the running of the city, consequently the people vote blindly and on a basis of trust.

Before the bonds can be sold they have to be approved by the Attorney General of the State of Texas. He usually takes the word of one of two law firms specializing in bond practice. Lubbock uses Duman, Huguenin, Boothman and Morrow of Dallas for this purpose. It is their business to be close to the Attorney General (one way or the other).

At this time the Attorney General is John Hill who is a candidate for governor of Texas, and whose local campaign is being headed by members of Mayor Roy Bass's law firm. Hill has approved any thing that Roy Bass sends down there so we have out and out conspiracy. The controls set up in our state statute are out the window. Hill also expects financial help as well as shoe leather help from Dumas, Huguenin, Boothman and Morrow in his campaign for governor. Isn't this a sad situation?

I have made the fight mostly single handed. I have spent thousands of dollars of my personal money for attorney fees to keep City Hall on a straight course. I now need help. The Mayor will not allow me to speak at a council meeting. I have enough cold hard evidence to have them all indicted, but Alton Griffin said he didn't care what I had he wouldn't indict them without a mandamus. He is also running for re-election this year. As of now the City has not lived up to the judgement..

At once the affair becomes more complex, more fascinating, and far more sensational politically, for it now implicates everyone from the City Secretary and Treasurer to the candidate for Governor to the State of Texas.

The Federal people have kept hands off of municipal issues, even though they are sold on a interstate basis; however, I now read that they are taking a new look at municipal bonds since New York City went through the course that Lubbock now has chartered. SEC will probably get into the act before too long.

Frankly, regarding bonds only, I have not observed council people profiting personally from bond sales, nontheless it is my opinion and the opinion of several attorneys with whom I have consulted that they are indictable for misuse of funds, for willfully deceiving the public by fraud and malfeasance.

It would be hard to say how many people will be involved, who might be destroyed were the avalanche to let go. And part of the trouble is the the Avalanche will not let go. They too must be guilty for part of the sins or they would spill the beans. It could be the beginning of a convulsion once the lid is off.

Isn't it time to clean up. Chart a new course and start over?

Please take this seriously. Please share this information with your senior officers and directors. Thank you.

January 12, 1978

To the Honorable Mayor and
City Council
City of Lubbock, Texas

Gentlemen:

1. We understand that you are contemplating the issuance of securities of the kinds, in the amounts, and for the purposes indicated as follows:

approximately $1,700,000 Airport Revenue Bonds

and that in connection with the issuance of these securities you desire this proposal from us to perform professional services in the capacity of Financial Advisor for the City of Lubbock (hereinafter called "Issuer").

2. By this proposal we offer our professional services and our facilities as Financial Advisor for the issuance and sale of the above-described securities and in that capacity we agree to perform the following duties, and to perform such other duties, as, in our judgment, may be necessary or advisable:

a. We will make a survey of the financial resources of the Issuer to determine the extent of its borrowing capacity. This survey will include an analysis of the Airport System debt structure as compared to existing and projected gross and net income of the airport, taking into account outstanding bonds which are payable from the gross revenues thereof, and revenues as projected by your consulting engineers. We will also take into account your future financing needs and operations as projected by your staff and engineers.

b. On the basis of the information developed by the survey described in the above and foregoing paragraph, and on the basis of other information and experience available to us, we will submit our written recommendations on the financing in question. Our plan will include recommendations as to the date of issue, interest payment dates, schedule of principal maturities, options of prior payment, and any other necessary additional security provisions designed to make the issue more attractive to investors. All recommendations will be based on our best professional judgment, with the goal of designing securities which can be sold under terms most advantageous to Issuer, and at the lowest interest cost consistent with all other considerations.

c. We will advise you of current bond market conditions, forthcoming bond issues, and other general information and economic data which might normally be expected to influence the interest rates or bidding conditions, so that the date for the sale of the securities can be set a time, which, in our opinion, will be favorable.

d. We will coordinate the preparation and submission of the Official Notice of Sale, the Official Statement or Offering Statement, and such other market documents which you may require. We will also supervise preparation of the uniform bid form, containing provisions recognized by the municipal securities industry as being consistent with the securities offered for sale. We will submit to you all such offering documents, including the Official Statement, for your proper examination, approval and certification. After such examination, approval and certification we will furnish you with a supply of such documents and shall mail a set of the same to a list of prospective bidders, a copy of which list shall be submitted to you upon request. We will also supply sufficient copies of the Official Statement or Offering Statement to the purchaser of the securities in accordance with the terms of the Notice of Sale.

e. We will make recommendations to the Issuer on the matter of bond ratings for the proposed issue and when directed by you shall coordinate the preparation of such information as in our opinion is required for submission to the rating agencies. In those cases where the advisability of personal presentation of information to the bond rating agencies may be indicated, we will arrange for such personal presentation.

f. In connection with the public sale of the bonds, we will disseminate information to prospective bidders, we will organize such information meetings as in our judgment may be necessary, and will work with prospective bidders to assist them in timely submitting proper bids. We will assist you at the bond sale for the purpose of coordinating the receipt of bids, and the furnishing of good faith checks where indicated, and for the purpose of tabulation and comparison of bids, and will advise you as to the best bid, and will provide our recommendation as to acceptance or rejection of such bid. As soon as a bid for the bonds shall be accepted by you, we will proceed to coordinate the efforts of all concerned to the end that the bonds may be delivered and paid for as expeditiously as possible. We shall assist you in the preparation or verification of final closing figures, and when requested, will provide suggestions on a program of temporary investment of bond proceeds, in consultation with the Issuer's consulting engineer, consistent with the construction timetable for the project.

g. We will act as your agent in arranging for the printing of the securities, and will submit same for execution and impression of seal, and we will attend to their delivery to the Attorney General for approval and the Comptroller of Public Accounts for registration, it being understood that title to and ownership of the printed securities shall be in the Issuer until they are sold and delivered to the purchaser.

After closing we will deliver to you and your paying agent definitive debt records, including a schedule of annual debt service requirements on the obligations being delivered to the purchaser.

3. We agree to direct and coordinate the entire program of financing herein contemplated. In that connection we understand that you have retained or expect to retain Dumas, Huguenin, Boothman & Morrow, Dallas, Texas, a firm of recognized municipal bond attorneys, who will prepare the proceedings and advise the steps necessary to be taken to issue the securities and who will issue an opinion approving their legality. We will maintain liason with this firm of bond attorneys and shall assist in all financial advisory aspects involved in the preparation of appropriate legal proceedings and documents.

4. In consideration for the services rendered by us in connection with the issuance and sale of the above-described securities it is understood and agreed that our fee for each installment of bonds sold will be as follows:

$12,500 for $1,000,000 Bonds;,plus
$4.65 per $1,000 for the next $1,500,000.

(Note: The fee for $1,700,000 bonds issued in one installment would be $15,755.00.)

In consideration of the above fee we will assume and be responsible for the following expenses:

1. Bond attorneys' fees and charges.
2. Bond printing.
3. Cost of reproduction in our offices of the Official Notice of Sale, Official Bid Form and the Official Statement, and the mailing of these documents.
4. Travel and communication expense of First Southwest Company including travel to New York in connection with bond ratings.

Our fee and reimbursable expenses shall become due and payable simultaneously with the delivery of the securities to the purchaser.

5. It is further understood and agreed that we reserve the right to submit a bid for the securities when offered for sale.

6. This agreement shall be terminated by the delivery to the purchaser of all the securities covered hereby, whether delivered all at one time, or in installments.

7. SPECIAL CONDITIONS. In addition to terms and obligations herein contained, this proposal and agreement is subject to the following special conditions:

The City agrees to pay the cost of bond ratings from Moody's Investors Service, Inc., New York, and Standard & Poor's Corporation, New York, and the expenses of travel of City officials to New York.

8. This proposal is submitted in duplicate originals. When accepted by Issuer it will constitute the entire agreement between Issuer and the undersigned for the purpose and considerations herein specified. Your acceptance will be indicated by proper signatures of your authorized officers or representatives on both copies and the returning of one executed copy to us:

Respectfully submitted,

First Southwest Company

Authorized Representative

ACCEPTANCE

ACCEPTED pursuant to a motion adopted by the City Council of the City of Lubbock, Texas on this 12th day of January, 1978.

Title Mayor, City of Lubbock, Texas

ATTEST:

Title City Secretary, City of Lubbock, Texas

(SEAL)

Approved as to form:

Fred O. Senter, Jr., City Attorney

Note 1

Maximum state tax; county, city and town levies, see Const. art. 8, § 9.
Municipal airports, bond issues, see art. 46d—9.
Public utilities, see art. 1108 et seq.
School districts, taxes and bonds, see art. 2784a et seq.
Securities Act, see art. 581—1 et seq.
Water control and improvement districts, bonds, see art. 7880—5.
Waterworks and sewer system bonds, validation, see art. 1118n—1 et seq.

