

City of New Fairview
Keep New Fairview Beautiful Committee Regular Meeting
999 Illinois Lane
Tuesday, March 12, 2024, at 6:00 pm

- 1. Call to Order and Determination of Quorum**
- 2. Public Comment:** The Keep New Fairview Beautiful Committee invites persons with comments or observations related to litter abatement and aesthetic improvement issues, projects, or policies to briefly address the Committee. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the Keep New Fairview Beautiful Committee Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the Committee. State law prohibits the Keep New Fairview Beautiful Committee from discussing or taking action on any item not listed on the posted agenda.
- 3. Work Session:**
 - A. Receive, consider, and discuss an update on the Green Ribbon Project.**
 - B. Receive, consider, and discuss a Keep New Fairview Beautiful cleanup project.**
- 4. New Business:** All matters listed in New Business will be discussed and considered separately.
 - A. Receive and consider approval of the minutes for the January 30, 2024 meeting.**
- 5. Committee Announcements:** The Keep New Fairview Beautiful Committee members may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
- 6. Adjournment**

I, the undersigned authority, do hereby certify the above notice of the meeting of the Keep New Fairview Beautiful Committee of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and on its website, said notice being posted this 8th day of March, 2024 at 5:00 PM at least 72 hours proceeding the meeting time.

Susan Greenwood
Susan Greenwood, Assistant City Secretary



SEAL:

This facility is wheelchair accessible; parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at City Hall 817-638-5366 or fax 817-638-5369 or by email at citysecretary@newfairview.org for further information.



AGENDA ITEM: 3A

KEEP NEW FAIRVIEW BEAUTIFUL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

March 12, 2024

Professional Services Agreement with Westwood Professional Services Inc., for the preparation and submission of a TxDOT Green Ribbon Program application

DESCRIPTION:

Receive, consider, and discuss an update on the Green Ribbon Project.

BACKGROUND INFORMATION:

TxDOT recognizes the need for developing highways with acceptable visual quality and has developed several proactive programs that encourage and assist the development of such transportation corridors. These include the Transportation Enhancements Program, Transportation Alternatives Program, Cost Share Program, the Governor's Community Achievement Awards, Green Ribbon Landscape Improvement Program, and Landscape Partnership Program. City staff have been discussing the Governor's Community Achievement Award and the Green Ribbon Program with the Keep New Fairview Beautiful Committee. The purpose of the TxDOT Green Ribbon Program is to improve the visual character of highway corridors and minimize the negative impacts of air pollution through planting of trees and shrubs.

Since 2001, the Texas Legislature has added a rider to the Texas Department of Transportation's (TxDOT) appropriation legislation requiring TxDOT to expand the concepts of the Houston District's Green Ribbon Program (developed in the 1990s), allocating funding for landscape projects to Districts with non-attainment and near non-attainment air quality. Statewide, TxDOT is accomplishing the requirements of the rider by allocating funds for Districts with non-attainment and near nonattainment counties to install and establish trees, shrubs, and groundcover on the state highway system to help mitigate the effects of air pollution. This allocation is calculated at 0.5% of the total contract amount of highway improvements let in the past fiscal year within non-attainment and near nonattainment counties.

The Green Ribbon Program provides for landscape improvement work that is structured to provide appropriate planting installation, soil preparation, and irrigation activities at locations which are suitable and approved by TxDOT. Projects must meet TxDOT design standards and must ensure appropriate safety, construction, establishment, and maintenance considerations. This program calls for the use of drought tolerant, native, and adaptive plant materials. Soil preparation to improve the fertility, structure, and drainage of planting areas is permitted. Irrigation systems will be used that take into consideration the highest water conservation and efficiency possible on each project, meaning drip irrigation and bubblers, no spray irrigation is allowed. Green Ribbon funds only allow for plant material, irrigation, up to 12 months of maintenance and mow strips. No other hardscape or amenities can be paid for with these funds, although the City may add them to a project and fund them directly.

In order to qualify, cities must attend a mandatory TxDOT workshop, which the City of New Fairview did attend. Cities must be able to provide plans to the TxDOT Area Office at least six months prior to letting in FY25 (September 2024 thru August 2025). Plans must meet all state requirements, and the project must be within the state right-of-way. Cities will be required to sign an Advanced Funding Agreement (AFA) for potential cost overruns. Green Ribbon funds are fixed dollar amounts. Cities will be responsible for the long-term maintenance of the project and therefore required to sign a Landscape Maintenance Agreement. If no agreement is signed, the project will not let. Those cities that have not received allocations in the recent past (last 2 years) may be given more consideration for funding than those that have had recent projects. TxDOT wants to spread the funding as equitably as possible throughout the District.

Project awards will be limited to a maximum of \$400,000 (including mobilization, barricades, etc.). No match is required for Green Ribbon funding; however, if there is an overrun, the City must pay 100% for overages and any revisions to plan sheets, if needed. Projects using Green Ribbon funds must be let within the fiscal year allocated (FY2025: Sept. 2024 – Aug. 2025), or the funds are lost to TxDOT. Project lettings may be local or state, and local let projects will be determined on a case-by-case occurrence based on experience and TxDOT Area Office input. If locally let, the city must be Local Government Project Procedures Certified, or it can be the consultant working on the project. Applications must be received by TxDOT by March 29, 2024 to be considered.

At the TXDOT mandatory Green Ribbon Project information session in January, staff connected with Dorothy Witmeyer, the Senior Project Manager for Westwood, the firm who designed and executed the Green Ribbon Hwy 156 project in the City of Justin. Westwood has extensive experience in streetscape design and transportation enhancement projects, including residential streets, complex urban thoroughfares and large scale corridors. Based on Ms. Westwood's valuable experience with the TXDOT Green Ribbon Program, staff requests consideration for the expense of contracting with this consultant for landscape design, application completion, and submittal for the 2025 TXDOT Green Ribbon Program. This design would be for southbound frontage road of Hwy 287 at FM 407 bridge. This is an area that suffers constant littering and illegal dumping and was the location of the first Keep New Fairview Beautiful (KNFB) Clean Up event last year. Staff have had discussion with the KNFB Committee regarding beautification plans for this location that would assist with the decrease in littering and illegal dumping.

