



**City of New Fairview  
City Council  
Special Called Meeting  
999 Illinois Lane  
Monday, April 1, 2024, at 7:00 pm**

**WORK SESSION**

1. Call to Order and Determination of Quorum
2. Receive a report and hold a discussion regarding revisions to the Personnel Policy and Procedure Manual.
3. Adjournment

**REGULAR SESSION**

1. Call to Order and Determination of Quorum
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. **Announcements & Special Recognitions:** The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. **City Administrator's Report:** The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. **Public Comment:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens with the opportunity to speak, there is a three-minute limit on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. **Consent Agenda:** All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.

- A. **Approve the City Council Meeting minutes for March 18, 2024.**
  - B. **Approve the September 2023 Financial Report.**
7. **New Business:** All matters listed in New Business will be discussed and considered separately.
- A. **Receive, consider, and act on the approval of a final plat for Lots 260A and 260B, Hills of Oliver Creek Phase Two, 2.0 acres in M.E.O & P.R.R. Co. Survey, Abstract No. 633 generally located in the 200 block of Private Road No. 4440.**
  - B. **Consider adoption of an ordinance approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2024 Rate Review Mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attachment establishing a benchmark for pensions and retiree medical benefits; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC’s legal counsel.**
  - C. **Receive, consider, and act on a Resolution for the First Amended and Restated Pre-Development and Professional Services Agreement with Bloomfield Homes, L.P. and Royal Crest Properties, LLC for the sharing of costs related to engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.**
  - D. **Receive, consider, and act on a Resolution for the First Amended and Restated Pre-Development and Professional Services Agreement with Rockhill Capital & Investments, LLC for the sharing of costs related to engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.**
  - E. **Receive, consider, and act on a Resolution awarding the roadway reconstruction project for Sky Way and Skyview Court, to Peachtree Construction, LTD for a total of \$48,713.50, and pursuant to Tex. Loc. Gov’t. Code §271.060(d) and authorize the City Administrator a not-to-exceed project contingency of \$5,286.50, for a budget total of \$54,000.**
8. **Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

- A. § 551.071(2): Consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding:
  - 1. Employment Agreement for John Cabrales, Jr.
  - 2. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.
  
- B. §551.074: (a) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee:
  - 1. Employment Agreement for John Cabrales, Jr.
  
- C. Section 551.072: to deliberate the purchase, exchange, lease, or value of real property.
  - 1. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.

9. **Return to Open Session:** Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.

10. **Mayor & Council Member Announcements:** The City Council 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.

**11. Adjournment**

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council 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 28<sup>th</sup> day of March, 2024 at 5:00 PM at least 72 hours preceding the meeting time.



Brooke Boller, 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](mailto:citysecretary@newfairview.org) for further information.

## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

April 1, 2024

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### Employee Policy and Procedure Manual

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#### **DESCRIPTION:**

Receive a report and hold a discussion regarding revisions to the Personnel Policy and Procedure Manual.

#### **BACKGROUND INFORMATION:**

On June 1, 2020, the City Council adopted the current Personnel Policy and Procedure Manual (Resolution 2020-15-105). Many changes in state and federal law have occurred since this policy was adopted. Also, our current policy does not address certain issues that are common in municipal operations, so staff have undertaken some revisions to the policy.

The purpose of a Personnel Policy and Procedure Manual is to provide managers, supervisors, and employees with a written source of information about the policies, procedures, and administrative directives of the City of New Fairview. The policy manual allows for good and uniform practices and administration in the management of the City's employees. It promotes high morale by the consistent administration of policies and procedures through consideration of the rights and interests of all employees.

To ensure that policies and procedures are kept current, periodic updates of the policy manual. Staff have been reviewing other cities personnel policies for comparison to our existing policy manual. Staff has also kept the organization's Core Values (Integrity, Service, Trust, Transparency, Respectful, Accountable, and fiscally responsible) in mind while considering revisions to the policy manual. Staff are still working with the City Attorney on the recommended revisions of this document, but we are ready to discuss the highlighted sections of the attached reline document. Any text in red with a strike through line indicates current wording that is being removed. Any text in blue is wording that is being added to the policy manual, and in the comments section you will find the reference to the source of the wording.

There was a work session discussion between staff and the council at the March 18, 2024 meeting and the input from the consensus of the council was taken on the topics below.

- Conflicts of Interest
- Hiring the New Employee
- Probationary Period

- Compensation and Overtime
- Work Schedules and Time Worked
- On-Call and On Standby
- Jury Duty
- Holiday Leave
- Bereavement Leave
- Flex Time
- Certification Pay

Staff is ready to continue the discuss regarding recommended revisions to other sections of the Personnel Policy and Procedure Manual, including:

- Regular Part Time
- Temp/Seasonal
- Performance Evaluations
- Longevity Pay
- Jury Duty
- Time Keeping
- Vacation Leave Benefits
- Holiday Leave
- Sick Leave Benefits
- Exempt Leave Benefits
- Bereavement Leave Benefits
- COBRA
- Smoking
- Emergency Closings
- Absenteeism and Tardiness
- Dress Code
- Travel and Education
- Tuition Reimbursement
- Certification Pay

**FINANCIAL CONSIDERATION:**

None, discussion only.

**RECOMMENDED MOTIONS:**

None, discussion only.

**ATTACHMENT(S):**

1. Employee Policy and Procedure Manual (Redline)

**CITY OF NEW FAIRVIEW**

RESOLUTION NO. 22-15-105

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS AMENDING RESOLUTION NOS. \_\_\_\_\_, APPROVING THE ~~2018/2019~~ PERSONNEL POLICY AND PROCEDURE MANUAL FOR THE ADMINISTRATION OF EMPLOYEES OF THE CITY AND FINDING AND DETERMINING THE MEETING AT WHICH THIS RESOLUTION IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BYLAW

WHEREAS, ~~the City of New Fairview previously adopted by Resolution a the City of New Fairview, Texas administers an existing~~ personnel policy and procedure manual, ~~providing for a guide in the provision of~~ compensation, benefits, discipline and attendance, among other things; and

WHEREAS, periodic review and amendment of such policies is a good personnel administration practice ~~that assisting in providing~~ sound management of human resources management and compliance with state and federal law in service to the City; and

WHEREAS, the review and amendatory process has been completed by the City's administrative staff and the City Council wishes to amend the manual as personnel management policy of the City, now, therefore,

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

**SECTION 1:** That the ~~previously adopted Resolution adopting the~~ Personnel Policy and Procedure Manual, as ~~presented to the City Council on and dated~~ September 25, 2017 be, and is hereby, amended, and the attached revised Personnel Policy and Procedure Manual shall adopted as the hereby be adopted as the manual for the administration of the City's human resources ~~of the City~~, such manual replacing, in its entirety, all other such Personnel Policy manuals manuals and policies heretofore adopted by such Resolution~~the City~~.

**SECTION 2:** That it is hereby found and determined that the meeting at which this Resolution is adopted to be open to the public as required by law.

**Introduced, read and passed by the affirmation vote of the City Council of the City of New Fairview on this \_\_\_\_ day of \_\_\_\_\_, 2024**

~~Joe Max Wilson~~, Mayor

City of New Fairview

Attest:

\_\_\_\_\_  
Monica Rodrigues, City Secretary

New Fairview Personnel Policy

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# Employee Personnel Policy



**New Fairview**  
**TEXAS**  
**GUIDE TO PERSONNEL RULES & REGULATIONS**

**ADOPTED \_\_\_\_\_**

**RESOLUTION NUMBER \_\_\_\_\_**

**CITY OF NEW FAIRVIEW**  
**999 ILLINOIS LN**  
**NEW FAIRVIEW TX**  
**76258 76078**

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## SECTION 1: GENERAL EMPLOYMENT POLICIES

### INTRODUCTORY STATEMENT

The purpose of this document is to communicate to employees the general policies and procedures of the city for employees. The intent of the policies and procedures are to bring to the City of New Fairview a high degree of understanding, cooperation, efficiency, and unity, which comes through a systematic application of established procedures in personnel administration, and to provide a uniform policy for all employees, with all the benefits such a program ensures. This policy applies to all City employees.

### BASIC OBJECTIVES OF EMPLOYEE POLICIES

The purpose of these policies is to provide a uniform set of rules governing City employee relations. The fundamental principles of good personnel administration sought to be achieved by these policies include:

- A. to promote and increase effectiveness, efficiency and economy in the service of the City.
  
- B. to provide fair and equal opportunity to all qualified applicants to enter City employment on the basis of demonstrated qualifications, as well as merit and fitness as ascertained through fair and practical methods of application, recruitment, selection, and promotion.
  
- C. to develop a program of recruitment, advancement and tenure that will make employment with the city attractive as a career and encourage each employee to render his/her best to strive for excellence in service to the City.
  
- D. Establishment and maintenance of a uniform plan of evaluation and remuneration based upon market trends for duties and responsibilities in the service of the City.

- E. to establish and promote high morale among employees by providing a pleasant working environment, uniform personnel policies, opportunity for advancement, and consideration of employee welfare.

All employees and especially new employees of the City of New Fairview should read, understand and follow all provisions of this handbook. This handbook describes employee responsibilities and outlines the programs developed by the City of New Fairview to benefit employees.

No employee handbook can anticipate every circumstance or question about policy. As the City of New Fairview continues to grow the need may arise, and the City reserves the right to revise, supplement or rescind any policies or portion(s) of this handbook, as it may, from time to time, deem appropriate. The provisions of this policy and procedure may be amended or canceled at any time at the City of New Fairview's sole discretion. Employees will be notified of such changes to the handbook as they occur.

#### NATURE OF EMPLOYMENT

Employment with the City of New Fairview is voluntarily entered into and the employee is free to resign at will at any time, with or without reason. Similarly, the City of New Fairview is an "at will" employer and may terminate the employment relationship at will at any time, with or without notice or cause.