## Art. 701. [605] Shall hold election

The bonds of a county or an incorporated city or town shall never be issued for any purpose unless a proposition for the issuance of such bonds shall have been first submitted to the qualified voters who are property tax payers of such county, city or town. Acts 1899, pp. 103 and 258.

## Art. 702. Question submitted

In all cases when the governing body of a county, city or town shall order an election for the issuance of the bonds of the county, city or town or of any political subdivision or defined district of a county, city or town, such body shall at the same time submit the question of whether or not a tax shall be levied upon the property of such county, city or town, political subdivision or defined district for the purpose of paying the interest on the bonds and to create a sinking fund for the redemption of the bonds. Bonds issued by the governing body of any

281

## Art. 703. [606] Submission of proposition

The proposition to be submitted shall distinctly specify:

1. The purpose for which the bonds are to be issued;
2. The amount thereof;
3. The rate of interest;

282



4. The levy of taxes sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity;

5. The maturity date, or that the bonds may be issued to mature serially within any given number of years not to exceed forty. Acts 1899, p. 258; Acts 1st C.S.1921, p. 37.

### Historical Note

Derivation. This article is from Vernon's Civ.St.Supp.1922 (Acts 1921, 37th Leg., 1st C.S., ch. 23, § 1) art. 606, omitting the provision therein contained relating to bonds already issued, and the provision excepting from the act cities wherein the authority to issue bonds under Acts 37th Leg., ch. 9, is in litigation. As to levy of taxes provided for in par. 4 of this article see Historical Note to art. 702.

### Cross References

Fire fighting equipment, bonds for, see art. 2351a—4.
Maturity dates, see art. 708.
Rate of interest, see art. 707.
Validating city tax bonds for waterworks and sewage systems, see art. 1118n—9.

# Bond Sales Scheduled By Council

The Lubbock City Council today will set a calendar for selling $1.7 million in airport revenue bonds.

During its work session, to begin at 9 a.m. in the Emergency Operation Center, the council will designate a timetable for advertising and selling the bonds, which do not require voter approval.

Sale proceeds will be used to help finance airport parking lot expansion. Besides the bond revenues, $700,000 from the airport's capital improvements fund will be spent to add 670 parking spaces to the 758 slots now available.

The parking lot will be expanded to include a double-tiered section at the east end of the lot. By 1984, the city plans to have about 2,150 parking spaces available.

Also during their work session, council members will discuss interim financing of capital improvements projects delayed by litigation.

City Mgr. Larry Cunningham will present proposals for financing preliminary planning for water and sewer system improvements.

The preliminary engineering plans and project construction, all to have been funded by bond sale proceeds, have been delayed by James Marshall's lawsuit. The suit, now pending before the 7th Court of Civil Appeals in Amarillo, seeks to have the bonds and the election authorizing them declared null.

Marshall contends the ordinance authorizing the election was too vague.

During its regular session, to begin at 9:30 a.m. in council chambers, the municipal governing body will consider passing a resolution allowing a joint election April 1 with the Lubbock school district.

At 10:30 a.m., the council will hold a zoning hearing and consider designating a new zoning district. The Planning and Zoning Commission has recommended that an industrial park district be created to provide guidelines for development of the city's industrial areas.

## ARTICLE VIII.

### Bonds--Appropriation to Retire--Purpose of Bonds

(CORPORATION)

Section 1. The governing authority of the City shall have the power to appropriate so much of the general revenues of the City as may be necessary for the purpose of retiring and discharging the accrued indebtedness of the City, and for the purpose of improving the streets, purchasing or constructing sewers, erecting and maintaining public buildings of every kind, and for purchasing or constructing waterworks plants and systems and for the purpose of purchasing, erecting, maintaining and operating an electric light and power plant and such other public utilities as the governing authority may from time to time, deem expedient, and in furtherance of any and all of these subjects the City shall have the right and power to borrow money upon the credit of the City and to issue coupon bonds of the City therefor in such sum or sums as may be deemed expedient to bear interest not to exceed six (6%) percent per annum, payable annually or semi-annually.

### Statement of Purpose in Bonds--Sale--Use of Proceeds

Section 2. All bonds shall specify for what purpose they are issued and shall be invalid if sold by the City for less than their par value, and when any bonds are issued by the City a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose, and the person acting as City Treasurer shall honor no drafts upon said fund except to pay interest upon or redeem the bonds for which it was provided.

Section 4. Before the issuance of any bonds the same shall be submitted to a vote of the qualified property tax paying voters of the City as required by the general laws of theState.

LUBBOCK HAS ACCEPTED TITLE 22 BY CHARTER PROVISION ART IX SEC 1. BY VOTE OF PEOPLE 1917

SEE VERNON'S 701 INCLOSED

# TITLE 22

## CITIES AND TOWNS.

Art. 763. [382] [341] **Provisions of this title do not apply until accepted.**—The provisions of this title shall not apply to any city, town or village until such provisions have been accepted by the council in accordance with the preceding article. (Act March 15, 1875, p. 256.)

CITY ORDAINS

Art. 764. [383] [342] **General powers of the corporation.**—All the inhabitants of each city, town or village so accepting the provisions of this title shall continue to be a body corporate, with perpetual succession, by the name and style by which such city, town or village was known before the acceptance of the provisions of this title, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises possessed and enjoyed by the same at the time of the acceptance of the provisions of this title and those herein granted and conferred, and shall be subject to all the duties and obligations pertaining to or incumbent on the same as a corporation at the time of the acceptance of the provisions of this title, and may ordain and establish such acts, laws, regulations and ordinances, not inconsistent with the constitution and laws of this state, as shall be needed for the government, interest, welfare and good order of said body politic, and under the same name shall be known in law, and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, may take, hold and purchase, lease, grant and convey such real and personal or mixed property or estate as the purposes of the corporation may require, within or without the limits thereof; and may make, have and use a corporate seal and change and renew the same at pleasure. (Id. sec. 2.)

CORPORATION

VETO

Art. 807. [404] [360] **Ordinances and resolutions adopted shall not take effect until, etc.**—All ordinances and resolutions adopted by the council shall, before they take effect, be placed in the office of the city secretary; and if the mayor approve thereof, he shall sign the same; and such as he shall not sign, he shall return to the city council, with his objections thereto. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered; and if, after such reconsideration, a majority of the whole number of aldermen agree to pass the same, and enter their votes on the journal of their proceedings, it shall be in force; and if the mayor shall neglect to approve or object to any such proceedings for a longer period than three days after the same shall be placed in the secretary's office as aforesaid, the same shall go into effect. (Id. sec. 17.)

CORPORATION

[Note.—For provisions as to recorder and clerk of corporation court, see chapter, "Corporation Court."]

[Note.—The Act of 1899, chapter 3, page 40, creating corporation courts (embodied in chapter 5 of this title) abolished the municipal court and officers of judge, recorder and clerk thereof, in every city, town, or village (as theretofore established) after the due and legal organization of the corporation court therein.]

78-37-59-140
(32)

Motion was made by Councilman McAlister, seconded by Councilwoman Jordan, motion carried, Mayor Bass, Councilmen West, Jordan, Henry and McAlister voting Yea, none voting Nay to set April 5, 1978 at 10:30 a.m. as the date for the sale of $1,730,000 Airport Revenue Bonds and authorize the City Secretary to publish Notice of Sale.

20-C—LUBBOCK AVALANCHE-JOURNAL—Sunday Morning, March 5, 1978

NOTICE OF SALE
CITY OF LUBBOCK, TEXAS

The City Council of the City of Lubbock, Texas, will receive sealed bids at the City Hall, Lubbock, Texas, until 10:30 A.M., Central Standard Time, Wednesday, April 5, 1978, for the following described bonds:

$1,730,000 City of Lubbock, Texas, Airport
Revenue Bonds, Series 1978
Dated April 15, 1978; maturing $85,000 each year September 15, 1979 through 1992, and $90,000 each year September 15, 1993 through 1998. Denomination $5,000. Optional at par and accrued interest September 15, 1993.

Further information may be obtained from Mr. Sterling K. Miller, Director of Finance, City of Lubbock, Texas, P.O. Box 2000, Lubbock, Texas 79457; or from First Southwest Company, Mercantile Bank Building, Dallas, Texas 75201, Financial Consultants to the City

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK BY ADDING THERETO A NEW SECTION 2-38 PROVIDING FOR DISTRIBUTION OF ELECTRIC REVENUE; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council after receiving the recommendation of the Electric Utility Board, has determined that the changes indicated below would be in the best interest of the citizens of the City of Lubbock; NOW THEREFORE:

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

SECTION 1. THAT Article V of Chapter 2 of the Code of Ordinances, City of Lubbock BE and is hereby amended by adding thereto a new Section 2-38 which shall read as follows:

L-P&L Funds ...