The City Council approved a Professional Services Agreement with Westwood for the preparation and submission of a TxDOT Green Ribbon Program application. Staff has been working with Dorothy Witmeyer and her team and would like to share the latest on this project.

FINANCIAL CONSIDERATION:

Consulting fees by Westwood would be approximately \$6,800 which includes the scope of work in Exhibit 'A' to the Resolution. If construction plans are desired, this would be a separate cost and can be decided at a later date. In anticipation of an application for a Governor's Community Achievement Award or Green Ribbon Program, staff placed \$12,000 in the Code Enforcement/Health Department Budget earmarked for these expenses.

RECOMMENDED MOTIONS:

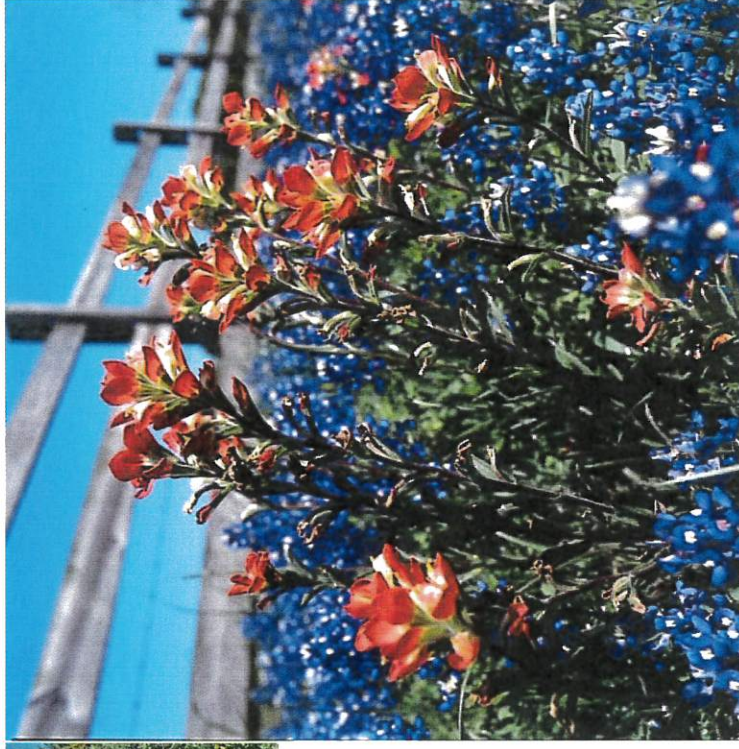
None, discussion only

ATTACHMENT(S):

1. Fort Worth District Green Ribbon Workshop Presentation FY 2025
2. Westwood Green Ribbon Experience
3. Resolution 202402-04-116