The policies set forth in this handbook do not create a contract, nor are they to be construed as contractual obligations of any kind or a contract of employment between the City of New Fairview and any of its employees. The provisions of the handbook have been developed at the discretion of management and serve as general guidelines and, except for its policy of "at will" employment, the policies and provisions may be amended or canceled based upon the needs of the city and the direction management may set.

Except as provided in these policies, these provisions supersede all existing policies and practices and may not be amended or added to without the express written approval of the City Administrator or designee of the City of New Fairview.

The City may at its discretion enter into a contract with employees to outline some terms and conditions of employment unique to that position. No contract or contract provision with an employee shall be construed to mean that the city has changed or amended its policy of "at will employment." No contract or contract provision with an employee shall be construed to mean that the city has changed or amended its policy of allowing an employee to resign at will at any time, with or without reason

#### FEDERAL AND STATE LAWS

The City of New Fairview will generally follow federal and state laws regarding employment and employment practices. Some laws and regulations are identified in these policies for emphasis, but others will also be applicable as provided for by law.

## EQUAL EMPLOYMENT OPPORTUNITY

In order to provide equal employment and advancement opportunities to all individuals, employment decisions at The City of New Fairview will be based on merit, qualifications and abilities. The City of New Fairview will not discriminate in employment opportunities or practices on the basis of race, color, religion, gender, national origin, age, disability or any other characteristic protected by law.

The City of New Fairview will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship on the City. This policy governs all aspects of employment, including, but not limited to, selection, job assignment, compensation, discipline, termination and access to benefits and training.

In addition to a commitment to provide equal employment opportunities to all qualified individuals, The City of New Fairview has established a grievance procedure to make sure that all the requirements of the Americans with Disabilities Act of 1990 ("ADA") are followed.

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or the City Administrator. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

## NEPOTISM

The employment of relatives in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day-to-day working relationships.

Relatives of personnel currently employed by the City of New Fairview may be hired only if they will not be working directly for or supervising a relative or will not occupy a position in the same line of authority within the organization. This policy applies to any relative, higher or lower in the organization, who has the authority to review employment decisions and or to direct, supervise and manage city programs and services. The City of New Fairview employees cannot be transferred into such a reporting relationship.

If the relative relationship is established after employment, the individuals concerned will decide who is to be transferred. If that decision is not made within 30 calendar days, the department director will decide.

In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, the parties may be separated by reassignment or terminated from employment.

For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage within the prohibited degrees of consanguinity within this policy and the Texas

New Fairview Personnel Policy

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Government Code.

Additionally, Under this policy, no person related within the second degree of affinity (marriage) or with the third degree of consanguinity (blood) to the Mayor, any member of the City Council, the City Administrator or City Secretary shall be appointed to any office, position or other services of the City, but this prohibition shall not apply to officers or employees who have been employed by the City continuously for more than six months prior to the election or appointment of such official.

Under this policy, a director, supervisor or manager shall not approve the appointment to any department, division or work group, any person who is related with second degree by affinity or consanguinity to that director, supervisor or manager.

NEPOTISM CHARTS

Consanguinity Kinship (Blood)

1 <sup>st</sup> Degree	2 <sup>nd</sup> Degree	3 <sup>rd</sup> Degree
Father	Grandfather	Great Grandfather
Mother	Grandmother	Great Grandmother
Brother	Uncle	Great Uncle
Sister	Aunt	Great Aunt
Son	Nephew	Great Nephew
Daughter	Niece	Great Niece
	Grandchild	Great Grandchild
	1 <sup>st</sup> Cousin	2 <sup>nd</sup> Cousin

Affinity Kinship (Marriage)

1 <sup>st</sup> Degree	2 <sup>nd</sup> Degree
Spouse's Father	Spouse's Grandfather
Spouse's Mother	Spouse's Grandmother
Spouse's Brother	Spouse's Uncle
Spouse's Sister	Spouse's Aunt
Spouse's Son	Spouse's Nephew
Spouse's Daughter	Spouse's Niece
	Spouse's Grandchild
	Spouse's Cousin

IMMIGRATION LAW COMPLIANCE

Each employee of the City of New Fairview shall be either a citizen of the United States or a legally documented alien with an approved work visa or permit.

Applicants for employment will be required to complete an I-9 Form or other form as required or allowed and provide proof of United States citizenship or legal eligibility to work in the United States as required by the Immigration Reform and Control Act of 1986.

Applicants, including former employees, who cannot demonstrate United States citizenship or status as a legal alien with approval to work in the United States will not be considered for employment.

Employees who lose their status as a United States citizen or whose visa or work permit expires will be terminated.

### CONFLICTS OF INTEREST

~~At the time of employment, or as soon as it becomes evident, employees and officials are required to identify conflicts of interest. Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which the City of New Fairview wishes the business to operate. The purpose of these guidelines is to provide general direction so employees may seek further clarification on issues related to the subject of acceptable standards of operation. Contact the City Administrator or City Secretary for more information or questions about conflicts of interest.~~

No employee shall have a financial interest, direct or indirect in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services except in performance of duties as employee. Willful violation of this section will result in the dismissal of the employee from the service of the City.

Employees may not:

- Solicit or accept or agree to accept a financial benefit, other than from the City, which might reasonably tend to influence their performance of duties for the City or that they know or should know is offered with intent to influence the employee's performance.
- Accept employment or compensation that might reasonably induce them to disclose confidential information acquired in the performance of official duties.
- Accept outside employment or compensation that might reasonably tend to impair independence of judgment in the performance of duties for the City.
- Make any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and duties for the City.
- Solicit or accept or agree to accept a financial benefit from another person in exchange for

having performed duties as a City employee in favor of that person.

Commented [KS2]: Source: City of Justin Handbook

An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the City of New Fairview's business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage as outlined in the Nepotism policy.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence on transactions involving purchases, contracts or leases, it is imperative that they disclose to the City Secretary of the City of New Fairview as soon as possible the existence of any actual or potential conflicts of interest so that safeguards can be established to protect all parties. ~~Failure to do so may be grounds for termination.~~

Personal gain that is not acceptable may result not only in cases where an employee or relative has significant ownership in a firm with which the City of ~~Pilot Point~~ New Fairview does business, but also -when an employee or relative receives any kickback, bribe, substantial gift or special consideration as a result of any transaction or business dealings involving the City of New Fairview.

#### RESPECTFUL WORK ENVIRONMENT

The City of New Fairview is committed to providing a work environment that is free of discrimination and unlawful harassment. Actions, words, jokes or comments based on an individual's sex, race, ethnicity, age, religion or any other legally protected characteristic will not be tolerated. As an example, sexual harassment (both overt and subtle) is a form of employee misconduct that is demeaning to another person, undermines the integrity of the employment relationship and is strictly prohibited.

Any employee who wants to report an incident of sexual or other unlawful harassment should promptly report the matter to ~~their his or her~~ supervisor. If the supervisor is unavailable or the employee believes it would be inappropriate to contact that person, the employee should immediately contact the City Administrator, or in ~~their his or her~~ absence, the City Secretary. Employees may raise concerns and make reports without fear of reprisal.

Any supervisor or manager who becomes aware of possible sexual, racial or other unlawful harassment should promptly advise the City Administrator or City Secretary or any member of management who will handle the matter in a timely and confidential manner. If the city receives a complaint, the City Administrator ~~or City Secretary will may will~~ begin an investigation in the matter, ~~at the conclusion of the investigation, the results will be available to the complainant. In addition to the above, you may file a formal complaint with the following agency.~~

Commented [RC3]: And if the attorneys are asked to investigate, as is common or is it attorney directed? This would waive privilege..

~~EEOC—Dallas District 207~~

~~South Houston Street Dallas, Texas 75202~~

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800-669-4000

Anyone ~~found to have engaged in~~ sexual or other unlawful harassment may be subject to immediate administrative or disciplinary action, including termination of employment.

## SECTION 2: EMPLOYMENT POLICIES

### EMPLOYMENT APPLICATIONS

The City of New Fairview relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentation, falsification, or material omission in any of this information or data may result in the exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

### EMPLOYEE SELECTION:

New employees will be selected on the basis of their job-related qualifications for the position, including their work experience, education, ~~and physical condition as it relates to the essential functions of the job~~, references, criminal background checks, and in the case of those who will be driving City vehicles or driving their own vehicles on City business, safe driving records ~~and the results of drug test for an applicant's drug testing who that have~~ been extended a conditional bona fide job offer.

**Commented [RC4]:** Is the City doing physicals? If not, would suggest deleting this provision

### HIRING THE NEW EMPLOYEE: RECRUITMENT

The City of New Fairview has several methods of recruiting and selecting persons to fill vacant positions:

- Promotion or transfer from within.
- Public Announcement (including media announcement and posting of notice for City Employees) and competitive consideration of applications for employment.

The City Administrator, in consultation with the Department Director, determines the method of selection to be used in filling each vacancy.

It is the City's policy to promote qualified employees whenever possible. If two or more applicants have substantially equal qualifications and one is a current City employee, the current employee will be given preference over the other application.

The City does not accept applications for employment unless a specific vacancy exists. A person wishing to apply for a job with the City when a specific vacancy does not exist are informed of the manner of advertising City job announcements and that they may file an application at any time an advertised vacancy exists for which they consider themselves qualified.

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Public announcements of position openings at the City for which there will be competitive consideration are disseminated by City Administrator in the manner deemed most appropriate for the position being filed. Current employees are permitted to apply for positions for which they believe themselves to be qualified. The length of time during which applications will be accepted will be determined by City Administrator with consultation with the Department Director in accordance with the circumstances that exist at the time.

Depending on the method of posting, current employees are permitted to apply for positions in which they believe to be qualified. However, employees must be employed by the City for at least six (6) continuous months, before they are eligible to apply/transfer to another department within the City.