Sec. 2-38. Distribution of Electric Revenues.

The actual operation and promotion expenses incurred by the Department of Electrical Utilities and necessary reserves for repair and expansion shall be taken from the gross revenue received from electrical sales by Lubbock Power and Light. The term "gross revenue" shall mean the gross electrical operating revenue after the deduction of refunds and allowances. In addition 2% of such gross revenue shall be transferred into the General Fund of the City of Lubbock as a payment equivilant to the franchise tax paid by other utilities. An additional 6% of such gross revenue shall be deposited into the General Fund of the City as a dividend and to assist in general municipal government operations.

In addition to the above transfers of gross revenue, the City Manager shall authorize the additional transfer of gross revenues which are determined necessary to meet the debt service on bonds of other funds which are now or may be used for electric purposes and the transfer of received debt service on electric bonds that may be used for purposes other than electric to the electric utility fund.

SECTION 2. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 3. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the Council on first reading this 13th day of December, 1973.

Passed by the Council on second reading this 20th day of December, 1973.

ATTEST:

MORRIS W. TURNER, MAYOR

Lavenia Lowe, City Secretary, Treasurer

CITY OF LUBBOCK

MEMO

TO: Larry Cunningham, City Manager DATE: December 12, 1977
FROM: Sterling K. Miller, Director of Finance
SUBJECT: FINANCING AIRPORT PARKING FACILITIES

At their meeting of December 8, 1977, with the Airport Advisory Board, the City Council requested a staff report on possible financing of additional parking facilities at the municipal airport.

Basically, there seems to be three methods of acquiring additional parking. Each of these methods are discussed below:

1. Available and/or accumulated current revenues. For purposes of this discussion, we are assuming that the parking lot expansion would cost $2.4 million. The Council will be asked at their December 15 meeting to take action which would allocate $752,933 of the airport accumulated excess reserves which now total $1,156,744. This will leave a fund balance of approximately $403,811, of which $240,000 is required under the bond covenants. It would seem that this is a "comfortable" fund balance considering that the airport is a $1.7 million operation. This, of course, leaves little to be applied towards the reduction of the total cost.

The Airport Advisory Board is also asking that the Council provide interim financing of approximately $700,000 for taxi-way J, until October, 1978 when enplanement funds are received for the extension work. The Council then considered use of the $736,000 remaining in the unallocated Capital Projects funds, which resulted from the 7¢ tax increase (dropped in 1976-77). Taxes were increased 7¢ in 1973 for the expressed purpose of assisting with airport overruns ($600,000), and, retiring additional debt for airport purposes, if needed, and, for providing $200,000 to cover anticipated Civic Center construction overruns.

Larry Cunningham
12/12/77

FROM GROSS OF AIR PORT

For purposes of this discussion, it is assumed that the $700,000 will be applied towards construction for a parking lot facility, thus leaving $1.7 million to be financed.

2. Debt Financing. There are two basic elements that need to be considered in connection with debt financing: a) credit, and b) pay back ability.

a. Airport Revenue Bonds. In the attached memo, I have discussed at length the City's credit ability to issue additional airport revenue bonds. Without repeating that discussion, I have concluded that the airport operating revenues can easily provide the coverage under existing revenue bonds. Coverage in this case, is based on gross revenue rather than net revenue.

Next to be considered is pay back ability, or cash flow. Airport personnel have projected the estimated receipts over disbursements through 1985. (Estimated parking revenue for FY 1977-78 has been increased to reflect recent experience.) See attached schedule.

These revised projects indicate a cash flow gain of about $72,000 for 1978, $120,000 for 1979, and $192,000 for 1980. The gain increases thereafter.

A bond maturity schedule for airport revenue bonds, assuming 5.5% interest rate on 20 year bonds, when compared to net revenue of the airport, indicates that the net revenue would not be adequate to totally pay the additional debt service for the first 2 years. (This could be corrected by increasing gross airport revenues by 6% to 10%. $178,500 - $71,914= $107,586 divided by $1,710,914 = 6.2%) Beginning with the third year, net cash flow could support the debt service on new revenue bonds.

The covenants accompanying the issue of the $2.5 million airport revenue bonds, in 1969, provided up to 5¢ on the ad valorem tax rate for support of operations, if needed. By applying approximately 1¢ on the tax rate in the first year, and slightly less than 1¢ in the second year, additional airport revenue bonds could be issued on parity with existing outstanding bonds. $18,000,000.00 AIR PORT BONDS HAVE BEEN ISSUED SENCE 1969

b. General Obligation Bonds. Obviously, the strongest type of debt financing available to us is the use of general obligation bonds. They would, of course, be backed by the full faith and credit of our tax base, and would sell for in the neighborhood of 50 basis points less than airport revenue bonds. However, they would require approval by the voters and they would reduce our ability to issue GO bonds for other purposes.

c. Certificates of Obligation. Another form of debt financing available to the City but not heretofore used is certificates of obligation that do not require approval by the voters. They can be issued directly to the contractor who can retain them or sell them to the bank at par. On this basis, they do not require Attorney General approval, only bond attorney approval. COs can also be issued for cash, secured by identified airport revenues plus ad valorem taxes of the sinking fund. This method requires approval by the Attorney General. If identified airport revenues are pledged, the problem arises in that they would be a junior lien taking second place to the outstanding revenue bonds.

d. Lease-Purchase Contracts. A financing mechanism that has become of much greater use over recent years, and not here-tofore used by the City, is that of lease-purchase contracts. This method is probably the least desirable of the ones dis-cussed above. Interest rates would be higher.(Probably as much as 7½%) Debt Service, in this instance, would be an oper-ating cost, thereby reducing the net available for bonded debt, thus affecting coverage. There is a great deal of flex-ibility in designing lease-purchase contracts. Payments can be monthly, quarterly, or annually, either on fixed payment schedule or on a fixed principal-declining payment method. Title to the assets can vest either with the lessor or with the City. In the latter instance, the City would in effect be leasing money. The interest rate quoted is net, in that no expenses are encountered by the lessee, such as financial advisor's fees, election fees, attorney's fees, or prospectus printing fees.

3. Contracting with Parking Facility Operator. There are sev-eral parking facility operators who have shown interest in operating parking lots at the municipal airport on previous occasions. The City would enter into a long term contract as lessor. The operator, or lessee, would provide the front end capital for construction purposes. The lessee usually pays the lessor a percent of the gross at guaranteed minimum.

Our experience, on the basis of past proposals, indicate a very favorable cash flow to the City in the early years, without the requirement for front end capital. However, since the operator would have to borrow money at a much higher cost than the City, pay taxes, profit, it's obvious that future revenue structures would have to be increased to the public consumer over that which would have to be required if operated by the City.

Conclusion. Of the various alternatives discussed above, it would appear that the best alternatives would be the use of airport revenue bonds. The existing revenue bonds have a seasoned track record, they bare a rating of A by Standard and Poors', and Baa by Moody's Investors Service. They could be issued on parity with existing bonds and thus would not require a premium interest rate. They could be issued by advertising twice in a newspaper and would not require voter approval.

The airport would require additional revenues, either in the form of an ad valorem tax transfer from the general fund, or adjustments to existing revenue structures. Some latitude for future financing of terminal expansion would be available by stretching the maturity of the revenue bonds out to 20 years.

These alternatives, and the back up financial data, has been reviewed by Joe Smith, First Southwest Company, financial advisor.

Sterling K. Miller

SKM/cl
Attachments

# Finance For Projects Approved By Council

By PAULA TILKER
Avalanche-Journal Staff

The city council Thursday okayed City Mgr. Larry Cunningham's plans for using water and sewer service revenues to start work on capital improvement projects.

After Cunningham told them it could be May, 1979, before bonds for the projects can be sold, the council authorized the staff to finance plans for the improvements with accumulated water and sewer service revenues.

Councilman Dirk West seemed to sum up his colleagues' opinions when he said, "I don't [illegible] a lot of choice, do you?"

Cunningham said he believes the revenues to [illegible] the only approach to avoiding "excessive" delays in the projects when bond funds become available.

The sale of the bonds, approved by voters last May, have been delayed by James Marshall's lawsuit to have them declared void. Marshall contends the ordinance authorizing the bond election was too vague.

In presenting his proposal, Cunningham said, "I believe that we all realize that regardless of what we do at this point, we are still facing serious delays in getting water, sewer, street and fire projects constructed and available to keep up with the (city's) growth.

"However," he continued, "if we make some type of provision to do some of the preliminary engineering and highly critical projects now, I believe that we will be in better shape than we would if we waited until all of the litigation steps are completed."