TEXAS DEPARTMENT OF TRANSPORTATION



FORT WORTH DISTRICT GREEN RIBBON PROGRAM WORKSHOP FY2025


AGENDA



Introductions



Green Ribbon Program Overview



Fort Worth District Guidelines



Questions and Answers

GREEN RIBBON PROGRAM OVERVIEW



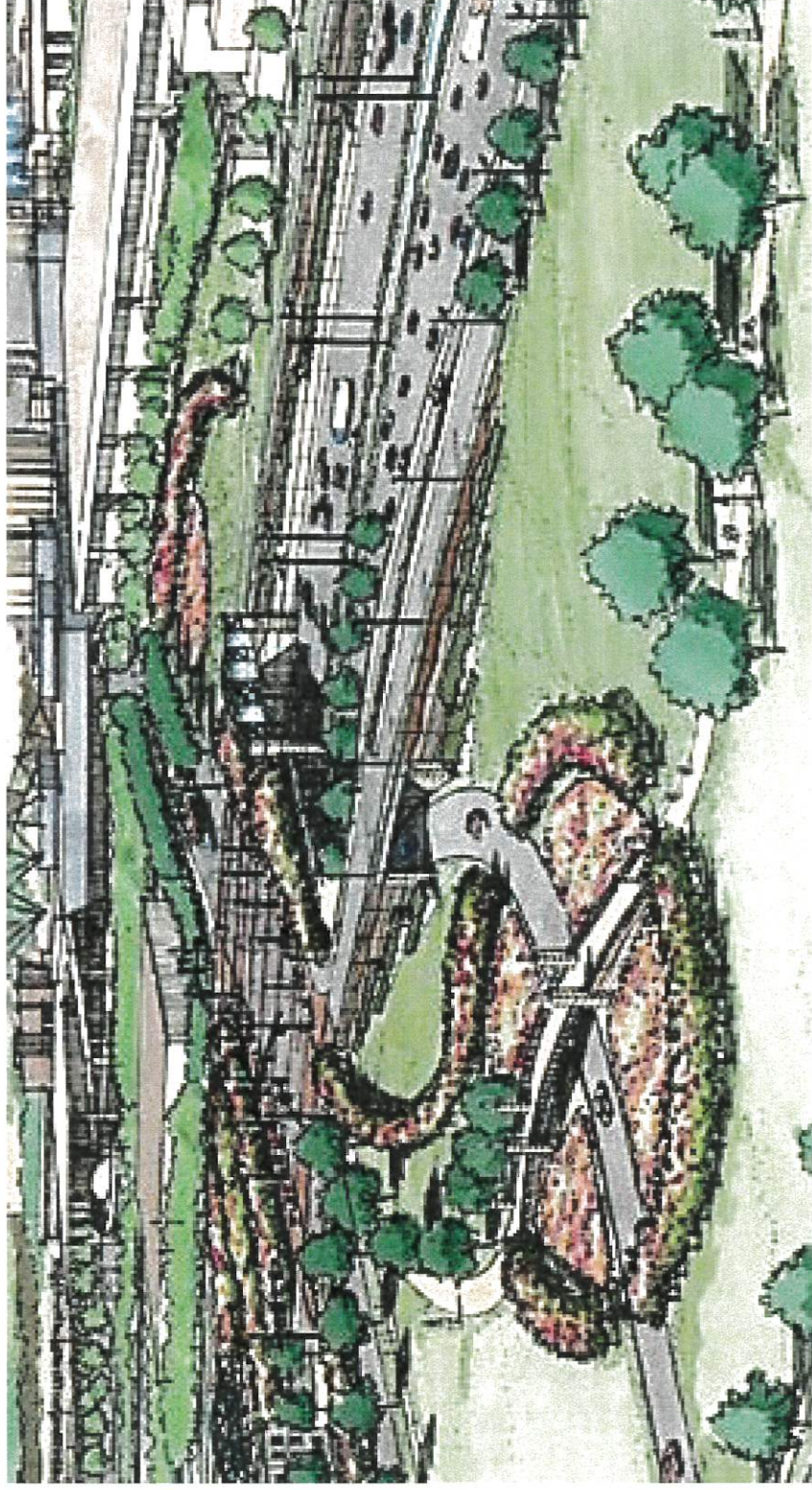
GREEN RIBBON PROGRAM OVERVIEW

- Since 2001, the Texas Legislature has added a rider to the Texas Department of Transportation's appropriation legislation requiring TxDOT to expand the concepts of the Houston District's Green Ribbon Project (developed in the 1990s), allocating funding for landscape projects to **Districts with non-attainment and near non-attainment air quality.**
- Statewide, TxDOT is accomplishing the requirements of the rider by allocating funds for Districts with non-attainment and near non-attainment counties to **install and establish trees, shrubs and groundcover on the state highway system to help mitigate the effects of air pollution.**
- This allocation is calculated at 0.5% of the total contract amount of highway improvements let in the past fiscal year within non-attainment and near non-attainment counties.
- **Projects using Green Ribbon funds MUST be let within the fiscal year allocated (FY2025: Sept. 2024 – Aug. 2025), or the funds are lost to the District.**

GREEN RIBBON PROGRAM OVERVIEW

- **Design Standards:** Landscape improvement work will be structured to provide appropriate **planting installation, soil preparation and irrigation activities** at locations which are **suitable and approved by the District**. Projects must meet design standards and each District must ensure appropriate safety, construction, establishment and maintenance considerations are applied.
- This program calls for the use of **drought tolerant, native and adaptive plant materials**. Soil preparation to improve the fertility, structure, and drainage of planting areas is permitted. **Irrigation systems** will be used that take into consideration the highest water conservation and efficiency possible on each project, meaning drip irrigation and bubblers, no spray irrigation is allowed. Under Item 193, **up to 12 months of Contractor plant establishment and maintenance are available**. Please discuss potential pros and cons with TxDOT staff before adding to your plans. Seeding, sodding, or other erosion control measures are not allowed under the Green Ribbon Program. Aesthetic treatments such as **special finishes and decorative designs on structural surfaces or other hardscape elements and amenities are not funded under this program**. Although, these items may be included within a project at the Local Government/Agency's expense.

FORT WORTH DISTRICT GUIDELINES



FORT WORTH DISTRICT GUIDELINES

- **Mandatory representation at this Workshop.**
- **Local Government/Agency must be able to provide plans to the TxDOT Area Office (a minimum) of six months prior to letting in FY25 (September 2024 thru August 2025). Consider a delayed start in your plans to hit appropriate planting times. Maximum delayed start is six months. Plans must meet all state requirements, as all Green Ribbon projects must be within the state right-of-way.**
- **Local Government/Agency will be required to sign an Advanced Funding Agreement (AFA) for potential cost overruns. Green Ribbon funds are fixed dollar amounts.**
- **Local Government/Agency will be responsible for the long term maintenance of the project and therefore required to sign a Landscape Maintenance Agreement. If no agreement is signed, the project will not let.**
- **Those that have not received allocations in the recent past (last 2 years) may be given more consideration for funding than those that have had recent projects. We want to spread the funding as equitably as possible throughout the District.**

FORT WORTH DISTRICT GUIDELINES

- Projects awards will be limited to a maximum of \$400,000 (including mobilization, barricades, etc.). These are typically stand alone projects, but there is potential to incorporate the project within a current FY25 roadway project. This would allow more bang for your buck. Area Offices will be your best contacts for upcoming roadway projects letting in the near future.
- **Applications must be received via email (only) by March 29, 2024 at 5pm to be considered.** Please make sure you receive an email response stating we have received your submission. Submissions MUST include:
 - **completed application form (with narrative)**
 - **location map**
 - **schematic plan**
 - **preliminary budget**
 - **preliminary project schedule**
- Applicants must **work closely with the Area Offices to be sure proposed locations are appropriate.** The designers (local governments or consultants) need to be aware of visibility issues, clear zones, utilities, future roadway projects, etc. Please refer to the reference links on the handout.

FORT WORTH DISTRICT GUIDELINES

- Irrigation is limited to tree bubblers and drip irrigation for shrubs and groundcover. No spray (turf) irrigation will be allowed within the right-of-way.
- Lettings may be Local or State. Local let projects will be determined on a case by case occurrence based on experience and Area Office input.

PROJECT ELIGIBILITY

- **Projects must be on the State right-of-way.**
- **Green Ribbon funds only allow for plant material, irrigation, up to 12 months of maintenance and mow strips. No other hardscape or amenities can be paid for with these funds, although the City may add them to a project and fund them directly.**
- **Local Government/Agency must provide plans that meet TxDOT design criteria.**
- **Provide a preliminary budget and schedule for your project with your application. No match is required for Green Ribbon funding; however, if there is an overrun, the City must pay 100% for bid item overages and any revisions to plan sheets, if needed.**
- **If locally let, project applicant must be Local Government Project Procedures (LGPP) Certified (either yourself or consultant working on project).**
- **Local Government/Agency must be able to execute an agreement with TxDOT quickly (generally less than two months).**

RESOURCES

- **Roadway Design Manual**
<http://onlinemanuals.txdot.gov/txdotmanuals/rdw/index.htm>
- **Landscape and Aesthetics Design Manual**
<http://onlinemanuals.txdot.gov/txdotmanuals/lad/index.htm>
- **Local Government Projects Policy Manual**
<http://onlinemanuals.txdot.gov/txdotmanuals/lgp/index.htm>
- **Local Government Project Management Guide**
<http://ftp.dot.state.tx.us/pub/txdot/lgp/procedures/guide.pdf>