The City maintains a job description which establishes the required knowledge, skills, and abilities for each type of City job along with the acceptable levels of experience and training for each job.

The job descriptions set forth the minimum acceptable qualifications required to fill the position, along with any required licenses for the position, including along with time frames to acquire those licenses.

It is the policy of the City to be an equal opportunity employer and vacancies in the City workforce are filled by promotion, or by initial appointment, based on merit as demonstrated by education, experience, and personal interview. Selections of the best qualified persons are made based on occupational qualifications and job-related factors such as skills, knowledge, education, experience, and ability to perform the specific job.

Commented [KS5]: Source: City of Justin Handbook

### PROBATIONARY PERIOD

The probationary period is considered to be the final stage of a selection process for all City employees. During this working test period, employees are required to demonstrate by actual performance the duties to which they have been assigned. This policy addresses the successful completion, extension, or unsuccessful completion of the probationary period. The probationary period is intended to give new employees the opportunity to demonstrate their knowledge, skills, ability and willingness to perform and complete required work responsibilities and assignments. ~~The City of New Fairview uses this period to evaluate employee capabilities, work habits and overall job performance. If a probationary employee does not perform assigned work, perform work in an acceptable manner, or fails to follow personnel policies, they may be terminated at any time.~~

All new and rehired employees ~~other than Police and Fire employees~~ work on an introductory basis for a probationary period of six (6) months.

~~Police and Fire employees work on an introductory basis for a probationary period of one (1) year.~~

All employees classified as a rehire, promotion, or transfer must successfully complete a 90-day probationary period, which period may be shortened or lengthened by a determinable length, with prior department head and City Manager written approval, following the rehire, promotion or transfer and before they are eligible for a promotion, a position reclassification, and/or a transfer to another position. ~~Employees who are promoted or transferred within the City of New Fairview~~

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~~must complete an additional probationary period of the same length with each promotion to a new position.~~ Any significant absence will automatically extend an introductory period by the length of the absence.

At the end of the introductory probationary period either for newly hired or promoted employees the employee will be evaluated and based on a successful evaluation eligible for a pay increase in accordance with the approved pay plan.

If a director, supervisor or manager determines that the designated probationary period does not allow sufficient time to thoroughly evaluate the employee's performance, the probationary period may be extended for a period up to three months. Any personnel action, including written notice for failure to complete assigned work, failure to perform work in an acceptable manner, or failure to follow personnel policies shall automatically result in an extension of the probationary period

In cases of promotions or transfers within the City of New Fairview, an employee who, in the sole judgment of management, is not successful in the new position can be removed from that position at any time during the additional probationary period. If this occurs, the employee may be allowed to return to his or her former job or to a comparable job for which the employee is qualified, depending on the availability of such positions and the City of New Fairview's needs.

Upon satisfactory completion of the initial probationary period, employees enter the regular employment classification.

During the initial probationary period, new employees are eligible for those benefits that are required by law, such as workers' compensation insurance and Social Security. After their hire date ~~becoming regular employees, they may be eligible for other City of New Fairview benefits after completing 30 days of employment, subject to the terms and conditions of each benefits program.~~ employees should read the information for each specific benefits program for the details on eligibility requirements. During the initial the probationary period, an employee will be eligible for all regular benefits to which they would be eligible as a regular employee.

Benefits eligibility and employment status are not changed during the ~~secondary~~ introductory period ~~that~~ resultings from a promotion or ~~f~~ transfer within the City of New Fairview.

#### OUTSIDE EMPLOYMENT:

An employee may hold a job with another organization as long as he or she satisfactorily performs his or her job responsibilities with the City of New Fairview. All employees will be judged by the same performance standards and will be subject to the City of New Fairview's scheduling demands, regardless of any existing outside work requirements.

If the City of New Fairview determines that an employee's outside work interferes with performance or the ability to meet the requirements of the City of New Fairview as they are modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain an employee of the City of New Fairview.

Outside employment will present a conflict of interest if it has an adverse impact on the City of New Fairview or the employee's ability to adequately perform his/her duties.

Employees may not do outside work on City property, using City resources or during scheduled or assigned City work hours~~time~~.

#### DISABILITY ACCOMMODATION:

The City of New Fairview is committed to complying fully with the Americans with Disabilities Act as amended (ADA) and ensuring equal opportunity in employment for qualified persons with disabilities. All employment terms and conditions or employment practices and activities are conducted on a non-discriminatory basis.

Hiring procedures will follow federal laws and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position applied for.

Reasonable accommodations will be considered and made available to all disabled applicants and for employees, where the accommodation will enable the performance of essential job-required functions. ~~All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.~~

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression and seniority lists. Leave of all types will be available to all employees on an equal basis.

The City of New Fairview is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability. The City of New Fairview ~~will follow~~ all ~~local, state and or federal laws that provide~~ greater protection than the ADA individuals with disabilities equal opportunities in the workplace.  
**Commented [RC6]:** I am not sure what this sentence means or what statutes are referenced

This policy is neither exhaustive nor exclusive. The City of New Fairview is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable federal, state, and local laws

#### EMPLOYMENT CATEGORIES:

It is the intent of the City of New Fairview to define employment classifications so that employees understand their employment status and benefit eligibility. These classifications do not guarantee employment or benefits for any specified period of time.

Each employee is designated as either EXEMPT or NON-EXEMPT from federal and state wage and hour laws. NON-EXEMPT employees are entitled to overtime pay under the specific provisions of federal and state laws. EXEMPT employees are generally excluded from overtime pay under specific provisions of federal and state and/or federal wage and hour laws. An employee's EXEMPT or NON-EXEMPT classification may be changed only upon written notification by ~~The City of New Fairview~~ management.

In addition to the above categories, each employee will belong to one other employment category:

New Fairview Personnel Policy

REGULAR FULL TIME- employees are those who are not in a temporary or introductory status and whose positions are required and assigned to envision the employee working a full-time schedule. Generally, they are eligible for the City of New Fairview's full benefit package, subject to the terms, conditions and limitations of each benefit program. Regular full-time employees are expected required to work 40 or more hours per week. Regular full-time employees are required to work the hours and shifts assigned by their supervisor.

~~REGULAR PART TIME (TMRS Enrolled)- employees are those who are not assigned to a temporary or introductory status and who are required and assigned to work 30 hours per week or more, but less than 40 hours per week. Regular part time employees are eligible to receive some leave and other benefits as provided for by these policies. If they are assigned to work an average of 1000 hours or more in a year, they will participate in TMRS. Regular part time employees are required to work hours and shifts assigned by their supervisor. Regular part time employees do not automatically qualify for the City of New Fairview's full benefit package but are only eligible for those benefits offered as part of these policies.~~

**Commented [RC7]:** If they are assigned to work an average of 1000 hours or more in a year, they will participate in TMRS.

PART TIME- employees are those who are not assigned to a temporary or introductory status and who are generally scheduled to work less than 30 hours per week. They participate in legally mandated benefits (such as Social Security), but they are not eligible for other City of New Fairview benefit programs. However, employees who work 1000 hours or more in a year are required to participate in TMRS, the City's retirement program.

TEMPORARY/ SEASONAL- employees are those who are hired on a short-term basis for a specific project or assignment or as interim replacements ~~to~~ to temporarily supplement the work force, to temporarily fill a vacancy, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified of change in writing by management. While temporary employees receive all legally mandated benefits (such as Social Security), they are not eligible for all of the City of New Fairview's benefits programs unless they are required by law or regulation.

~~24 HOUR SHIFT WORK- employees that work a 24 hour shift will be paid based upon the completion of a shift. Completion of a partial shift shall result in a prorated amount based upon the percent of the shift completed. Shift pay shall be high enough to comply with Fair Labor Standard Act regulations for minimum pay. Actual hours worked shall be used to determine compliance with Texas Municipal Retirement System regulations. Actual hours worked shall be based upon the total number of shift hours less personal time and sleep time. A normal shift shall include 10 hours of personal and sleep time and a total of 14 hours worked~~

~~ACA FULL TIME- to comply with the federal Affordable Care Act (ACA), the City will determine the number of ACA Full Time employees as defined in the Act, and the number of ACA Full Time employees will be counted in a designated test period to determine whether the City meets the threshold as a large employer or not. The number of employees that average more than 30 hours of work in the test period will be used to determine whether the City is a large or small employer.~~

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## ACCESS TO PERSONNEL FILES

The City of New Fairview maintains a personnel file on each employee. The personnel files include such information as the employee's job application, resume, records of training, documentation of performance appraisals, salary increases and other non-medical employment records.

Personnel files are the property of the City of New Fairview, ~~and access to the information they contain is restricted. Aside from customary personal information, g~~Generally, only supervisors and management personnel of the City of New Fairview may add information to a personnel file ~~who have a legitimate reason to review information in a file are allowed to do so.~~

Employees who wish to review their own file should contact the City Administrator to schedule a time to do so. With reasonable advance notice, employees may review their own personnel files in the City of New Fairview's offices and in the presence of an individual appointed by the City of New Fairview to maintain the file. Access to the information in an employee's personnel file may be subject to disclosure in accordance with the Texas Public Information Act.

Employees who work with information related to personnel files, compensation or other benefits shall maintain the information in strict confidence unless there is a qualifying information request. Then only information required shall be provided to meet the demands of the information request. Failure to follow this policy may result in disciplinary action.

## EMPLOYMENT REFERENCE CHECKS

To ensure that individuals who join the City of New Fairview are well qualified and have strong potential to be productive and successful, it is the policy of the City of New Fairview to check the employment references of all applicants.