The money will be used to finance engineering plans for a water pump station, sewer sludge digester, water treatment plant, terminal reservoir and sewer odor control domes.

Also to be included will be supply controls for the Bailey County sandhill wells, effluent sewage pumps and sludge drying beds.

Cunningham estimates the projects will cost about $639,000. About $1.2 million in service revenues will be available. The money, to be accumulated from rate increases approved by the council last October, was to have gone toward repaying bonds for water and sewer improvements.

The council, which two weeks ago asked the staff to explore the feasibility of using certificates of obligation (COs), unanimously rejected the idea Thursday.

After Cunningham explained that COs would be open to legal challenges, council members decided to issue them only as a last resort.

The certificates, which could be issued without voter approval, are "subject to being stopped even in mid contract," Cunningham said.

For that reason, he added, "they are pretty risky."

Council members also passed on first reading an ordinance creating industrial park district standards. The zoning change would detail development requirements for the city's industrial areas, such as around the airport and south of Loop 289.

Recommendations for improving delinquent tax collections were approved by the council and forwarded to the school board for consideration.

The changes would include using computers to speed up tax billings and lawsuit form filings. The school board will review the proposals today.

After aggeeing to hold a joind April 1 election with the Lubbock school district, the city council voted to recommend the use of punch-card voting machines.

That recommendation wll go to the school board, scheduled to meet at 7:15 a.m. today. If the board members opt for paper ballots, which they have indicated they favor, the council will reconsider the matter Feb. 9.

According to staff figures, the city would save about $1,000 if it uses voting machines. And if both the school district and the city use the machines, total election costs would drop significantly, city staff said.

Council members indicated that should the school district insist on paper ballots, they will ask the district to pick up the tab on extra costs.

Although the school board has not decided officially to use the traditional paper ballots, school administrators apparently have decided to do so.

According to the resolution to be considered by school trustees today, "The expense of holding the election in joint precincts, such as election judges and clerks salaries, custodial expenses and supplies, shall be shared equally by the city and school district.

"However, the city shall pay any additional expense due to punch-card voting and the school district shall pay any additional clerks required."

The school district apparently is leary of approaching the U.S. Justice Department with the election change, as it would be required to do if machines were used.

The school district and Justice Department have just ended a lengthy court battle over the issue of school desegregation here. U.S. Dist. Court Judge Halbert O. Woodward is expected to rule in the case this week.

## Board Plans To Condemn Land

A-J Correspondent

HOBBS, N.M.—Despite a plea by Gary [illegible]on Reagan, attorney for W.L. Pevey Jr. [illegible] Knowles Development Co. Inc. of [illegible]s, the Hobbs Board of Education [illegible] ahead with a lawsuit seeking [illegible] acres of land known as the [illegible]

Reagan says if the schools go ahead with condemnation, Pevey will ask for the fair market value which, he said, was now in "excess of $20,000 per acre."

According to [illegible] Knowles [illegible] says [illegible] nstruct [illegible] ed on [illegible] oad in [illegible] l the [illegible] the [illegible] ner- [illegible] aid. [illegible] ev- [illegible] ing

CITY COUNCIL WORK SESSION

EOC, CITY HALL

JANUARY 26, 1978

9:00 A.M.

Mayor Bass absent: Mayor Pro Tem West presiding.

Also present: Councilwoman Jordan, Councilmen Henry and McAlister.

Item 1:

Discuss financing of urgent capital improvement and engineering projects.

Larry Cunningham, City Manager, discussed this item and explained recommendations regarding funding for critical projects of 1977 bond election. He stressed that using available funds as suggested would allow us to do a very few of the total projects included in the May 1977 bond election program and the purpose in using these funds now would be to preclude excessive delays when bond funds become available. Projects determined to be most critical at this time are:

WATER

| | |
|---|---|
| 1. Sandhills supply controls | $130,000 |
| 2. Engineering for pump station | 75,000 |
| 3. Engineering for water treatment plant and terminal reservoir | 225,000 |
| Total | $430,000 |
| Revenue available - present bonds | ($40,000) |
| Funds needed for these projects | $390,000 |

SEWER

| | | |
|---|---|---|
| 1. | Engineering for odor control domes | $ 24,000 |
| 2. | Effluent pumps for Southeast Sewage Treatment Plant | 85,000 |
| 3. | Sludge drying beds | 240,000 |
| 4. | Engineering for digester | 100,000 |
| | Total | $449,000 |
| | Revenue Available - Bonds authorized | ($200,000) |
| | Funds needed for these projects | $249,000 |

The funds needed for both water and sewer projects amount to $639,000.

After discussion by the City Council, consensus was to approve the recommendations and to proceed with projects suggested, using the accumulated revenues in the Water and Sewer Revenue Funds for these purposes. The City Manager, Larry Cunningham, mentioned that as construction contracts and engineering contracts are developed, these will be brought to City Council for consideration and formal appropriation, when necessary.

GROSS REVENUE
WATER SYSTEM

SINKING FUNDS
SEE ORDINANCES
7488-7489

Will The Bonds Be sold Too!
if so, How will They
Be Redeemed
Advalorem Taxes???

ORDINANCE NO. 7193

AN ORDINANCE AMENDING SECTIONS 34-10, 34-11 AND 34-12 OF CHAPTER 34, ARTICLE I OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK CHANGING THE RATES FOR WATER CONSUMERS, ESTABLISHING MINIMUM RATES AND RATES FOR TEXAS TECH UNIVERSITY, PROVIDING A SAVINGS CLAUSE, AND PROVIDING FOR PUBLICATION OF THE DESCRIPTIVE CAPTION AS PROVIDED BY LAW.

WHEREAS, on May 21, 1977, the electorate of the City of Lubbock, at election called for the purpose of determining whether the City of Lubbock should issue SIXTEEN MILLION SEVEN HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS ($16,775,000.00) in general obligation bonds, authorized the issuance of bonds in such amount for water systems improvement for the City of Lubbock; and,

WHEREAS, the City Council is of the opinion and deems it to be in the public interest that rates be established now to provide for the debt service on such bonds to be issued hereafter from time to time as the need and occasion arises, as it may be determined by the City Council; NOW THEREFORE:

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

SECTION 1. THAT Section 34-10, 34-11, and 34-12 of Chapter 34 of the Code of Ordinances of the City of Lubbock BE amended to read hereafter as follows:

"Section 34-10. Rates-Amount.

The City, through its Water Department, shall charge and collect, and every consumer shall pay, for water furnished by the City to the consumer, the amount calculated by application of the following rates to meter readings for all billing rendered from and after October 1, 1977:.

| | | | |
|---|---|---|---|
| First 1,000 | Gallons Per Month | $2.58 | (Minimum) |
| Next 24,000 | Gallons Per Month | .58 | Per 1,000 Gallons |
| Next 225,000 | Gallons Per Month | .45 | Per 1,000 Gallons |
| Over 250,000 | Gallons Per Month | .40 | Per 1,000 Gallons |

THIS ORDINANCE ESTABLISHES A SINKING FUND FOR THESE BONDS

AN ORDINANCE AMENDING SECTIONS 34-73 OF CHAPTER 34, ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK CHANGING THE RATES FOR SEWER SERVICE EFFECTIVE OCTOBER 1, 1977 AND OCTOBER 1, 1978, RESPECTIVELY, PROVIDING A SAVINGS CLAUSE, AND PROVIDING FOR PUBLICATION OF THE DESCRIPTIVE CAPTION AS PROVIDED BY LAW.

WHEREAS, on May 21, 1977, the Electorate of the City of Lubbock, at an election called for the purpose of determining whether the City of Lubbock should issue THREE MILLION THREE HUNDRED AND THREE THOUSAND AND NO/100 DOLLARS ($3,303,000.00) in General Obligation bonds, authorize the issuance of bonds in such amount for expansion of the sanitary sewer system improvements for the City of Lubbock; and

WHEREAS, the City Council is of the opinion and deems it to be in the public interest that sewer service rates be established now to provide for the debt service on such bonds to be issued hereafter from time to time as the need and occasion arises, as it may be determined by the City Council; NOW THEREFORE:

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

SECTION 1. THAT Section 34-73 of Chapter 34, Article III of the Code of Ordinances of the City of Lubbock BE amended to read hereafter as follows:

"Section 34-73 - Rates Charged for Sewer Service.