APPLICATION SUBMISSION & CONTACT INFORMATION

Applications must be received via email by **March 29, 2024 at 5pm** to be considered. Include completed application form (with narrative), location map, preliminary budget, schematic plan, and a preliminary project schedule with your submission. Please make sure that you get a response that the files have been received. Email applications to: Erica.Swenson@txdot.gov

- Contact Information:

Erica Swenson
District Vegetation Specialist
Fort Worth District
Texas Department of Transportation
Erica.Swenson@txdot.gov

QUESTIONS AND ANSWERS



Green Ribbon

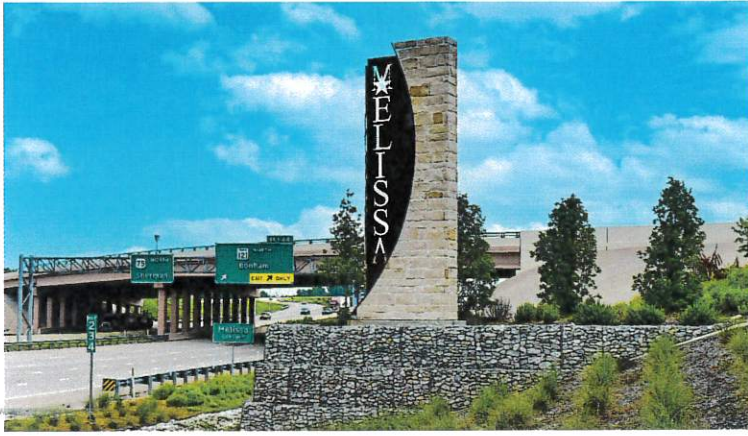
Westwood has extensive experience in streetscape design and transportation enhancement projects, including residential streets, complex urban thoroughfares and largescale corridors. Whether at a streetscape scale where pedestrian interface is paramount or multi-county corridors where high-speed user experience is a factor, we understand that each roadway project should contribute to the fabric of the local community in a meaningful and positive way.

The approach for a Green Ribbon project is somewhat different than a typical municipal design effort. Although the involvement of key stakeholders is still involved in development of the design, the technical design process and its documentation have very specific and exacting requirements. The approach to these projects includes the creative application of landscape design within a strict set of parameters dictated by the funding source.

The creative application of landscape design within a strict set of parameters dictated by funding.

Project Experience

Green Ribbon



US 75 / SH 121 Green Ribbon

Melissa, TX

Raised \$2M in funding to enhance the interchange. The design included ornamental stone, native grass / plantings and monumental signage as a gateway to the city.



IH-75 & FM 455 Green Ribbon

Anna, TX

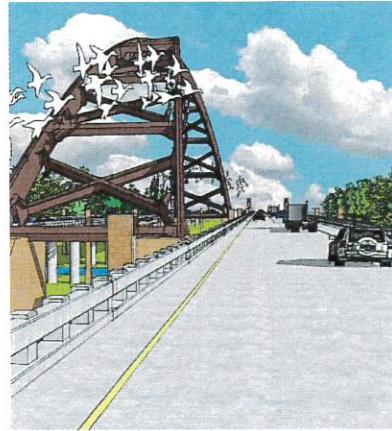
Secured 1.25M in TxDOT green ribbon funding to develop median standards for an aesthetic unique to the city. Native plantings support the growing "Pollinator Pathway" initiative for the Monarch butterfly.



I-45 Gateway

League City, TX

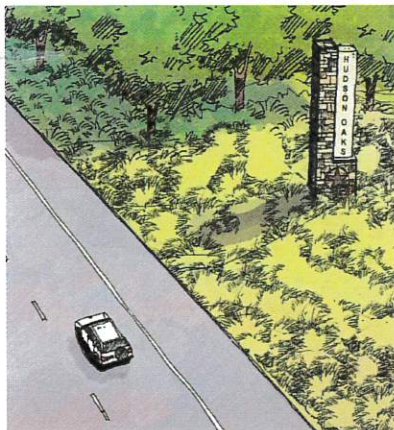
Approx. 12.5 miles in length the design included conceptual envisioning through TxDOT PS&E, including a monument sign and other monumentation elements.



US 69 Expansion

Beaumont, TX

A 12.3 mile corridor passing through the Big Thicket. Includes wayfinding monuments, hike & bike trail, and signature bridge.



IH-20 Corridor Green Ribbon

Hudson Oaks, TX

Secured \$350,000 in TxDOT green ribbon funding for landscape improvements that included an entry monument that establishes a sense of arrival to the city.



FM 156

Justin, TX

Approximately 1 mile in length part of a 4 phase project to enhance the 156 corridor. The project engaged both the City and the County for support. Native and nearnative plants were used to highlight and enhance the edge of the city's downtown district.





**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION No. 202402-04-116**

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH WESTWOOD PROFESSIONAL SERVICES INC FOR CONCEPT LANDSCAPE DESIGN, AND COMPLETION AND SUBMITTAL OF APPLICATION FOR THE 2025 TXDOT GREEN RIBBON GRANT PROGRAM; AND PROVIDE AN EFFECTIVE DATE.

WHEREAS, the City of New Fairview, Texas is a Type A General Law Municipality located in Wise and Denton Counties, Texas, created in accordance with Chapter 6 the provisions of the Texas Local Government Code; and

WHEREAS, city staff have been discussing the Governor's Community Achievement Award and the Green Ribbon Program with the Keep New Fairview Beautiful Committee; and

WHEREAS, the Texas Department of Transportation (TxDOT) allocates funds through the Green Ribbon Program to local governments within non-attainment and near non-attainment counties to install and establish trees, shrubs, and groundcover on the state highway system to help mitigate the effects of air pollution; and

WHEREAS, the Keep New Fairview Beautiful Committee and city staff have been looking at beautification plans for the southbound frontage road of Hwy 287 at FM 407 bridge, within TxDOT rights-of-way, that would assist with the decrease in littering and illegal dumping; and

WHEREAS, the City Council is interested in working with a consultant for the landscape design, application completion, and submittal for the 2025 TXDOT Green Ribbon Program.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS:

SECTION 1. The recitals set forth above are true and correct and are incorporated herein by reference as part of this Resolution.