The City Administrator or other designated employee will respond to other company reference checks only when they are submitted in writing. Responses to such inquiries will confirm only dates of employment, wage rates, and position held. ~~No employment data will be released without a written authorization and signed release by the individual who is the subject of the inquiry.~~

## PERSONNEL DATA CHANGES

It is the responsibility of each employee to promptly notify the City in writing of any changes in personnel data. Personal mailing addresses, telephone number, number and names of dependents, individuals to be contacted in the event of any emergency, educational accomplishments, and other such ~~information status reports~~ should be accurate and current at all times. ~~When any personnel data changes occur, it is the duty of the employee~~ Employees are expected to notify their his or her manager, director or supervisor notify the City Secretary in writing within a reasonable time. The manager, director or supervisor shall follow up with the appropriate staff of any changes to have the employee's information updated. Additionally, if the employee is assigned to work on call or in the event of an emergency, they are also expected to timely notify their manager, director supervisor of any changes in their contact information or of changes affecting their response time.

New Fairview Personnel Policy

**Commented [RC8]:** Personnel files are public records, except as otherwise provided by the PIA.

**Commented [RC9]:** Generally, they are public records, except for the limited information which ay be withheld if the employee has so requested in writing, pursuant to the PIA.

**Commented [RC10]:** It is a better practice to have the Custodian of that record update the Personnel file.

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## PERFORMANCE EVALUATION

~~Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day to day basis. Formal performance evaluations are conducted at the end of an employee's initial period in any new position. This period, known as the probationary period, allows the supervisor and the employee to discuss the job responsibilities, standards and performance requirements of the new position. Additional formal performance evaluations are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths and discuss positive purposeful approaches for meeting goals.~~

~~The performance of employees will be generally evaluated annually on the employee's anniversary date or promotion date.~~

~~The purpose of a performance evaluation is for supervisory personnel to communicate with employees on whether they are meeting job performance requirements or not, and if not then to identify where performance improvement is needed. In addition, supervisory personnel should use the performance evaluation to identify where the employee is meeting or exceeding job performance requirements as a means to thank them for their efforts and to encourage continued efforts for quality performance of job requirements.~~

Each employee will have a job~~their job~~ performance evaluated on a regular basis. Special work requirements may demand more frequent evaluations.

A formal, written evaluation ~~may will~~ be conducted at various times, but at least annually, for each employee. Scores on evaluations will be used to compare the performance, experience, and qualities of employees to their job requirements. The performance evaluation ~~forms~~ may vary for different job categories, departments, and/or supervisory capacity. ~~The~~ evaluations will become a part of the employee's permanent personnel record file.

- A. New field employees ~~will should~~ be evaluated at the end of each training period. These evaluations, ~~if conducted by a trainer or supervisor,~~ will be reviewed by the ~~new employee's~~ immediate supervisor ~~of the new field employee and.~~ These reviews will be taken into consideration when making full evaluations.
- B. All ~~new employees'~~ should have their performance evaluated during any ~~first six (6) months of employment represent a probationary period, to ensure adequate training and to provide feedback to the employee on supervisor's expectations and the work requirements.~~ Each new employee may be given a series of evaluations during this period.
- C. All new employees will be reevaluated at 180 days to determine if they have successfully completed their probationary period.

**Commented [RC11]:** Such as? Would suggest giving examples, so not having "unfettered discretion" as to when evaluating on a more frequent basis. That is, provide some guidance as to situations where additional evaluations would be needed or types of special assignments.

**Commented [RC12]:** Not sure what is intended here. Of course, evaluations will vary based on these categories, as well as the employee.

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~~D. The City Administrator may review an employee's performance evaluation before recommending termination based on progressive discipline or poor performance. If recommended, the employee's evaluation will be reviewed by City Administrator.~~

~~E. Upon completion of the first year of employment, evaluations will be completed at least annually.~~

**Commented [RC13]:** If the employee has gone out on a mass shooting or tried to burn down City Hall, I don't know that the City Administrator will be reviewing their performance... 😊

**Commented [RC14]:** Already stated above

**Commented [KS15]:** Source: City of Justin Handbook

## EMPLOYMENT TERMINATION

Termination of employment may occur for many reasons either by the employee or by the employer. Below are examples of some of the most common circumstances under which employment is terminated:

**RESIGNATION:** voluntary employment termination initiated by an employee without a reason being given.

**RETIREMENT:** voluntary employment termination initiated by the employee meeting age, length of service, and any other criteria for retirement from the organization.

**NEW EMPLOYMENT:** voluntary employment termination initiated by the employee when a new or better employment opportunity becomes available through a different employer.

**DISCHARGE:** involuntary employment termination initiated by the organization related work performance or violation of personnel policies.

**LAYOFF:** involuntary employment termination initiated by the organization for non-disciplinary reasons.

Employee compensation and benefits will be affected by employment termination as provided for by these policies and by state and federal law. All employees will be paid for actual hours worked at the next pay period following employment termination. Some benefits authorized by law or these policies may continue at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued and of the terms, conditions and limitations of such continuance.

## NOTICE FOR RESIGNATION

Resignation is a voluntary act initiated by the employee to terminate employment with the City of New Fairview. The City of New Fairview requests that at least two weeks' written notice of the employee's intent to terminate employment be given before the termination of employment occurs

## EXTENDED LEAVE AND RETURN TO WORK

There may be circumstances that cause an employee to be on extended leave such as a serious  
New Fairview Personnel Policy

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illness or accident. In those instances, the City will work closely with the employee to ensure coordination and continuity of benefits within the guidelines of the personnel policies, state and federal law.

An employee who is on extended leave and has exhausted his/her paid leave (comp time, sick leave and vacation), must submit a completed request for reasonable accommodation form within 30 days of their last paycheck. The employee must provide the form to their physician for completion along with a completed medical authorization and release. After physician has completed the accommodation form the employee will be able to perform the essential job functions within 90 days of the date on the accommodation form, the employee's position will remain unfilled until that 90-day time period has expired. ~~If it is determined the employee is not able to or will not be able to perform the essential job functions within 90 days of the date of the accommodation form, the employee will be terminated on the last day of the current month.~~ The City will work closely with the employee to determine all eligible benefits including long-term and short-term disability and TMRS eligibility.

**Commented [RC16]:** This section could benefit from a rewrite, but need to discuss Medical LWP with City Administrator ("FMLA lite") first

**Commented [RC17]:** Does the City have a reasonable accommodation form?

**Commented [RC18]:** This is FMLA language

**Commented [RC19]:** This likely violates ADA

### SECTION 3: EMPLOYEE COMPENSATION

#### COMPENSATION AND OVERTIME

Employees will be compensated in accordance with the pay plan that will be adopted by the City from time to time and funded by the annual budget. Compensation may be based upon hours worked for hourly employees, ~~upon the number of shifts worked for 24-hour shift employees~~, or upon an approved salary for Federal Fair Labor Standards Act (FLSA) exempt employees.

In accordance with the ~~Federal Fair Labor Standards Act (FLSA)~~, nonexempt employees are ~~required to be paid~~ eligible to receive overtime pay at a rate of one and one-half times their regular pay for hours time worked in excess of a 40-hour work week. Exempt employees are not paid overtime.

~~Police Officers and Firefighter/EMS personnel have a different work schedule than the regular 8 am to 5 pm 40-hour week schedule. Overtime will be paid accordingly by the FLSA guidelines for public safety employees.~~

All overtime must be assigned or authorized in advance by the appropriate director, manager or supervisor, ~~and no overtime hours will be approved for payment without supervisory authorization.~~ ~~Failure to obtain supervisory approval prior to working overtime may result in discipline.~~ ~~However, o~~vertime that is a part of a public safety employee's schedule is considered authorized by assignment to the shift or schedule worked. Overtime that is related to an emergency condition is also considered authorized. Examples include response to storm damage, response to a structural fire, response to an accident or medical emergency, a waterline break, the loss of power or essential motors or pumps for utilities, or other emergency conditions representing a threat to public health and safety. ~~or CI approved by the City Administrator.~~

**Commented [RC20]:** Employer is still required to pay for all time worked, even if unauthorized, but employer may discipline employee

Employees may not begin work prior to their scheduled workday and may not continue working beyond the end of their scheduled workday, without prior authorization from the appropriate supervisor. Similarly, employees may not work through their lunch break without prior

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authorization from the appropriate supervisor.

~~Overtime will be paid at one and one-half times the hourly rate. Vacation, holiday leave, sick leave and compensation time used will not generally be counted as hours worked when calculating overtime.~~ When work requires that an employee be called back to work ~~in order~~ to respond to an urgent City need or emergency condition, the City Administrator may authorize that vacation and holiday leave may be counted as hours worked when calculating overtime. ~~Sick leave may not be counted as hours worked when calculating overtime.~~ For all employees, overtime will be paid to nonexempt employees at one and one-half (1 ½) times the regular rate for hours worked over forty (40) hours in the work week. Hours worked is defined as hours worked, ~~as well as emergency leave and holiday hours.~~ Vacation, sick, military, jury duty and personal leave are not considered to be “hours physically worked” for purposes of calculating overtime.

Exempt personnel under the FLSA laws are generally salaried employees and work the number of hours required to complete their assigned duties. Exempt personnel will not be paid overtime or receive comp time for the number of hours worked in excess of 40. ~~At the City Administrators discretion an exempt personnel may flex their time within the same pay period.~~

When operating requirements or other needs cannot be met during regular working hours, the supervisor may assign, or employees may be given the opportunity to volunteer for overtime work assignments. Overtime assignments will be distributed as equitably as practicable to all employees qualified to perform the required work. Refusal or other failure to work mandatory overtime to address critical or emergency needs of the City may result in disciplinary action.