(a) There shall be charged for sewer service to all residences, places of business, private and public buildings, churches, schools and institutions, the following service charge:

| | |
|---|---|
| Single Family Residence - | $1.50 per month |
| Multi Family Dwelling Units - | $1.00 per unit per month |
| Rooming Houses - | $1.00 per month plus 40¢ per rental room per month |
| Colleges, Schools, Geriatric Institutions, Orphans Homes, Public or Private Institutions, Except Public Schools - | 40¢ per resident, student, patient or inmate; 10¢ per off-campus resident, student per month |
| Lubbock Public Schools - | 10¢ per student per month |
| Commercial - 5/8" or 3/4" Meter | $1.50 per month for the first 3,000 gallons; 12¢ per thousand gallons per month thereafter |

This ORDINANCE ESTABLISHES A SINKING FUNDS FOR THESE BONDS

Agenda Dec. 15, 1977



VII. MISCELLANEOUS

(36) /

Consider accepting Grant Agreement No. 12 from FAA for a portion of federal funding required for extension of Taxiway J.

(37) /

Consider change order to supplement existing contract with H. B. Zachry Co. to add construction of extension of Taxiway J.

(38) /

Consider authorizing transfer of funds from Airport Revenue Funds to Airport Capital Projects Fund.

(39) /

Consider an appropriation ordinance from Airport Capital Projects Fund for the City's portion of funding for construction of extension of Taxiway J.

(40) / Consider an appropriation ordinance from General Tax Fund Reserve for capital improvement overruns to Airport Capital Projects Fund.

(41) / Consider various projects for the Airport to include remodeling old terminal building; additional baggage claim system; relocation of employee parking lot; and, additional loading bridge.

(42) / Consider a financing plan for Airport parking lot expansion.

(43) / Consider claims against the City of Lubbock.

(40) Consider an appropriation ordinance from General Tax Fund Reserve for capital improvement overruns to Airport Capital Projects Fund.
/

(41) Consider various projects for the Airport to include remodeling old terminal building; additional baggage claim system; relocation of employee parking lot; and, additional loading bridge.
/

(42) Consider a financing plan for Airport parking lot expansion.
/

(43) Consider claims against the City of Lubbock.
/

FORM L-2

ORDINANCE NO. 7595

# AN APPROPRIATION ORDINANCE

WHEREAS, the City Council of the City of Lubbock finds it is necessary to appropriate certain specific funds out of bond funds for an approved project;

NOW THEREFORE,

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

There is hereby appropriated out of the following described bond fund, to-wit:

The sum $ 207,828.00 From Airport Capital Projects Fund

For the following purpose: City's Share of Taxiway J Extension Change Order to Work Order No. 51-5042-44551-000207

AND IT IS SO ORDERED

Passed by the Council on first reading this 15th day of December, 19 77.

Passed by the Council on second reading this 12th day of January, 1978.

MAYOR

ATTEST:

CITY SECRETARY-TREAS.

VERIFIED BY:

FINANCE OFFICER

APPROVED BY

HEAD OF DEPT. DEPT. Aviation

FORM L-2

ORDINANCE NO. 7596

AN APPROPRIATION ORDINANCE

WHEREAS, the City Council of the City of Lubbock finds it is necessary to appropriate certain specific funds out of bond funds for an approved project;

NOW THEREFORE,

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

There is hereby appropriated out of the following described bond fund, to-wit:

The sum $ 700,000 From General Tax Fund Reserve Fund
To Airport Capital Projects Fund

For the following purpose:

To Provide Funds for interim Financing Required prior to Receiving the Balance of FAA Funds in October 1978 for the Construction of Taxiway J.

AND IT IS SO ORDERED

Passed by the Council on first reading this 15th day of December, 19 77.

Passed by the Council on second reading this 12th day of January, 19 78.

MAYOR

ATTEST:

CITY SECRETARY-TREAS.

VERIFIED BY:
FINANCE OFFICER

APPROVED BY:
HEAD OF DEPT. DEPT.
Aviation

ORDINANCE NO. 3??

AN ORDINANCE CONSOLIDATING THE OFFICES OF CITY SECRETARY AND CITY TREASURER; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LUBBOCK, TEXAS:

Section 1: The offices of City Secretary and City Treasurer of the City of Lubbock, Texas be and they are hereby consolidated.

Section 2: That on and after September 1, 1927 the City Secretary shall perform the duties of, and be ex-officio, City Treasurer of the City of Lubbock, Texas.

Section 3: The fact that the Charter of said City provides for the appointment of City Treasurer in addition to the office of City Secretary, and the further fact that such requirement makes it necessary to have an additional office and pay out additional compensation when the City Secretary can perform the same service without much additional work, and the further fact that much time and expense on the part of the City must be expended on order to get the signature of the City Treasurer, and the further fact that the City Treasurer does not have access to the books and can not afford to keep himself informed as to the financial affairs of the City owing to the small salary paid him, and the further fact that his duties are more or less pro forma, and the further fact that the City Charter provides for a consolidation of appointive offices, creates an emergency and public necessity requiring this Ordinance to take effect and be in force from and after its passage and it is so ordered.

Passed and approved ~~first reading~~ this 15th day of August, 1927.

~~Passed and approved second reading this ______ day of ______, 1927.~~

ATTEST:

Mayor

City Secretary

TEMPLETON & GARNER
ATTORNEYS AT LAW
Suite 1810
American National Bank Building
Amarillo, Texas 79101

September 13, 1977

Mr. J. R. Dever
District Court Clerk
Room 305, Courthouse
Lubbock, TX. 79401

Re: No. 83,264 - James G. Marshall v. City of Lubbock, Texas - In the 99th District Court

Dear Mr. Dever:

Enclosed for filing please find Direct Interrogatories Propounded to the City of Lubbock, Texas, which please file in the above cause.

Sincerely yours,

TEMPLETON & GARNER

Bob Garner

REG:mac

Enc.

NO. 87,536

| | | |
|---|---|---|
| EX PARTE: | ) | IN THE 99TH DISTRICT COURT |
| CITY OF LUBBOCK, TEXAS | ) | |
| AND | ) | |
| NO. 87,390 | | OF |
| TAXPAYERS ASSOCIATION OF LUBBOCK | ) | |
| V. | ) | |
| CITY OF LUBBOCK, TEXAS, ET AL | ) | LUBBOCK COUNTY, TEXAS |

O R D E R

On this the _____ day of _________________, 1977, came to the attention of the Court the filing of Amended Motion for New Trial, and it appearing to the Court that a hearing should be had thereon, the following order is entered:

IT IS ORDERED, ADJUDGED AND DECREED that said hearing on Amended Motion For New Trial shall be had on the ____ day of __________________, 1977, at ________ o'clock ____.M.

SIGNED AND ENTERED this ____ day of __________________, 1977.

_______________________________
Judge Presiding

NO. 83,264

| | | |
|---|---|---|
| JAMES G. MARSHALL, | ) | IN THE 99TH DISTRICT COURT |
| Plaintiff | ) | |
| V. | ) | IN AND FOR |
| CITY OF LUBBOCK, TEXAS, et al | ) | |
| Defendants | ) | LUBBOCK COUNTY, TEXAS |

DIRECT INTERROGATORIES PROPOUNDED TO THE CITY OF LUBBOCK, TEXAS

TO: Mike Worley; Nelson, McCleskey, Harriger & Brazill, 5010 University, P. O. Box 6170, Lubbock, Texas 79413, Attorneys of Record for the City of Lubbock, Texas; and Fred Senter, City Attorney, City Hall, Lubbock, Texas 79401:

Pursuant to Rule 621a of the Texas Rules of Civil Procedure, the attached interrogatories are delivered by James G. Marshall, a party in Judgment entered in the above styled and numbered cause on or about August 6, 1976, for purposes of obtaining information to aid in the enforcement of such judgment.

You are instructed that the interrogatories attached shall be answered separately and fully in writing under sworn oath by a person authorized by the City of Lubbock, Texas, to answer them and by a person with firsthand knowledge thereof. You are further instructed that such interrogatories shall be answered on or before October 1, 1977, which such date is not less than fifteen (15) days after service of these interrogatories has been made. These interrogatoriesare not sought out for the purposes of annoyance, expense, embarrassment or oppression. You are further instructed that failing to answer these interrogatories may result in an order compelling answers and allowing the reasonable expenses including reasonable attorney's fees incurred in obtaining the order for compliance. Upon answering these interrogatories, please cause a copy to be delivered to the undersigned, and a copy to be filed among the papers of the above mentioned cause.

Interrogatory No. 1. Please state whether or not on or about April 13, 1973, the City of Lubbock, Texas, passed an ordinance designated as No. 6603 which ordinance called for a bond election seeking voters' approval for authorization for the sale of revenue bonds of $18,800,000.00 for the general purposes of extending and improving the City of Lubbock, Texas, Electric Light and Power Systems?

Interrogatory No. 2. Please state whether or not such bonds mentioned in such election were sold in increments of $6,000,000.0( on or about July 15, 1973, $6,400,000.00 on or about March 15, 1975, $2,000,000.00 on or about September 15, 1975, and $4,400,000.00 after August 6, 1976?