SECTION 2. The City Council approves a Professional Services Agreement (Exhibit 'A') with Westwood Professional Services Inc. for the landscape design, application completion, and submittal for the 2025 TXDOT Green Ribbon Program.

SECTION 3. The City Council does authorize the City Administrator to direct and work with Westwood Professional Services Inc. to prepare and execute the necessary documents and submittals to successfully submit the 2025 TXDOT Green Ribbon Program application.

SECTION 4. If any portion of this Resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determined that it would have adopted this Resolution without the invalid provision.

SECTION 5. This Resolution shall take effect immediately upon its passage, as provided by law.

PRESENTED AND PASSED on this 19th day of February, 2024, at a Regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

BROOKE BOLLER, City Secretary

General Conditions of Agreement Westwood Professional Services, Inc.

This document, together with the attached **Scope of Work and Fee Proposal ("Proposal") for the New Fairview FY25 Green Ribbon Application Project** dated **February 14, 2024** (the "Project"), is an agreement (the "Agreement") between **City of New Fairview ("Client")**, located at 999 Illinois Lane, New Fairview, Texas 76078 and **Westwood Professional Services, Inc., ("Westwood")**, located at **4060 Bryant Irvin Road, Fort Worth, Texas 76109**.

1.01 Basic Agreement

Westwood shall provide, or cause to be provided, the services set forth in this Agreement and as described in the accompanying Scope of Services and Compensation exhibits (the "Services") and shall provide drawings, specifications, plans, work product, and any deliverables as described in this Agreement and the Proposal (the "Deliverables"). Westwood may engage consultants to assist in the performance of the Services.

2.01 Scope of Services

Westwood shall perform the Professional Consultant services (hereinafter referred to as the "Services") for the Project as set forth in Exhibit "A" (the "Scope of Services"), which is attached and made a part hereof, in accordance with the terms of this Agreement. All designs, drawings, specifications, documents, and other work products of Westwood, whether in hard copy or in electronic form, are Instruments of Service for this Project, whether the Project is completed or not. Reuse, change, or alteration by Client or by others acting through or on behalf of Client of any such Instruments of Service without the written permission of Westwood will be at Client's sole risk.

3.01 Payment Procedures

Westwood shall be compensated by payment of fees as set forth in Exhibit B (the "Compensation and Method of Payment") which is attached and incorporated herein including any subsequent amendments thereto.

Preparation of Invoices. Westwood will prepare a monthly invoice in accordance with Westwood's standard invoicing practices and submit the invoice to Client.

Payment of Invoices. Invoices are due and payable within thirty (30) days of receipt. If Client fails to make any payment due Westwood for Services and expenses within thirty (30) days after the date of Westwood's invoice, Westwood may, without liability, after giving seven (7) days written notice to Client, suspend Services under this Agreement until Westwood has been paid in full all amounts due for Services, expenses, and other related charges. Westwood has the right to employ such persons or professional service providers on a consultant basis to mitigate its damages.

Client shall provide written notification to Westwood within fifteen (15) days of receipt of the invoice should Client object to all or any part of charges appearing on the invoice. Such written notice shall set forth, at a minimum, the specific portion of the invoice disputed, the amount disputed, and the alleged factual and legal basis for the

dispute. The portion of the invoice not in to the Client within thirty (30) days receipt of said invoice.

Payment for Services. Client shall pay Westwood as follows:

- A. If the work is agreed to on an hourly basis, an amount equal to the cumulative hours charged to the Project by each of Westwood's employees multiplied by the hourly rates for each employee for all services performed on the Project, plus reimbursable expenses, and Westwood's consultant's charges, if any.
- B. If work is agreed to on a lump sum basis, invoice amounts shall be an amount equal to the percent of each task's completion multiplied by the lump sum of the task, plus reimbursable expenses, and Westwood's consultant's charges, if any.

4.01 Additional Services

If authorized by Client in writing, or if required because of changes in the Project, Westwood may furnish services in addition to those set forth in the Scope of Work and Fee Proposal.

Client shall pay Westwood for such additional services an amount equal to the cumulative hours charged to the Project by each class of Westwood's employees multiplied by the rates for each applicable billing class, plus reimbursable expenses and Westwood's consultants' charges, if any.

5.01 Termination

This Agreement may be terminated for cause:

- A. By either party upon thirty (30) days written notice in the event of failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as a result of a failure to perform in accordance with the Agreement if the party receiving a notice of failure to perform begins within seven (7) days of receipt of such notice to correct its failure and proceeds diligently to cure such failure within thirty (30) days of receipt of notice; provided, however, that if and to the extent such failure cannot be reasonably cured within such thirty (30) day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.
- B. By Westwood:
 - 1) Upon seven (7) days written notice if Westwood believes that Westwood is being requested by Client to furnish or perform services contrary to Westwood's responsibilities as a licensed professional; or

- 2) Upon seven (7) days written notice if Westwood's Services for the Project are delayed or suspended for more than ninety (90) days for reasons beyond Westwood's control.

Westwood shall have no liability to Client as a result of such termination in this paragraph.

The terminating party under paragraphs 5.01.A or 5.01.B, may set the effective date of termination at a time up to thirty (30) days later than otherwise provided to allow Westwood to demobilize personnel and equipment from the Project site to complete tasks providing value which would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Westwood shall be compensated for the time required to complete such tasks.

6.01 Successors, Assigns, and Beneficiaries

Client and Westwood are each hereby bound, and the partners, successors, executors, administrators, and legal representatives of Client and Westwood are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

Neither Client nor Westwood may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or required by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.01 General Considerations

- A. The standard of care for all professional consulting and related services performed or furnished by Westwood under this Agreement will be the care and skill ordinarily used by members of Westwood's profession practicing under similar circumstances at the same time and in the same locality. Except as expressly set forth in Paragraph 6.01B, Westwood makes no warranties, express or implied, under this Agreement or otherwise, in connection with Westwood's Services and Deliverables. Westwood and its consultants may use or rely upon the design services of Client and others, including, but not limited to, contractors, manufacturers, and suppliers.
- B. If Client notifies Westwood of a deficiency, or if Westwood determines there is a deficiency, within sixty (60) days after delivery of a Deliverable to Client, as Client's sole and exclusive remedy, Westwood shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Client-furnished information.