~~Overtime compensation is paid to all nonexempt employees in accordance with federal and state law.~~

#### Compensatory Time

Nonexempt employees, upon approval of the supervisor, may ~~elect, in lieu of being paid for overtime earned for hours worked, to request that their time instead be credited as “compensatory time,” placing their earned overtime in a “comp -bank,” rather than being paid.~~ The overtime worked will be ~~still be~~ calculated at time and a half. ~~For example, if an employee works 10 hours of overtime within a work week, they will accrue 15 hours of comp time, which will be and~~ placed into the employee’s comp bank. ~~This time will be paid out at the employee's straight time rate.~~ An employee may use compensatory time upon approval by the supervisor. ~~Employees will be paid all accrued compensatory time prior to any promotion and the comp bank will be paid to the employee upon termination of their employment. Generally, comp time should be used within the month that it is earned.~~ The City maintains the right to require that all earned overtime be credited as compensatory time and placed into the employee’s comp bank, due to budgetary reasons, ~~if necessary. An employee’s accruals for compensatory time may~~ The time in “comp bank” can not exceed 40 hours. Once accumulated, employees can then request to use their accrued comp time as paid time off. All compensatory time banked is subject to the same payroll recordkeeping as any other hours worked.

#### FLEX TIME

Flextime is a tool used to allow exempt employees to work hours that are not within the standard work schedule. There are times when a department’s operational needs require employees to either

**Commented [RC21]:** This is a slippery slope. Would strongly suggest that an employee be paid callback or incentive or some other way, rather than muddying “hours worked.”

**Commented [RC22]:** Don’t understand this sentence, as written. It is supposed to be an exception w/i City Administrator discretion to consider certain paid leave as “hours worked” for purposes of overtime. This sentence would seem to make it an every time occurrence/flat rule.

**Commented [RC23]:** I think it is confusing to state that accruals “must be taken as straight time.” I therefore gave an example of how the time is booked. Section 7 of the FLSA requires that covered, nonexempt employees receive not less than one and one-half times their regular rates of pay for hours worked in excess of the applicable maximum hours standards. However, section 7(o) of the Act provides an element of flexibility to State and local government employers and an element of choice to their employees or the representatives of their employees regarding compensation for statutory overtime hours. The exemption provided by this subsection authorizes a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, to provide compensatory time off (with certain limitations, as provided in § 553.21) in lieu of monetary overtime compensation that would otherwise be required under section 7. Compensatory time received by an employee in lieu of cash must be at the rate of not less than one and one-half hours of compensatory time for each hour of overtime work, just as the monetary rate for overtime is calculated at the rate of not less than one and one-half times the regular rate of pay.  
<https://www.ecfr.gov/current/title-29/subtitle-B/chapter-V/subchapter-A/part-553/subpart-A/subject-group-ECFRb5efe4232465438>

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come in earlier than their normal reporting time, or to stay later than their normal end of shift time.

The adjustment of an employee's work schedule must be approved in advance by the City Administrator prior to the employee working the adjusted schedule. The employee must notify the City Administrator within 48 hours of the time they have worked more than the standard work schedule. It is the responsibility of the immediate supervisor to verify and ensure the performance of employees who are granted flextime. Good relationships with everyone involved are important for a successful flex-time policy. Trust is a big factor; City Administrator must feel confident that the employees will not abuse the benefits that are inherent in a flex-time schedule. Flextime is a privilege, not a right and if abused can be taken away at the discretion of the supervisor.

#### Examples of Flextime schedules:

- Adjusted leave or start time – An employee may be allowed to report later or leave earlier.
- Adjusted Lunch Period – An employee's length of their lunch period may be adjusted while still working a full day.
- Compressed Workweek - An employee may, for example, be allowed to work four nine (9) hour days and one four (4) hour day.
- On Call/ On Stand-By- if an employee is called in under this section then the City Administrator may adjust this employee's work schedule, preferably within the work week.

### COMPENSATION PLAN

#### Compensation for Classified Positions

- Each job shall be assigned to one of the classified grade levels. The compensation plan shall specify an entry, mid and maximum level with an hourly wage or salary, within each pay grade for each classification. The City Council as part of its annual budget process will consider the allocation of funds for pay plan adjustments to the pay plan. The Council may also consider the allocation of funds for additional raises (for example, to employees who have already reached the maximum pay grade level).
- Employees at the top of a pay grade may be eligible for a base or pay plan adjustment, if authorized by the City Council.
- Probationary employees are not eligible for pay increases until the completion of their six month probationary period.
- The compensation plan may be amended, as circumstances require, through changes recommended by the City Administrator and approved by the City Council.

**Commented [RC24]:** This is usually adopted after a comprehensive salary survey conducted by an HR professional/consultant

**Commented [RC25]:** This is really a more comprehensive plan suitable for a larger size city. While the City could do this, it will be expensive and may not be a good fit for the City of New Fairview, given its size

### WORK SCHEDULES AND TIME WORKED

~~Supervisors will advise employees of the times their work schedules will normally begin and end. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total work hours that may be scheduled each day and week.~~

Because of the nature of our business, your work schedule may vary depending on your job. Normal business hours are set by the City Administrator and/or Department Director and may vary between Departments or positions. A typical schedule would be Monday through Friday with one (1) hour of unpaid time off each day for lunch. A morning and afternoon break will be available

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to employees for duration of fifteen (15) minutes for each period. The standard workweek is forty (40) hours for all employees, ~~excluding the police department and fire department.~~

Commented [KS26]: Source: City of Justin Employee Handbook

Public Works Employees may work varying periods dependent upon weather conditions with the approval of the City Administrator.

~~(Reserved) Police Officers are on fourteen(14) day (86 hour) FLSA week period.~~

~~(Reserved) Fire/EMS Personnel are on a fourteen (14) day (106 hour) FLSA work period~~

ON-CALL AND ON STANDBY (Reserved)

Generally, all city employees serve on general standby to assist in times of emergency. ~~On-~~

Commented [RC27]: Muddies on call/on standby and called out

Standby. In particular managers and supervisors must be able to respond during emergencies. ~~General~~ standby does not place limitations on the employee or the employee's activities. Under ~~general~~ stand-by, if the employee is available and is called, then the employee agrees to assist. Compensation for responding is dependent upon whether the employee is exempt or non-exempt.

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Employees scheduled to be on call are expected to be fit for duty upon reporting to work. Any employee-reporting to work after hours, whether on standby or on call, scheduled to be on call, and is called out, is governed by the Substance Abuse and Alcohol Consumption Policy. Sometimes, an employee who is not scheduled to be on call may nevertheless be called out. If this or any other situation occurs where the employee called out is under the influence of alcohol or has a presence in the system of drugs, such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty. The employee will not be required to report to work.

Commented [KS28]: Source: City of Decatur Employee Handbook

Commented [RC29R28]: Difficulty with this is that the City doesn't have this substance Abuse and Alcohol Consumption Policy

Exempt employees ~~will not be compensated for~~ called in for emergency response will refer to the Flex Time Policy for any work hour adjustments. For exempt employees (including Department Heads) required to work extended hours during a declared disaster where the Flex Time Policy would be unavailable or inadequate, the City Administrator is authorized to compensate exempt employees for hours worked over and above the regular workweek at their regular hourly rate. While non-exempt employees are compensated for all work over 40 hours during a work week (hours vary based upon exempt employee category).

Commented [RC30]: For consideration. (cannot be contingent on FEMA funding but that is what being viewed here...) Trying to work around <https://www.fema.gov/appeal/overtime-cost-exempt-employees> and [https://www.sog.unc.edu/sites/default/files/general\\_media/Personnel%20Policy%20Disaster%20Overtime%20ay%20Sample%20Provision.pdf](https://www.sog.unc.edu/sites/default/files/general_media/Personnel%20Policy%20Disaster%20Overtime%20ay%20Sample%20Provision.pdf)

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On- Standby employees must be able to report to work ~~and~~ within 2 hours-of being notified, of New Fairview.

Commented [RC31]: This is unclear & I cannot revise, as don't know what is desired. Is employee being paid a premium of \$50 ONLY if they are called out, in addition to any time actually worked? OR are they being paid a \$50 a week premium for being "paid to wait," which the FLSA does not otherwise credit & which is normally referred to as "Stand by."(employee is free to engage in their on pursuits, thus not compensable as "Work" as it not time fully dedicated to employer)

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On Call. Public Works employees will be assigned to work On-Call from time to time on a rotation basis. When assigned On-Call, the employee will take after hour calls during the week and will do the rounds to check appropriate City equipment and facilities during the weekend as well as take calls for service on the weekend. An On-Call employee will receive compensation for all extra hours worked while on call and will receive an "On-Call" payment (\$50.00) per week for performing the assigned duty. On-Call employees must be able to respond within an hour of New Fairview in order to respond to calls for service and or emergencies. ~~On-call employees are expected to remain sober and able to work and perform their responsibilities if called to work.~~ Failure to adhere to this section may result in disciplinary action or termination.