Interrogatory No. 3. Please state whether or not the capacity of Holly Avenue Generating Station has been doubled since the sale of said $18,800,000.00 in bonds.

Interrogatory No. 3a. If your answer to the above interrogatory is "yes", then please state on what date said facility was doubled and list the equipment and improvements erected and the amount expended therefor and the date of completion of each.

Interrogatory No. 3b. If your answer to Interrogatory No. 3 is "no", then please state whether or not such is being accomplished, and the date of the letting of contracts for doubling of the capacity of such plant, and include a copy or summary of the contracts and the date of their execution and the expected completion date, together with a listing of all sums paid and to be paid to accomplish such feat.

Interrogatory No. 3c. If the answer to Interrogatory No. 3 is neither "yes" nor "no", then please list or state the exact amounts of money expended and the purposes therefor and the amount of money on hand in a separate account for completion thereof.

Interrogatory No. 4. Please state whether or not an independent gas turbine generating unit, including building, power unit, generator, piping, and unit equipment has been purchased since the date of the issuance of the $18,800,000.00 bonds.

Interrogatory No. 4a. If your answer is "yes" to Interrogatory No. 4, then please state the date such was purchase and the date payment therefor was made.

Interrogatory No. 4b. If your answer is "no", then please account for all expenditures from the $18,800,000.00 bond fund and show the balance remaining on hand in a separate account to complete such.

Interrogatory No. 5. If the gas turbine generating unit has been purchased, state whether or not the purchase price was paid for by bond funds or from the general revenue fund of either the City of Lubbock, Texas, of the Lubbock Project Systems Capital Fund.

Interrogatory No. 6. State whether or not there have been any transfers from the bond funds to the general funds to alleviate compensation paid by the general fund for the gas turbine generating unit, if such was accomplished.

Interrogatory No. 7. Please state whether or not an acquisition of property, and acquisition of transformers, switching equipment and remote control facilities to reduce high voltage bulk power to a lower voltage for distribution throughout the City for home and business use has been acquired.

Interrogatory No. 7a. If your answer is "yes", please state the description or location of such property, amount paid therefor and the date of such acquisition, and the seller of such properties, and a copy of all contracts, deeds or invoices to such property.

Interrogatory No. 7b. If your answer to the above interrogatory is "no", please state whether or not any contracts have been entered into for the purchase of such property, and if so, attach a copy of such contracts. If no contracts have been entered into, then please state whether or not there is $1,348,000.00 on hand for such purposes in a separate account from the bond sale proceeds previously mentioned in these interrogatories.

Interrogatory No. 8. Please state whether or not a planning and engineering feasibility study has been made or caused to be made by the City of Lubbock with a view to implementation of an interconnect or tie-in of Lubbock Power and Light System with another power company which has adequate generating facilities located a safe distance from the City of Lubbock.

Interrogatory No. 8a. If your answer is "yes", then please state when such study was completed, by whom it was made and when it was delivered to the City Council.

Interrogatory No. 9. Please attach a copy of such study or refer to an appropriate record by volume, page, date or other matters where such a copy of same can be obtained. If such a study has been made, please state whether or not additional studies are deemed necessary and when such decision for additional studies was determined by the City Council.

Interrogatory No. 10. Please state whether or not it is the position of the City at this date that an interconnect facility is advantageous and necessary.

Interrogatory No. 11. Please state whether or not such an interconnect facility has been installed. If your answer is "yes" please state the date of such installation and the cost therefor.

Interrogatory No. 12. If such interconnect facility has not been installed, please state why not and when such is expected to be installed and whether or not any contracts have been entered into with any person, firm or corporation for such installation.

Interrogatory No. 13. Please state the bank and the account number in which $3,600,000.00 of monies are held and set aside for an interconnect facility and show in your answer the amount remaining, interest accumulations thereon and all expenditures out of such account.

Interrogatory No. 14. The purpose of the interrogatories set forth above is to determine whether or not the $18,800,000.00 in revenue bonds of the City of Lubbock, Texas, Electric Light and

Power System has been expended, the purpose for which these funds were voted and the amounts remaining on hand as of this date, if any, and all other dates on an annualized basis. By Judgment entered in Cause No. 83,264, in the 99th District Court of Lubbock County, Texas, it was ordered by the District Court that funds received from the sale of said bonds shall be maintained in a separate account until expended in accordance with the purposes set out in the ordinances authorizing the issuance of said bonds. If the interrogatories set forth above do not fully and completely account for the $18,800,000.00, then please list all expenditures and the dates thereof setting forth the purpose for each expenditure.

Interrogatory No. 15. By the same Judgment mentioned, the City of Lubbock was ordered to continue to maintain, in accordance with the law and good accounting principles, a complete, detailed record of all revenues and expenditures of the Lubbock Light and Power bond funds and a complete and detailed record of revenue and expenditures of said sinking fund, and a complete and detailed record of revenue and expenditures of the operation of Lubbock Power and Light, in accordance with Article 1113 V.A.C.S.; and that said records shall be subject to a certified audit at least annually. Please state in accordance with such Judgment, the following information:

(a) What person, firm or corporation completed each such audit.

(b) Are copies of such audit available for inspection for each year and if so, where may same be inspected.

(c) Please state whether or not such audit reflects and reveals that said bond funds monies have been maintained in a separate account.

Interrogatory No. 16. Please state whether or not such statements include a balance sheet at the end of each such fiscal year, the accountant's comments regarding the manner in which the City has carried out the requirements of the bond ordinances

and any recommendations for any change or improvements in the operation record and accounts of the system and a statement verifying that the securities specified therein have been on deposit as security for the money in the Electric Light and Power Systems Bond Fund throughout the fiscal year and a list of such securities, if any, in which the reserve portion of such funds have been invested and an itemization of the income and expenditures of the interest derived thereon and whether or not a copy of such annual audits has been furnished to the original purchasers of the bonds and any subsequent holders at his request.

Interrogatory No. 17. If the answers to the above interrogatories do not explain fully the decisions of the City of Lubbock with regard to carrying out the expected improvements used to publicize the sale and to obtain voters' approval of the $18,800,000.00 in bonds inquired about, then please so explain in full detail what has happened to the money, the purposes for which it has been expended and how much remains on hand, and the specific bank and account number in which such funds are segregated and kept.

Interrogatory No. 18. If copies of any report, audit, ordinance or other written matter requested herein are too voluminous to copy, summarize or attach, please then so state in your answers and advise where a copy of same may be inspected and the date that such inspection can occur.

Respectfully submitted,

TEMPLETON & GARNER
1810 American National Bank Bldg.
P. O. Box 12075
Amarillo, Texas 79101

ATTORNEYS FOR JAMES G. MARSHALL

Robert E. Garner, of Counsel

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Direct Interrogatories Propounded to the City of Lubbock, Texas, has been hand delivered to Mike Worley; Nelson, McCleskey, Harriger & Brazill, 5010 University, Lubbock, Texas; and to Fred Senter, City Attorney, City Hall, Lubbock, Texas, Attorneys of Record for the City of Lubbock, Texas, on this the 14th day of September, 1977.

Robert E. Garner

NO. 83,264

| | | |
|---|---|---|
| JAMES G. MARSHALL, Plaintiff | X | IN THE 99TH DISTRICT COURT |
| VS. | X | OF |
| CITY OF LUBBOCK, ET AL Defendants | X | LUBBOCK COUNTY, TEXAS |

ANSWERS OF DEFENDANT, CITY OF LUBBOCK, TO DIRECT INTERROGATORIES OF PLAINTIFF

TO: JAMES G. MARSHALL, Plaintiff, c/o Mr. Robert E. Garner, Attorney of Record for the Plaintiff

Defendant, CITY OF LUBBOCK, respectfully answers the Interrogatories previously served on it by the Plaintiff herein as follows:

2. Yes.

3. This question cannot be accurately answered yes or no at this time.

(c) See Exhibit A.

4. Yes.

5. It was purchased with electric revenue bond funds.

6. No. The turbine unit inquired about was paid for out of electric revenue bond funds.

7. Yes.

8. An engineering feasibility study has been made.

18. Not applicable.

ROY BASS, as Mayor of Lubbock

THE STATE OF TEXAS X

COUNTY OF LUBBOCK X

BEFORE ME, the undersigned authority, in and for said County and State, on this day personally appeared ROY BASS, Mayor of the City of Lubbock, and on his oath says that he has read the above and foregoing Answers to Interrogatories and that they are true and correct to the best of his knowledge and belief.

Affiant as Mayor of Lubbock

SUBSCRIBED AND SWORN TO BEFORE ME, this 8th day of March, 1978.

Notary Public in and for Lubbock County, Texas

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing Answers of Defendant, City of Lubbock, to Direct Interrogatories of Plaintiff has been mailed to Mr. Robert E. Garner, P.O. Box 12075, Amarillo, Texas 79101, attorney of record for the plaintiff, on this 10th day of March, 1978.