- C. Client shall be responsible for, and Westwood may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Client to Westwood pursuant to this Agreement. Westwood may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.
- D. Westwood neither guarantees the performance of any third party, including contractors, using the Deliverables or Services nor assumes responsibility for any third party's failure to furnish and perform any work that uses the Deliverables or Services.
- E. Westwood shall not be responsible for the acts or omissions of any contractor(s), subcontractor(s) or supplier(s), or of any of the contractor's agents or employees or any other persons (except Westwood's own employees) furnishing or performing any of the contractor's work; or for any decision made on interpretations or clarifications of Deliverables without consultation and advice of Westwood.
- F. It is understood and agreed that if Westwood's services under this Agreement do not include construction phase services, and that such services will be provided by Client, then Client assumes all responsibility for interpretation of Deliverables and for construction observation or review and waives any claims against Westwood that may be in any way connected thereto.
- G. Westwood shall be the owner of all right, title, and interest in and to any and all Deliverables, together with any and all related rights of copyright, patent, trade secret, trademark and service mark, and all other proprietary rights of any kind whatsoever. Subject to the provisions herein and upon Westwood's receipt of full payment therefore, Westwood hereby grants to Client, and Client accepts: (i) a nonexclusive, nontransferable, without the right to sublicense, royalty-free license to use the Deliverables for the sole purpose of constructing the Project; and (ii) the right to reproduce applicable portions of the Deliverables for Client's contractors, consultants, and suppliers solely for use in construction of the Project, provided Client reproduces on such copies the copyright notice and other proprietary legends that were on the original Deliverable. Deliverables are not intended or represented to be suitable and are not licensed to Client for reuse by Client or others on extensions of the Project or on any other project. Upon termination of this Agreement by Westwood pursuant to paragraph 4.01, the license granted herein shall terminate. Any unauthorized use of the Deliverables will be at Client's sole risk and without liability to Westwood or to Westwood's consultants.
- H. This Agreement is to be governed by the laws of the State in which the Project is located.
- I. All express indemnifications or limitations of liability included in this Agreement will survive its completion or termination for any reason.

- J. Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon Client and Westwood.
- K. Nothing contained herein shall be construed to mean that Westwood and Client are engaging in a joint venture or partnership.
- L. Westwood shall maintain insurances during the term of this Agreement as indicated in the attached **Exhibit C** to this Agreement.
- M. If either party hereto shall commence any action or proceeding against the other in connection with the terms, conditions, or obligations under this Agreement, the prevailing party shall be entitled to recovery of its reasonable attorney's fees and costs incurred herein.
- N. In the event the terms of these General Conditions conflict with the Proposal or other contract documents, these General Conditions shall control.

8.01 Hazardous Environmental Conditions

The parties acknowledge this Agreement does not include any services related to a Hazardous Environmental Condition. Such conditions include, but are not limited to the presence of asbestos, PCB's, petroleum, hazardous substances or waste, and radioactive materials. If Westwood or any other party encounters a Hazardous Environmental Condition, Westwood may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until Client: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the site is in full compliance with applicable Laws and Regulations.

9.01 Allocation of Risks

- A. To the fullest extent permitted by law, Westwood shall indemnify and hold harmless Client, Client's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and reasonable charges of consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent caused in whole or in part by the negligent acts or omissions, intentional tort or failure to pay a subconsultant of Westwood or Westwood's officers, directors, partners, employees, and Westwood's consultants in the performance and furnishing of Westwood's services under this Agreement.
- B. To the fullest extent permitted by the laws of the State of Texas, Client shall indemnify and hold harmless Westwood, Westwood's officers, directors, partners, employees, and Westwood's consultants from and against any and all claims, demands, costs, losses, and damages (including but not limited to all fees and charges of

consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) and liabilities that Westwood may incur or suffer which arise out of or relate to: (i) the negligent acts or omissions of Client or Client's officers, directors, partners, employees, and Client's consultants with respect to this Agreement or the Project; and (ii) Client's breach of or failure to perform any of its obligations of this Agreement or a Proposal.

- C. To the fullest extent permitted by laws of the State of Texas, and to the extent a claimant is not otherwise barred from recovery, Westwood's total liability to Client and anyone claiming by, through, or under Client for any cost, loss, or damages shall not exceed Westwood's respective percentage of responsibility for such cost, loss, or damage. Westwood shall not be liable for any incidental, consequential, indirect, or punitive damages arising out of this Agreement or Westwood's provision of the Services or the Deliverables, even if Westwood has been advised of the possibilities of such damages. In no event shall Westwood's total liability in connection with this Agreement exceed the amounts paid by Client to Westwood under this Agreement.

10.1 Force Majeure

An event of "Force Majeure" occurs when an event beyond the control of the Party claiming Force Majeure prevents such Party from fulfilling its obligations. An event of Force Majeure includes, without limitation, floods, hurricanes and other adverse weather, war, riot, civil disorder, acts of terrorism, disease, epidemic, strikes and labor disputes, actions or inactions of government or other authorities, law enforcement actions, curfews, closure of transportation systems or other unusual travel difficulties, or inability to provide a safe working environment for employees.

In the event of Force Majeure, the obligations of Westwood to perform Services shall be suspended for the duration of the event of Force Majeure. In such event, Westwood shall be compensated for time expended and expenses incurred during the event of Force Majeure and the schedule shall be extended by a like number of days as the event of Force Majeure. If Services are suspended for thirty (30) days or more, Westwood may, in its sole discretion, upon five (5) days prior written notice, terminate this Agreement or the affected Work Order, or both. In the case of such termination, in addition to the compensation and time extension set forth above, Westwood shall be compensated for all reasonable termination expenses.