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~~Public Works employee will be assigned to work On Standby from time to time on a rotation basis on holidays and holiday weekends. While On Standby the employees are expected to respond to emergencies like a water line break or a sewer line backup. The should remain sober and able to work and perform their responsibilities if called in to an emergency. On Standby employees must be able to respond within 2 hours of New Fairview. On Standby employees will receive compensation for performing On Standby responsibility on a holiday or holiday weekend.~~

~~Employees that must make rounds on holidays and weekends will receive a minimum of 2 hours of pay for making the rounds. A non-exempt employee who is called out for after-hours work will be paid for a minimum of two hours' work up to the total actual number of hours worked, whichever is greater. For example, if an employee is called out to work only works one hour, they ill be paid for two hours. The additional one hour, however, would not be considered "hours worked, for purposes of determining eligibility for overtime, as the additional hour represents a "premium pay," and not hours worked under the FLSA. Additionally, the City Administrator reserves the right to flex the employee's time during the week or direct the use of accrued compensatory time, to avoid incurring overtime during the workweek in which call-out work was performed.~~

**Commented [RC32]:** Just to be clear, the employee is paid a premium pay for accepting On-call rotation AND another premium pay if they are actually called out

#### ~~FIRE/EMS SUBSTITUTION (Reserved)~~

~~A. Substitution is defined as that time when one (1) member voluntarily works for another by mutual agreement.~~

~~B. The substitution shall not cause any increased financial impact on the New Fairview Fire or EMS Department Budget or additional financial liability to the City of New Fairview.~~

~~C. Substitution shall be defined and in accordance with Part 553 Section 7(p) (3) of the Fair Labor Standard Act (FLSA).~~

~~1. Section 7(p) (3) of the FLSA provides that two individuals employed in any occupation by the same public agency may agree, solely at their option and with the approval of the public agency, to substitute for one another during scheduled work hours in performance of work in the same category. The hours worked shall be excluded by the employer in the calculation of ours for which the substituting employee would otherwise be entitled to overtime compensation under FLSA. Where one employee substitutes for another, each employee will be credited as if he or she has worked his or her normal work schedule for that shift.~~

~~2. The provisions of Section 7(p) (3) apply only if employees' decisions to substitute for one another are made freely and without coercion, direct or implied.~~

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~~3. A public agency which employs individuals who substitute or "trade time" under this subsection is not required to keep a record of the hours of substitute work.~~

~~4. In order to qualify under section 7(p) (3), an agreement between individuals employed by a public agency to substitute for one another at their own option must be approved by the agency. This requires the agency to be aware of the arrangement prior to the work being done, i.e., the employer must know what work is being done, by whom it is being done, and where and when it is being done. Approval is manifest when the employer is aware of the substitution and indicates approval in whatever manner is customary.~~

~~A. Substitutions will be on a time for time basis.~~

~~B. Substitutions will be on a rank for rank basis.~~

~~C. The maximum number of allowed substitution 24 hour work shifts shall not exceed five (5) consecutive schedule work shifts in a one year period.~~

~~D. Substitution within the same 14 day pay period that does not change the total number of days worked in the same pay period by each Fire/EMS employee may be covered by employees of different rank. An additional five (5) consecutive work shifts in a one year period may be used in this category.~~

### LONGEVITY PAY

All TMRS-enrolled employees of the City shall receive longevity pay per year for each year of service to the City, beginning after the employee's first full year of employment. Longevity pay shall be at a rate of ~~\$100 for the first full year of service and an additional \$36.00 per year~~ **\$5 per month for each full year of service**, for such full-time employees, up to 20 years of service. Longevity payments shall be issued once annually, generally in ~~December~~ **November**, and are taxable income. ~~Otherwise~~ **Eligible** employees who separate from employment during the year shall not receive longevity pay, ~~since the purpose of the benefit is to encourage employee retention.~~

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**Commented [KS33]:** Source: City of Decatur

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**Commented [RC34]:** Does this mean shall not be prorated or is not payable in the year in which they separate?

### JURY DUTY

The City of New Fairview encourages employees to fulfill their civic responsibilities by serving jury duty when required. ~~Employees in an eligible classification may request up to one week of~~

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~~paid jury duty leave over any one-year period.~~

~~Jury duty pay will be calculated on the employee's base rate times the number of regular hours the employee would otherwise have worked on the day of absence. Employees must provide documentation showing day(s) attend. Employee classifications that qualify for paid jury duty leave are: Regular Full Time and Regular Part Time.~~

~~If employees are required to serve jury duty beyond the period of paid jury leave, they may use any available paid time off or may request an unpaid jury duty leave of absence.~~

~~Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate their absence. Of course, employees are expected to report for work whenever the court schedule permits. Employees must provide documentation showing proof of the days they attended jury duty.~~

Jury duty leave with pay will be given to any Regular Full-time employee. Part-time or seasonal employees called to jury duty will be allowed time away from work to attend jury duty but the time away will be without pay.

If you are called to jury duty, you should immediately notify your supervisor and present documentation from the court to justify your absence. Any remuneration you receive from the court for your services is yours to keep and will not be deducted from your paycheck.

**Commented [KS35]:** Source: Lake Dallas Employee Handbook

**Commented [RC36R35]:** Affects hours worked for OT. Unpaid leave does not. Suggest capping at 3 days paid leave, rest would be unpaid

## TIMEKEEPING

~~Accurately recording time worked is the responsibility of every employee. Federal and state laws require the City of New Fairview to keep an accurate record of time worked in order to calculate employee pay and benefits. The "time worked" is all time actually spent on the job performing assigned duties.~~

~~Employees should accurately record the time they work. If a clock and timecards or records are provided to document time worked, then the employee should document time worked through the approved system as instructed.~~

**Commented [RC37]:** Does the city want to address clocking in and out or handle this as an SOP?

~~The City expects all employees to follow their assigned work schedules unless they have made prior arrangements with their supervisors to work at different times. Employees should not clock in prior to their assigned start times, nor should they clock out later than their assigned ending times, unless they have been instructed by a supervisor to start work early or stop work late. Likewise, employees should not clock in until they are ready and prepared to begin their assigned tasks. They should clock out over their assigned lunch period, and in again when their lunch period is finished, unless they have permission from their supervisor to work through lunch. Employees should thereafter not clock out unless they are completely finished with their work for the day.~~

~~The City must maintain accurate time records on all employees, and each employee bears primary responsibility for enabling the City to do that. Properly recording work time and complying with the City's timekeeping procedures are considered to be a part of each employee's job description, regardless of whether such duties are spelled out in such a document. Employees must follow any~~

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proscribed timekeeping procedures. Routinely failing to properly clock in and out is an imposition on the other employees who must handle such negligence and may result in corrective action as outlined below, and may adversely affect raise reviews and performance evaluations as well.

Each employee must fully and accurately record all time that he or she works each day, without exception, according to the rules and procedures that apply in the department to which the employee is assigned. No employee may alter or otherwise modify his or her time record, record work time for another employee, or alter or modify in any way the time record of another employee, unless specifically instructed or allowed to do so by a supervisor. No employee may work without properly recording the time worked. At the end of each pay period, the employee must sign a certification on the time record that the record accurately and completely reflects all time worked during the period in question and that no hours were worked that do not show up in the record.

Anytime corrections are required, they must be submitted to your supervisor, not later than 10 AM the following business day. Overtime must always be approved before it is performed.

It is the employee's responsibility to ~~sign-ensure~~ their work time ~~records to certify the is accuracy accurate of all time recorded.~~ The supervisor will review and then ~~approve initial~~ the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record both ~~the employee and the employee and~~ the supervisor ~~and Human Resources Administrator~~ must verify the accuracy of the changes by initializing the time record. **Time sheets will be submitted no later than the end of 10 AM the following on the first workday following the end of the time period.**

Any violation of this policy may lead to disciplinary action, up to and potentially including termination of employment, depending upon the severity or repeat nature of the offense.

**Commented [RC38]:** The City doesn't have this position

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**Commented [RC39]:** I don't know what is intended here.

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## PAYDAYS

Employee payroll is prepared ~~bi-weekly~~ weekly on Friday for the period which has ended the previous Wednesday. Each paycheck will include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday (Friday's) falls on a holiday, employees will receive pay on the last day of work before the regularly scheduled payday.

## ADMINISTRATIVE PAY CORRECTION

The City of New Fairview takes reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday.

In the event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of the City Secretary so that corrections can be made as quickly as possible.

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## PAY DEDUCTIONS

The law requires that the City of New Fairview make certain deductions from every employee's compensation. Among these are applicable federal income taxes. The City of New Fairview also must deduct Social Security, Medicare, [TMRS \(full time employees\)](#) and other required taxes on each employee's earnings up to the appropriate amount. There are also occasionally other required deductions, based on the City's receipt of an IRS levy or Qualified Domestic Relations Order.

The City of New Fairview offers programs and benefits beyond those required by law. Eligible employees may voluntarily authorize deductions from their paychecks to cover the costs of participation in these programs.

If you have questions concerning why deductions were made from your paycheck or how they were calculated, your supervisor can assist in having your questions answered or you may seek direction from the City Administrator or City Secretary.

## **SECTION 4: EMPLOYEE LEAVE BENEFITS**

### EMPLOYEE LEAVE BENEFITS

Eligible employees are provided with a wide range of benefits. Benefits eligibility is dependent upon a variety of factors, including employee classification; your supervisor can identify the leave benefits for which you are eligible.

The following leave benefits are available to eligible employees:

Vacation Leave

Holiday Leave

Sick Leave

Exempt Leave

Bereavement Leave

Medical/Family Leave

Jury Duty Leave

Military Leave

Some benefit programs require contributions from employees, but most are fully paid by the City of New Fairview.

### VACATION LEAVE BENEFITS

New Fairview Personnel Policy

Vacation leave with pay is available to eligible employees to provide opportunities for rest, relaxation, and personal pursuits. Regular full time ~~and Part-time~~ TMRS enrolled employees are employees eligible to earn and use vacation leave as described in this policy:

Vacation leave will begin accruing on the first pay period. The following is the schedule for accrual.

An employee is eligible to begin using vacation leave after 6 months of service. The amount of paid vacation leave employees may receive annually increases with the length of employment with the City of New Fairview as shown in the following schedule.

~~VACATION EARNING SCHEDULE FOR REGULAR FULL TIME:~~

~~Employees with Full Time Status accrues the following:~~

<del>YEARS OF SERVICE</del>	<del>PER PAYROLL ACCRUAL</del>
<del>1-5 years of service-</del>	<del>1.538 hours</del>
<del>6+ years of service</del>	<del>2.038</del>

~~VACATION EARNING SCHEDULE FOR PART TIME TMRS EMPLOYEES:~~

<del>YEARS OF SERVICE-</del>	<del>PER PAYROLL ACCRUAL</del>
<del>1-6 years-</del>	<del>0.769 hours</del>
<del>7+ years</del>	<del>1.154 hours</del>

~~VACATION EARNING SCHEDULE FOR ALL REGULAR FULL TIME EMPLOYEES WORKING 24 HOUR SHIFTS (Reserved)~~

<del>YEARS OF SERVICE-</del>	<del>PER PAYROLL ACCRUAL</del>
<del>1-6 years</del>	<del>2.308 hours</del>
<del>7+ years-</del>	<del>3.462 hours</del>

Vacation leave is paid time off from the job. Employees are eligible for vacation pay as follows:

- 1 – 3 years 80 hours (10 days)
- 4-8 years 120 hours (15 days)
- 9+ years 160 hours (20 days)

Although a new regular employee will begin to accrue vacation leave on their first day of employment, no vacation leave may be taken during the first six (6) months of employment, unless approved by the City Administrator. Vacation time must be earned before it is used.