Mike Worley

ELECTRIC CAPITAL PROJECTS FUND

STATUS OF FUNDS AS OF 1/30/78

Revenues:

| | |
|---|---|
| Bond Sales | $ 18,800,000.00 |
| Interest Earnings (Before Delivery) | 81,124.03 |
| Miscellaneous (Sale of scales) | 7,500.00 |
| Premium on Bond Sale | 341,154.00 |
| Int. Earnings (amortized Discount) | 32,656.25 |
| TOTAL REVENUES | $ 19,262,434.28 |
| Less: Expenditures thru 1/30/78 | 13,720,999.28 |
| Unexpended funds as of 1/30/78 | $ 5,541,435.00 |

EXHIBIT "A"

ELECTRIC CAPITAL PROJECTS
FUND
PROJECTS EXPENDITURES

Through 1/30/78

| Project No. (WO#) | Project Description | Expenditures Thru 1/30/78 |
|---|---|---|
| 12401 | Eng. Services for Turbine | $ 56,000.00 |
| 12402 | Eng. Services for Transmission Lines | 122,501.00 |
| 12403 | Contract Cost Turbine Unit #3 | 1,946,655.77 |
| 12404 | Labor & Material for 69KV transmission line from Holly Plant switchyard to Slaton substation | 93,195.59 |
| 12405 | Steel Switchyard Structure Bid #2858 | 70,029.06 |
| 12406 | Site Imp. McCullough Sub. | 89,896.42 |
| 12407 | Oil Cirbuit Breakers | 87,476.11 |
| 12408 | Substation Transformers | 407,059.09 |
| 12409 | Circuit Breakers-Switches | 187,408.63 |
| 12410 | Central Cubical for Sub-Station | 14,666.26 |
| 12411 | Steel Sub-Station Structure Bid #3205 | 263,386.37 |
| 12412 | Relaying Equip.-Bid #3250 | 139,449.61 |
| 12413 | 44 MW Gas-oil fired Boiler Turbine | 383,625.00 |
| 12414 | Batteries, Central Cable and Miscellaneous Material | 60,706.66 |
| 12415 | 69KV Lightning Arrestors - Bid #3392 | 86,133.66 |
| 12416 | Steel Transmission Poles | 368,899.24 |
| 12417 | Control House-McCullough Sub. | 11,900.00 |
| 12418 | Boiler Feed Water Pumps | 306,892.64 |
| 12419 | Bond Attorney Fees, Financial Advisor Fees, Bond Rating Fees etc. | 18,521.62 |
| 12420 | Steel Pole Line | 286,893.78 |
| No WO | Lot 1, Blk 1, Tech Gardens | 6,000.00 |
| No WO | Bond Attorney Fees, Financial Advisor Fees, Bond Rating Fees etc. | 22,292.06 |
| No WO | 425 Ft. Land by 300 Ft. of SE 1/2 Section 13 | 78,500.00 |
| No WO | Land Blk. 36-Coronado | 6,190.00 |
| No WO | Bond Attorney Fees, Financial Advisor Fees, Bond Rating Fees etc. | 26,152.45 |
| 12430 | To Purchase a Steam Generator | 2,356,669.70 |
| 12431 | To Purchase Cooling Tower | -0- |
| 12432 | To Purchase Feedwater Heater | 77,122.80 |
| 12429 | To Purchase Steam Turbine Generator | 2,293,528.00 |
| 12433 | To Purchase Surface Generator | 349,965.00 |
| 12426 | To Purchase Vertical Pumps | 170,475.04 |
| 12434 | To Purchase Closed Feed Water Heater | 142,772.75 |
| 12435 | To Purchase Step-up Transformers | 45,877.38 |
| 12421 | Underground Feeder Lines | 68,432.05 |
| 12425 | Eng. - Contract Transmission Lines - Coop Holly | 28,663.73 |

# ELECTRIC CAPITAL PROJECTS
# FUND
# PROJECTS EXPENDITURES

Through 1/30/78

| Project No. (WO#) | Project Description | Expenditures Thru 1/30/78 |
|---|---|---|
| 12422 | Foundation, earth work, ret. dyke | 423.50 |
| 12423 | Supervisory Controls for McCullough | 154,994.00 |
| 12427 | To Purchase Fuel Oil Storage | 94,360.00 |
| 12436 | To Purchase an Evaporator | 76,860.00 |
| 12437 | To Purchase Automatic Control Equipment | 144,703.50 |
| 12424 | To Purchase 2400 Volt Switchgear | 299,847.24 |
| 12438 | To Purchase Boiler Turbine Generator Control | -0- |
| 12439 | To Purchase Circuit Breakers | -0- |
| 12440 | Cons. of Elec. Steam Unit #2 | 2,201,451.30 |
| 12428 | Bond Attorney Fees, Financial Advisor Fees, Bond Rating Fees etc. | 23,468.75 |
| 12441 | Ground Surfacing Completion McCullough | 50,953.22 |
| | TOTAL Project Costs as of 1/30/78 | $ 13,720,999.28 |

TEMPLETON & GARNER
ATTORNEYS AT LAW
Suite 1810
American National Bank Building
Amarillo, Texas 79101

September 13, 1977

Mr. J. R. Dever
District Court Clerk
Room 305, Courthouse
Lubbock, TX. 79401

Re: No. 83,264 - James G. Marshall v. City of Lubbock, Texas - In the 99th District Court

Dear Mr. Dever:

Enclosed for filing please find Direct Interrogatories Propounded to the City of Lubbock, Texas, which please file in the above cause.

Sincerely yours,

TEMPLETON & GARNER

Bob Garner

Bob Garner

REG:mac

Enc.

NO. 87,536

| | | |
|---|---|---|
| EX PARTE: | ) | IN THE 99TH DISTRICT COURT |
| CITY OF LUBBOCK, TEXAS | ) | |
| AND | ) | |
| NO. 87,390 | | OF |
| TAXPAYERS ASSOCIATION OF LUBBOCK | ) | |
| V. | ) | |
| CITY OF LUBBOCK, TEXAS, ET AL | ) | LUBBOCK COUNTY, TEXAS |

O R D E R

On this the _____ day of ________________, 1977, came to the attention of the Court the filing of Amended Motion for New Trial, and it appearing to the Court that a hearing should be had thereon, the following order is entered:

IT IS ORDERED, ADJUDGED AND DECREED that said hearing on Amended Motion For New Trial shall be had on the ____ day of ________________, 1977, at ________ o'clock ____.M.

SIGNED AND ENTERED this ____ day of __________________, 1977.

______________________________
Judge Presiding

NO. 83,264

| | | |
|---|---|---|
| JAMES G. MARSHALL, Plaintiff | ) | IN THE 99TH DISTRICT COURT |
| V. | ) | IN AND FOR |
| CITY OF LUBBOCK, TEXAS, et al Defendants | ) | LUBBOCK COUNTY, TEXAS |

DIRECT INTERROGATORIES PROPOUNDED TO THE CITY OF LUBBOCK, TEXAS

TO: Mike Worley; Nelson, McCleskey, Harriger & Brazill, 5010 University, P. O. Box 6170, Lubbock, Texas 79413, Attorneys of Record for the City of Lubbock, Texas; and Fred Senter, City Attorney, City Hall, Lubbock, Texas 79401:

Pursuant to Rule 621a of the Texas Rules of Civil Procedure, the attached interrogatories are delivered by James G. Marshall, a party in Judgment entered in the above styled and numbered cause on or about August 6, 1976, for purposes of obtaining information to aid in the enforcement of such judgment.

You are instructed that the interrogatories attached shall be answered separately and fully in writing under sworn oath by a person authorized by the City of Lubbock, Texas, to answer them and by a person with firsthand knowledge thereof. You are further instructed that such interrogatories shall be answered on or before October 1, 1977, which such date is not less than fifteen (15) days after service of these interrogatories has been made. These interrogatoriesare not sought out for the purposes of annoyance, expense, embarrassment or oppression. You are further instructed that failing to answer these interrogatories may result in an order compelling answers and allowing the reasonable expenses including reasonable attorney's fees incurred in obtaining the order for compliance. Upon answering these interrogatories, please cause a copy to be delivered to the undersigned, and a copy to be filed among the papers of the above mentioned cause.

Interrogatory No. 1. Please state whether or not on or about April 13, 1973, the City of Lubbock, Texas, passed an ordinance designated as No. 6603 which ordinance called for a bond election seeking voters' approval for authorization for the sale of revenue bonds of $18,800,000.00 for the general purposes of extending and improving the City of Lubbock, Texas, Electric Light and Power Systems?