11.01 Coronavirus Pandemic Impact

Client acknowledges and agrees that due to the dynamic and fluid nature of the coronavirus pandemic (COVID-19) (the "Coronavirus Pandemic"), Westwood may face uncertainty regarding its ability to perform the work contemplated by the Agreement in accordance with the schedule and contracted price. As a result of the Coronavirus Pandemic, the schedule, and related scope and fee, provided in the Agreement may be impacted due to issues outside of Westwood's control including, but not limited to, the following: (a) shortages in labor (including employees and consultants); (b) direction or guidance from any applicable governmental authority or

applicable law that renders Westwood's or its subconsultants' performance impossible, impracticable, or contrary to such direction or guidance; (c) delays in governmental approvals; and (d) other causes beyond Westwood's reasonable control, regardless of whether such impacts are direct or indirect.

If due to the impacts of the Coronavirus Pandemic, Westwood determines in good faith and in Westwood's sole discretion, that it is not feasible for Westwood or its subconsultants to perform the work in accordance with the schedule Westwood shall promptly notify Client and the parties shall cooperate in good faith to negotiate equitable adjustments to the schedule and/or contract price. Notwithstanding anything to the contrary set forth in this Agreement, including any related work or change order, Westwood shall not be liable to Client for any damages (actual, direct, consequential, incidental, punitive, liquidated, or nominal) as a result of delays or cost adjustments in connection with the Coronavirus Pandemic.

12.01 Right of Entry

To the extent securing a right of entry is not part of the Services, Client grants to Westwood, and, if the Project site is not owned by Client, warrants that permission has been granted for, a right of entry from time to time by Westwood, its employees, agents and subcontractors, upon the Project site for the purpose of providing the Services. Client recognizes that the use of investigative equipment and practices may unavoidably alter the existing site conditions and affect the environment in the area being studied, despite the use of reasonable care. Client shall indemnify and hold Westwood harmless from claims for damages caused in part by reasons of Westwood's provision of Services.

13.01 No Third-Party Rights

This Agreement shall not create any rights or benefits to parties other than Client and Westwood. No third party shall have the right to rely on Westwood's Deliverables or opinions rendered in connection with the Services without the written consent of Westwood and the third party's agreement to be bound to the same conditions and limitations as Client.

14.01 Total Agreement

This Agreement, together with any attached documents, constitutes the entire Agreement between Client and Westwood and supersedes all prior written or oral understandings regarding this subject. This Agreement may only be amended, supplemented, or modified by a mutually executed written instrument.

EXHIBIT A SCOPE OF SERVICES

NEW FAIRVIEW FY25 GREEN RIBBON APPLICATION

PROJECT DESCRIPTION:

The project consists of completing one (1) FY25 Green Ribbon Program Application form, including the following required attachments: preliminary project schedule, location map and schematic plan. The Landscape Architect will work with the Client to determine the limits of the schematic plan based on an assumed award of \$400,000, towards construction, at the location predetermined by the Client. (PROJECT).

BASIC SERVICES:

Landscape Architecture Assumptions & Exclusions

Below are shown the assumptions and qualifiers for the landscape architecture scope of work found herein.

Assumptions:

- Project Location will be within the TxDOT ROW and provided by the Client.
- Project budget is \$400,000 for the construction of planting and irrigation improvements.
- This proposal is for the Green Ribbon Application only.

Exclusions:

- Site Survey. A scaled Google Earth image will be used for the schematic plan.
- Multiple design alternatives beyond those described herein, or significant site plan revisions following acceptance at each given phase of review documents.
- Water feature design.
- Hardscape, Planting or Irrigation Construction Plans.
- Site signage and/or signs for buildings and vehicular circulation.
- Site and/or ornamental lighting.
- LEED pursuit.

A. Basic Green Ribbon Program Application

Westwood will provide professional Landscape Architecture services that include one

- (1) FY25 Green Ribbon Program Application, including the required attachments. Attachments include, a project location map, preliminary project schedule, schematic plan and opinion of probable costs. Westwood will develop one (1) schematic plan and incorporate one (1) round of Client comments prior to submission. It is understood that Westwood and the Client will need to work together to generate and/or collect the necessary documentation for the application as Westwood cannot complete the application independently.

1. Included in this item:

- One (1) opinion of probable costs
- One (1) preliminary project schedule
- One (1) project location map
- One (1) schematic plan rendering
- Image files intended to be 11x17" output for print media.
- Coordination with City.
- One (1) in person and two (2) additional virtual meetings with city staff for roundtable comments.

2. Not included in this item:

- Renderings considered for construction documentation.
- Photorealistic images produced from a model.
- Official City boundary and ROW determination.

END OF EXHIBIT 'A'

EXHIBIT B COMPENSATION & METHOD OF PAYMENT

NEW FAIRVIEW FY25 GREEN RIBBON APPLICATION

COMPENSATION:

For all professional services included in EXHIBIT 'A', Scope of Services, Westwood shall be compensated a lump sum fee of \$6,800.00 as summarized below. The total lump sum fee shall be considered full compensation for the services described in EXHIBIT 'A', including all labor materials, supplies, and equipment necessary to deliver the services.

Basic Green Ribbon Application

A. Basic Conceptual Plan(s) and Grant Application(s)	\$6,800.00
TOTAL	\$6,800.00

METHOD OF PAYMENT:

Westwood shall be paid monthly payments as described in Article 3 of the AGREEMENT. The cumulative sum of such monthly partial fee payments shall not exceed the total current project budget including all approved Amendments. Each invoice shall be verified as to its accuracy and compliance with the terms of this Agreement by an officer of Westwood.

Monthly statements for reimbursable services performed by sub consultants will be based upon the actual cost to Westwood plus ten percent (10%). Direct expenses for services such as printing, express mail, fees, mileage, and other direct expenses that are incurred during the progress of the project will be billed at 1.1 times Westwood's cost.