Temporary and/or seasonal employees are not eligible for Vacation leave.

Employees whose employment time exceeds six months may take vacation time as it is accrued pursuant to the following requirement:

- A. Vacation leave must be approved by the Department Director to allow for coordination and continuation of City business.
- B. Vacation leave may not be taken in blocks of more than eighty (80) hours without prior approval of the City Administrator.
- C. Vacation leave shall not be granted in time increments of less than one hour without approval of the employee's supervisor.
- D. Vacation leave is paid at the employee's base pay rate at the time of vacation. It does not include overtime or any special forms of compensation such as incentives, commissions, bonuses or shift differentials. Vacation leave may not be used under any circumstances, until it has been earned.
- E. Employees must generally give two (2) weeks advance notice to request vacation leave. City of New Fairview understands that certain circumstances are out of our control, and the supervisor may accept a shorter notice on a case-by-case request.

Commented [KS40]: Source: Justin Employee Handbook

Employees will be allowed to carry forward four-hundred and eighty (480) hours of unused vacation hours into the next fiscal year. Any unused accrued vacation more than the allowable hours not taken by September 30<sup>th</sup> deadline will be considered a forfeiture of accrued vacation leave.

Commented [KS41]: Source: Justin Employee Handbook

~~An employee may not have more than two (2x) times the amount of annual vacation time. The maximum amount paid to an employee at the end of their employment is 240 hours.~~

It is in the best interest of the employee and the City of New Fairview that the employee use his ~~their~~ his or her vacation leave each year.

**Required Vacation Leave-** When it appears that time away from work may be in the best interest of the employees or the City, the employee's Department Director may, with the approval of the City Administrator, require the employee to take accrued vacation leave. Similarly, the City Administrator may require any employee to take accrued vacation leave.

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Vacation pay will not be authorized during an unpaid disciplinary suspension, as a means to supplement pay lost as a direct result of the suspension.

Upon termination of employment, employees will be paid for unused vacation leave that has been earned through the last day of work.

Accrued vacation leave benefits may be transferred up to 40 hours to another employee's sick leave bank for major medical illnesses upon approval of the City Administrator. An employee may only receive a total of 40 hours from any individual employee during employment with the City of New Fairview. The transfer will remain anonymous, and will be paid out at the lower of the two pay rates.

#### HOLIDAY LEAVE

~~Except as provided for by the special provisions for Police and Fire employees,~~ The City of New Fairview Regular Full time and Regular Part time employees will be granted the following holidays:

New Year's Day

Martin Luther King Day

President's Day

Good Friday

Memorial Day

Juneteenth

Independence Day

Labor Day (~~excluding Fire employees~~)

~~911 Remembrance Day ( Fire employees only)~~

Veteran's Day

Thanksgiving

Day after Thanksgiving

Christmas Eve

Christmas Day

New Year's Eve Day

The City of New Fairview will grant paid holiday time off to all eligible employees for the holidays listed above. Holiday pay will be calculated based on the employee's straight time pay rate (as of

the date of the holiday) times the number of hours the employee would otherwise have worked on that day up to a maximum of eight (8) hours for each day granted for the holiday. Eligible employee classifications include Regular Full Time and Regular Part Time. Holiday time does not accumulate or carry over at the end of the calendar year.

To be eligible for holiday pay, employees must work the last scheduled day immediately preceding and the first scheduled day immediately following the holiday. All employees failing to show up for work, before or after a holiday, without supervisors and management approval being scheduled time off will forfeit their holiday pay.

- A. As many employees as possible shall be given each holiday off consistent with the maintenance of essential City functions.
  
- B. Only Regular Full-time and Regular Part-time regular employees shall be entitled to paid holidays. *As long as the holiday falls in the employees regular work schedule.*
  
- C. An employee desiring to observe religious holidays not listed herein may be authorized to use accrued vacation leave, comp time or other holiday leave as long as the day worked and the day off can be scheduled to meet the work requirements of the city.
  
- D. Employees calling in sick the day preceding a holiday or the day after a holiday may be required to submit a doctor's certificate indicating treatment for a legitimate illness or injury in order to receive holiday time if this occurs on more than one occasion.

Repeated absences due to calling in sick on a holiday, the day preceding a holiday or the day after a holiday without a doctor's certificate may result in disciplinary action up to and including dismissal.

Generally, a holiday that falls on a Saturday will be observed on the preceding Friday and a holiday that falls on a Sunday will be observed on the following Monday.

Public Works Personnel are not generally scheduled to work holidays. Those who are scheduled to work a holiday will receive overtime compensation for the hours worked on the holiday, or as staffing permits, they may take an amount of time off on another day with the amount of time off being equal to the amount of time worked on the holiday. ~~The time off must be taken within a 30 day period.~~

~~Regular Full Time Police and Fire Personnel are required to work their assigned shifts which may or may not fall on an approved holiday. Generally Regular Full Time Police and Fire Personnel will be paid twelve (12) hours of holiday pay in addition to their regular shift pay for hours worked. A Regular Full Time Police or Fire employee may elect in advance to take holiday time instead of holiday pay if approved by their supervisor.~~

~~Part Time Fire/EMS employees will be paid an overtime rate for working holidays when those holidays fall on the City holidays for New Year's Day, Fourth of July, Memorial Day, Labor Day, Thanksgiving and Christmas.~~

### SICK LEAVE BENEFITS

The City of New Fairview provides paid sick leave to all eligible employees for periods of temporary absence due to illnesses or injuries. Sick leave benefits are intended solely to provide income protection in the event of illness or injury and may not be used for any other absence.

Eligible employees will accrue sick leave benefits at the following rate for every full month of service:

Regular Full Time Employees	8 hours per month
<del>Regular Part Time Employees-</del>	<del>4 hours per month</del>
<del>Full Time Fire/ EMS Employees-</del>	<del>9.6 hours per month</del>

~~Sick leave benefits will begin to accrue after 30 days of hire date.~~

Employees can request use of paid sick leave after completing a waiting period of ~~three (3)~~ **calendar months 90 days** from the date of hire. Paid sick leave can be used in minimum increments of one hour. Eligible employees may use sick leave benefits for an absence due to their own illness or injury or that of an immediate family member.

Employees who are unable to report to work due to illness or injury should notify their direct supervisor before the scheduled start of their workday, if possible. The direct supervisor must also be contacted on each additional day of absence.

Before returning to work from a sick leave absence of three calendar days or more, an employee must provide a physician's verification that he or she was ill or injured and may safely return to work. Such verification may be requested for other sick leave absences as well and may be required as a condition to receiving sick leave pay.

Sick leave benefits will be calculated based on the employee's base rate at the time of absence and will not include any special forms of compensation like overtime.

~~Unused sick leave benefits will generally be allowed to accumulate and carry over each year. After an employee accrues more than 120 hours of sick leave, only 120 hours will carry over from year to year.~~

~~As an incentive to be healthy and not abuse sick leave, employees will be paid upon retirement a total of fifty percent (50%) of the sick leave balance up to a total of 240 hours of sick leave benefits~~

Sick leave may be used for illness or injury, eye, or dental care, or medical treatment or examination. A limited amount of sick leave may also be used when serious illness or injury in the employee's immediate family, including foster children, requires it, provided the Department Director approves.

Sick leave may be accrued up to four hundred & eighty (480) hours maximum leave. Upon separation of employment, all accrued sick leave, will be paid to the employee up to a maximum of 480 hours.

Official holidays and regular days off shall not count against sick leave.

**Commented [KS42]:** Source: City of Justin Employee Handbook

### EXEMPT LEAVE

Exempt employees earn forty (40) hours per year that may be used as personal time off. Exempt leave is compensable upon termination of employment and exempt leave does not carry over annually. Exempt time will be added on the first pay period in ~~January-October~~ of each year.

**Commented [RC43]:** Is this Vacation leave?

### BEREAVEMENT LEAVE

~~Employees who wish to take time off due to the death of an immediate family member should notify their supervisor immediately. The City of Pilot Point defines immediate family listed in the 1<sup>st</sup> degree members in the nepotism chart.~~

~~Employees may be granted up to a maximum of twenty four (24) hours of paid bereavement leave within a one year period of time. Bereavement leave and pay will be provided to eligible employees in the following classification: Regular Full Time.~~

~~Bereavement pay is calculated based on the base pay rate at the time of absence and will not include any special forms of compensation such as overtime, incentives, commissions, bonuses or shift differentials. Employees may request vacation leave if there is a need beyond the maximum allowed each year.~~

It is the policy of the City of New Fairview to provide paid leave to regular full-time employees in cases of death of family members, which may be referred to as “bereavement leave”, to allow time for the employee to attend to the needs of the situation. Uses of this leave may include making funeral arrangements and attending funeral services, including travel time.

While there is no accrual of bereavement leave, each regular full-time employee will be eligible for up to a minimum of three (3) paid working days of bereavement leave per occurrence of the death of a relative.

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Up to five (5) paid working days of bereavement leave may be provided per occurrence for the death of a child, parent, or spouse (~~defined by the Family and Medical Leave Act as an immediate family member~~) or a domestic partner (defined as an unrelated and unmarried person who shares common living quarters with an employee and lives in a committed, intimate relationship that is not legally defined as marriage).