Interrogatory No. 2. Please state whether or not such bonds mentioned in such election were sold in increments of $6,000,000.00 on or about July 15, 1973, $6,400,000.00 on or about March 15, 1975, $2,000,000.00 on or about September 15, 1975, and $4,400,000.00 after August 6, 1976?

Interrogatory No. 3. Please state whether or not the capacity of Holly Avenue Generating Station has been doubled since the sale of said $18,800,000.00 in bonds.

Interrogatory No. 3a. If your answer to the above interrogatory is "yes", then please state on what date said facility was doubled and list the equipment and improvements erected and the amount expended therefor and the date of completion of each.

Interrogatory No. 3b. If your answer to Interrogatory No. 3 is "no", then please state whether or not such is being accomplished, and the date of the letting of contracts for doubling of the capacity of such plant, and include a copy or summary of the contracts and the date of their execution and the expected completion date, together with a listing of all sums paid and to be paid to accomplish such feat.

Interrogatory No. 3c. If the answer to Interrogatory No. 3 is neither "yes" nor "no", then please list or state the exact amounts of money expended and the purposes therefor and the amount of money on hand in a separate account for completion thereof.

Interrogatory No. 4. Please state whether or not an independent gas turbine generating unit, including building, power unit, generator, piping, and unit equipment has been purchased since the date of the issuance of the $18,800,000.00 bonds.

Interrogatory No. 4a. If your answer is "yes" to Interrogatory No. 4, then please state the date such was purchase and the date payment therefor was made.

Interrogatory No. 4b. If your answer is "no", then please account for all expenditures from the $18,800,000.00 bond fund and show the balance remaining on hand in a separate account to complete such.

Interrogatory No. 5. If the gas turbine generating unit has been purchased, state whether or not the purchase price was paid for by bond funds or from the general revenue fund of either the City of Lubbock, Texas, of the Lubbock Project Systems Capital Fund.

Interrogatory No. 6. State whether or not there have been any transfers from the bond funds to the general funds to alleviate compensation paid by the general fund for the gas turbine generating unit, if such was accomplished.

Interrogatory No. 7. Please state whether or not an acquisition of property, and acquisition of transformers, switching equipment and remote control facilities to reduce high voltage bulk power to a lower voltage for distribution throughout the City for home and business use has been acquired.

Interrogatory No. 7a. If your answer is "yes", please state the description or location of such property, amount paid therefor and the date of such acquisition, and the seller of such properties, and a copy of all contracts, deeds or invoices to such property.

Interrogatory No. 7b. If your answer to the above interrogatory is "no", please state whether or not any contracts have been entered into for the purchase of such property, and if so, attach a copy of such contracts. If no contracts have been entered into, then please state whether or not there is $1,348,000.00 on hand for such purposes in a separate account from the bond sale proceeds previously mentioned in these interrogatories.

Interrogatory No. 8. Please state whether or not a planning and engineering feasibility study has been made or caused to be made by the City of Lubbock with a view to implementation of an interconnect or tie-in of Lubbock Power and Light System with another power company which has adequate generating facilities located a safe distance from the City of Lubbock.

Interrogatory No. 8a. If your answer is "yes", then please state when such study was completed, by whom it was made and when it was delivered to the City Council.

Interrogatory No. 9. Please attach a copy of such study or refer to an appropriate record by volume, page, date or other matters where such a copy of same can be obtained. If such a study has been made, please state whether or not additional studies are deemed necessary and when such decision for additional studies was determined by the City Council.

Interrogatory No. 10. Please state whether or not it is the position of the City at this date that an interconnect facility is advantageous and necessary.

Interrogatory No. 11. Please state whether or not such an interconnect facility has been installed. If your answer is "yes" please state the date of such installation and the cost therefor.

Interrogatory No. 12. If such interconnect facility has not been installed, please state why not and when such is expected to be installed and whether or not any contracts have been entered into with any person, firm or corporation for such installation.

Interrogatory No. 13. Please state the bank and the account number in which $3,600,000.00 of monies are held and set aside for an interconnect facility and show in your answer the amount remaining, interest accumulations thereon and all expenditures out of such account.

Interrogatory No. 14. The purpose of the interrogatories set forth above is to determine whether or not the $18,800,000.00 in revenue bonds of the City of Lubbock, Texas, Electric Light and

Power System has been expended, the purpose for which these funds were voted and the amounts remaining on hand as of this date, if any, and all other dates on an annualized basis. By Judgment entered in Cause No. 83,264, in the 99th District Court of Lubbock County, Texas, it was ordered by the District Court that funds received from the sale of said bonds shall be maintained in a separate account until expended in accordance with the purposes set out in the ordinances authorizing the issuance of said bonds. If the interrogatories set forth above do not fully and completely account for the $18,800,000.00, then please list all expenditures and the dates thereof setting forth the purpose for each expenditure.

Interrogatory No. 15. By the same Judgment mentioned, the City of Lubbock was ordered to continue to maintain, in accordance with the law and good accounting principles, a complete, detailed record of all revenues and expenditures of the Lubbock Light and Power bond funds and a complete and detailed record of revenue and expenditures of said sinking fund, and a complete and detailed record of revenue and expenditures of the operation of Lubbock Power and Light, in accordance with Article 1113 V.A.C.S.; and that said records shall be subject to a certified audit at least annually. Please state in accordance with such Judgment, the following information:

(a) What person, firm or corporation completed each such audit.

(b) Are copies of such audit available for inspection for each year and if so, where may same be inspected.

(c) Please state whether or not such audit reflects and reveals that said bond funds monies have been maintained in a separate account.

Interrogatory No. 16. Please state whether or not such statements include a balance sheet at the end of each such fiscal year, the accountant's comments regarding the manner in which the City has carried out the requirements of the bond ordinances

Power System has been expended, the purpose for which these funds were voted and the amounts remaining on hand as of this date, if any, and all other dates on an annualized basis. By Judgment entered in Cause No. 83,264, in the 99th District Court of Lubbock County, Texas, it was ordered by the District Court that funds received from the sale of said bonds shall be maintained in a separate account until expended in accordance with the purposes set out in the ordinances authorizing the issuance of said bonds. If the interrogatories set forth above do not fully and completely account for the $18,800,000.00, then please list all expenditures and the dates thereof setting forth the purpose for each expenditure.

Interrogatory No. 15. By the same Judgment mentioned, the City of Lubbock was ordered to continue to maintain, in accordance with the law and good accounting principles, a complete, detailed record of all revenues and expenditures of the Lubbock Light and Power bond funds and a complete and detailed record of revenue and expenditures of said sinking fund, and a complete and detailed record of revenue and expenditures of the operation of Lubbock Power and Light, in accordance with Article 1113 V.A.C.S.; and that said records shall be subject to a certified audit at least annually. Please state in accordance with such Judgment, the following information:

(a) What person, firm or corporation completed each such audit.

(b) Are copies of such audit available for inspection for each year and if so, where may same be inspected.

(c) Please state whether or not such audit reflects and reveals that said bond funds monies have been maintained in a separate account.

Interrogatory No. 16. Please state whether or not such statements include a balance sheet at the end of each such fiscal year, the accountant's comments regarding the manner in which the City has carried out the requirements of the bond ordinances

and any recommendations for any change or improvements in the operation record and accounts of the system and a statement verifying that the securities specified therein have been on deposit as security for the money in the Electric Light and Power Systems Bond Fund throughout the fiscal year and a list of such securities, if any, in which the reserve portion of such funds have been invested and an itemization of the income and expenditures of the interest derived thereon and whether or not a copy of such annual audits has been furnished to the original purchasers of the bonds and any subsequent holders at his request.

Interrogatory No. 17. If the answers to the above interrogatories do not explain fully the decisions of the City of Lubbock with regard to carrying out the expected improvements used to publicize the sale and to obtain voters' approval of the $18,800,000.00 in bonds inquired about, then please so explain in full detail what has happened to the money, the purposes for which it has been expended and how much remains on hand, and the specific bank and account number in which such funds are segregated and kept.

Interrogatory No. 18. If copies of any report, audit, ordinance or other written matter requested herein are too voluminous to copy, summarize or attach, please then so state in your answers and advise where a copy of same may be inspected and the date that such inspection can occur.

Respectfully submitted,

TEMPLETON & GARNER
1810 American National Bank Bldg.
P. O. Box 12075
Amarillo, Texas 79101

ATTORNEYS FOR JAMES G. MARSHALL

Robert E. Garner, of Counsel

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Direct Interrogatories Propounded to the City of Lubbock, Texas, has been hand delivered to Mike Worley; Nelson, McCleskey, Harriger & Brazill, 5010 University, Lubbock, Texas; and to Fred Senter, City Attorney, City Hall, Lubbock, Texas, Attorneys of Record for the City of Lubbock, Texas, on this the 14th day of September, 1977.

Robert E. Garner