END OF EXHIBIT 'B'

EXHIBIT C – INSURANCE

A. *Insurance.* Westwood shall, during the life of this Agreement, maintain the following insurances:

1. Commercial General Liability (occurrence form not less than):
 - \$2,000,000 General Liability
 - \$2,000,000 Products and Completed Operations Aggregate
 - \$1,000,000 Personal and Advertising Injury
 - \$1,000,000 Each Occurrence
 - \$10,000 Medical Expense

2. Commercial Automobile Liability (all scheduled auto, hired and non-owned autos):
 - \$1,000,000 Combined Single Limit

3. Umbrella
 - \$5,000,000 Aggregate
 - \$5,000,000 Each Occurrence

4. Workers Compensation
 - \$1,000,000 Each Accident
 - \$1,000,000 Policy Limit
 - \$1,000,000 Each Employee

Professional Liability Errors and Omissions Insurance. Westwood shall carry Professional Liability Errors and Omissions insurance with limited contractual liability in the amount of \$2,000,000 per claim and in the aggregate for the duration of this Agreement.

END OF EXHIBIT 'C'



PARKS & RECREATION BOARD AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

March 12, 2024

2024 Park Survey

DESCRIPTION:

Receive, consider, and discuss the 2024 park survey for park projects to consider in a Park Master Plan.

BACKGROUND INFORMATION:

Parks, trails, and recreation amenities are an essential part of a city and important to everyday community life. They provide an opportunity and place for gathering relaxation, exercise, and play. Such amenities promote the health of residents, provide social and educational activities for all ages, and help preserve and enhance the natural environment. A quality parks, trails and recreation system that responds to the needs and values of residents contributes to the community's livability while also attracting visitors to the area and supporting local economic development.

The New Fairview Parks and Recreation Board tasked city staff to create a Citizen Survey instrument to seek input from citizens to determine the community's current and future needs for improving our parks, trails, and open spaces, and to provide for adequate areas and facilities to meet both the short- and long-term needs of the community. The input received from this will be used in the creation of a Parks, Recreation, and Open Space Master Plan. Once adopted, the Plan will serve as a guide for city staff, the Parks and Recreation Board, and the City Council in their efforts to enhance the community.

The 2024 Park Survey consists of twelve (12) questions, of which some include photos of the park feature or amenity to help the survey taker understand what is being asked. On February 2, the survey was placed on the city website and was pushed out on the City's Facebook page. The survey was initially going to be closed on March 1, but as of that date we only had 51 surveys. Staff decided to keep the survey open to March 29. Also, the City Council has asked staff to have a location at the upcoming Easter Egg Hunt where Council members can man a table and ask residents to take the park survey. They would also like the Parks Board to join them at the table. Staff will prepare hard copies of the survey and will enter any surveys submitted into the computer the week after the event.

Staff will prepare the results of the survey for the April Parks Board meeting so that we can discuss the results and begin the Park and Open Space Master Plan process.

FINANCIAL CONSIDERATION:

None

RECOMMENDED MOTIONS:

None, discussion only

ATTACHMENT(S):

None



City of New Fairview

Keep New Fairview Beautiful Committee Regular Meeting

999 Illinois Lane

Tuesday, January 30, 2024, at 6:00 pm

State of Texas

County of Wise

City of New Fairview

THE KEEP NEW FAIRVIEW BEAUTIFUL COMMITTEE CONVENED INTO THE KEEP NEW FAIRVIEW BEAUTIFUL COMMITTEE MEETING THE SAME BEING OPEN TO THE PUBLIC, THE 30TH DAY OF JANUARY IN THE NEW FAIRVIEW CITY HALL AND NOTICE OF SAID MEETING GIVING THE TIME AND PLACE AND SUBJECT THEREFORE HAVING BEEN POSTED AS PRESCRIBED BY ARTICLE 5 OF THE TEXAS GOVERNMENT CODE WITH THE FOLLOWING MEMBERS PRESENT.

THE KEEP NEW FAIRVIEW BEAUTIFUL COMMITTEE BOARD MEMBERS

Board Member Deborah Greene

Board Member Jennifer Kozlowski

Board Member Julie Burger

Board Member John Rodriguez

Board Member Patricia Briscoe

CITY STAFF

John Cabrales Jr, City Administrator

Joshua W. Barnwell, City Operations Administrator

- 1. Call to Order and Determination of Quorum (meeting called to order by Julie Burger at 6:51pm; Roll Call with the above-mentioned names.)**

2. **Pledge to the Flags**
 - A. United States of America
 - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. **Public Comment:** The Keep New Fairview Beautiful Committee invites persons with comments or observations related to city issues, projects, or policies to briefly address the Parks and Recreations Board. Anyone wishing to speak should sign-in with the City Operations Administrator before the beginning of the Keep New Fairview Beautiful Committee meeting. In order to expedite the flow of business and to provide all citizens with the opportunity to speak, there is a three-minute limitation on any person addressing the Keep New Fairview Beautiful Committee. State law prohibits the Parks and Recreations Board from discussing or acting on any item not listed on the posted agenda.
4. **Work Session:**
 - A. Receive, consider, and discuss and update on Keep Texas beautiful affiliation.
 - B. Receive, consider, and discuss an update on Green Ribbon/Governor's Community Achievement Award.
 - C. Receive, consider, and discuss Keep New Fairview Beautiful Committee projects.
5. **New Business:**
 - A. Receive and consider approval of the minutes for the January 30, 2024, meeting.

Motion: Jennifer Kozlowsky

Second: Deborah Greene

Vote: All in Favor

Result: Minutes Approved

6. **Committee Announcements: N/A**
7. **Adjournment:**

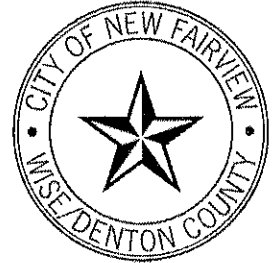
Motion: Julie Burger

Second: Jennifer Kozlowski

Vote: All in Favor

Result: The Keep New Fairview Beautiful Committee adjourning the meeting at 7:26 pm.

MINTUES APPROVED ON THIS THE 12th DAY OF March 2024



Julie Burger, Chair

Susan Greenwood, Assistant City Secretary

This facility is wheelchair accessible; parking spaces are available. Request for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at City Hall 817-638-5366, fax 817-638-5369 or by email at citysecretary@newfairview.org for further information.