### ADMINISTRATIVE PROCEDURES

- A. Definitions: A. “Immediate Family Member” – for the purposes of this policy, ~~it shall~~ mean a child, parent, spouse, or domestic partner.

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- “Child” – Means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis or that stood in loco parentis. An individual stands in loco parentis to a child if they have or had day-to-day responsibilities to care for or financially support the child.
  - “Parent” – Means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include “parents-in-law.”
  - “Spouse” – Means a partner as defined or recognized in the state where the individual was married, including in a common law marriage.
  - “Domestic Partner” – Means an unrelated and unmarried person who shares common living quarters with an employee and lives in a committed, intimate relationship that is not legally defined as marriage.
- B. “Relative” – for the purposes of this policy, shall mean a family member with a first or second degree relationship as listed below:
- Sibling (sister, brother)
  - Parent-in-law (mother-in-law, father-in-law)
  - Sibling-in-law (sister-in-law, brother-in-law)
  - Child-in-law (daughter-in-law, son-in-law)
  - Grandparent or Grandparent-in-law
  - Grandchild
  - Uncle or Aunt
  - Nephew or Niece
- C. For each instance of death of a child, parent, spouse, or a domestic partner, all regular full-time employees may be approved for bereavement leave by the immediate supervisor not to exceed five (5) paid working days.
- D. For each instance of death of a relative, all regular full-time employees may be approved for bereavement leave by the immediate supervisor, not to exceed three (3) paid working days.
- E. An employee who wishes to use bereavement leave should notify their supervisor immediately. A department Director may require the employee to provide documentation (e.g. an obituary or funeral service program) for a bereavement leave request.
- F. Regular employees (includes ½ and ¾ time employees) may be provided up to five (5) days of unpaid leave for each occurrence involving the death of an immediate family member, and three (3) days of unpaid leave for services of relatives other than immediate family. Vacation leave or personal floating holidays may be used at the discretion of the

**Commented [RC44]:** Why is there a provision above that restricts to regular fulltime and then applies to Part-time? Need to consolidate...

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supervisor when appropriately requested by the employee.

- G. All employees may be allowed paid leave (without being required to use any of their accrued leave) to attend the funeral services for the death of a fellow employee when the services occur during scheduled work hours. Employee leave for such attendance is conditional upon supervisor approval and operational needs of the department and City. If paid leave for such a circumstance will extend beyond four (4) hours, it will require approval of the respective Assistant City Manager, Deputy City Manager, or City Manager.
- H. Employees may request use of accrued compensatory time, vacation leave, personal floating holidays -or if not paid leave available, personal leave without pay for the funeral of individuals not covered in this policy.
- I. Employees on unpaid leave, Workers' Compensation, or continuous ~~Family and~~ Medical Leave (see Policy no. 107.04) status will not receive pay for bereavement leave.
- J. Bereavement leave benefits will not be paid for the same time an employee receives accrued compensatory time, holiday pay, sick leave pay, vacation leave pay, or any other paid leave benefit.
- K. Bereavement leave hours will not be considered "hours worked" for purposes of overtime and will be paid at the employee's straight time rate.

Commented [KS45]: Source: City of Decatur

#### MEDICAL AND FAMILY LEAVE (~~Reserved~~)

~~Full Time employees who have been employed for at least 12 months and who have had at least 1,250 hours of service during the 12 months prior to leave request are afforded benefits under the Family and Medical Leave Act of 1993.~~

Commented [RC46]: Need to include alternate Medical and family leave

- A. ~~An eligible employee is entitled to 12 workweeks of leave during any 12-month period (26 workweeks if leave to care for a covered service member is involved) for the following reasons and as provided for by federal law:~~
  - ~~for incapacity due to pregnancy, prenatal medical care or childbirth.~~
  - ~~to care for the employee's child after birth, or placement for adoption or foster care.~~
  - ~~to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or~~
  - ~~for a serious health condition that makes the employee unable to perform the employee's job.~~
  - ~~for qualified exigencies that are the result of a covered service member being~~

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called to duty in the Armed Forces; or

- ~~To care for a covered service member who is injured or becomes ill while on covered active duty.~~

~~B. An employee may substitute accrued paid vacation leave for any Family and Medical Leave qualifying purpose without limitation. After vacation time has been used, an employee may substitute accrued sick leave for unpaid leave due to the "serious health condition" of authorized family members or employee's own serious health condition if the nature of the health condition qualifies under the policies for sick leave use. Qualifying FMLA leave requests cannot be denied. Use of paid vacation leave will not extend the maximum allowable 12 weeks family leave period but is included in the leave period.~~

~~C. Leave may be taken for birth or placement of a child only within twelve months of that birth or placement.~~

~~D. Son" or "daughter" is defined as a biological, adopted, or foster child, a stepchild or legal ward. A child is further defined as being under the age of 18 or older if incapable of self-care due to mental or physical disability.~~

~~E. A "serious health condition" is defined as an illness, injury, impairment or physical or mental condition involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevent the qualified family member from participating in school or other daily activities.~~

~~F. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.~~

~~G. An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.~~

~~H. Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call in procedures.~~

~~I. Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting their need for military leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.~~

- ~~J. If both spouses are employed by the City and if leave is requested for an illness of a child or of the other spouse, both spouses are entitled to 12 weeks total of leave jointly.~~
- ~~K. An employee requesting family or medical leave under this section for a serious health condition of his/her own or family member must provide acceptable certification. Such certification by the health care provider must include the date on which the serious health condition began; the probable duration of the condition; appropriate limitations to assigned work due to medical conditions if it involves the employee or appropriate description of need for immediate care by family members if it involves a qualifying family member; a statement that the employee is needed to care for the spouse, child or parent involved (along with an estimate of the time required), or that the employee is unable to perform his or her functions; and in the case of intermittent leave, the dates and duration of treatments to be given. Employees must also report monthly during leave on their medical status and intention to return to work. Any questions regarding the FMLA should be directed to the City Secretary.~~
- ~~L. At its expense, the City may require a second opinion from a physician of the City's choice to verify certification for a leave request. In the event of conflicting opinions, at the City's expense, a third and binding opinion will be obtained from a health care provider jointly approved by the City and the employee.~~
- ~~M. An employee returning from family or medical leave will be returned at the City's option to either his/her previous position or to an equivalent position in pay, benefits and terms and conditions of employment. As a condition of restoration of an employee who has taken leave due to the employee's serious health condition, the employee will be required to present a certification from the employee's health care provider that the employee is ready to resume work and is capable of performing the essential functions of the job with or without accommodation.~~
- ~~N. During periods of continuous unpaid family or medical leave, the employee will not continue to accrue sick, vacation or holiday benefits. Employees using accrued sick leave or vacation leave and receiving pay, he or she will not continue to accrue their sick leave, vacation leave and holidays.~~
- ~~O. Department Directors and the City Secretary shall maintain accurate records of employee absences and leave accrued and shall provide reports of the same as required by the City Administrator or the City Administrator designee. Inquiries as to balance of leave should be directed to and handled by the City Administrator or City Secretary.~~
- ~~P.A. An employee returning to work following any type of absence will complete or provide forms or certificates as may be required by his/her Department Director or the City Secretary Department. All employees returning to work after an absence due to an injury are required to present a release for work from his/her Doctor.~~

**MILITARY LEAVE**

An employee who is a member of the National Guard or of any of the Reserve components of the Armed Forces of the United States will be entitled to a leave of absence from assigned City duties for ~~as many as~~ fifteen (15) days in any one calendar year to participate in military training. Such military leave will be at full pay for a period not to exceed 15 days. **Such employees shall furnish**

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their Department Head with certification, normally copies of official military orders, that they were called to duty by proper authority. ~~Normal weekend duty with the National Guard or Reserves will not normally be included in the above.~~

USERRA supersedes any State law (including any local law or ordinance) contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided, including the establishment of additional prerequisites to the exercise of any right or the receipt of any such benefit. The City of New Fairview will comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

## **SECTION 5: INSURANCE AND OTHER BENEFITS**

The City voluntarily participates in and provides a wide range of benefits for employees. The City also participates in federally and state mandated benefits. Some of the more important benefits are identified in this section. These benefits are subject to change based upon changes in City policy, funding and changes in federal and state laws.

### HEALTH INSURANCE AND RELATED BENEFITS (Reserved)

The City will provide health insurance benefits subject to approval in the annual city budget. Health insurance benefits will be offered to all Regular Full-Time employees and other qualifying employees under federal and state law. Qualifying employees will have the option of accepting the City health insurance benefits or of opting out of the City health insurance plan by documenting that they have other health insurance coverage.

The City will pay for the cost of health insurance coverage for the employee as long as the cost of that benefit is approved in the annual budget. The employee is responsible for paying the cost of insurance for a spouse or dependents as needed. The City may consider assisting with a portion of spouse or dependent health insurance coverage if approved in the annual budget.

Employees qualifying for health insurance benefits shall be offered coverage within 30 days but no longer than 90 days after employment. The City will offer notices and information on health insurance programs, coverage, and alternatives available under the Affordable Care Act as required by law.

The City may also offer other benefits at cost or with City assistance as may be available and approved in the annual budget. Such benefits may include vision, dental, life, pretax flexible spending accounts, and deferred compensation accounts.

### WORKERS' COMPENSATION INSURANCE

The City of New Fairview provides a comprehensive workers' compensation insurance program at no cost to its employees. This program generally covers injuries or illnesses sustained in the course of employment that requires medical, surgical or hospital treatment as required by law  
New Fairview Personnel Policy

or as provided by the worker's compensation insurance program in effect at the time of the work related injury or illness.

Employees who sustain work related injuries or illnesses must inform their supervisor immediately. No matter how minor an injury may appear to be, it is important that it be reported immediately. **Before an employee seeks medical attention the Human Resource Representative must be contacted.** The City of New Fairview may require drug testing immediately following any accident with or without injuries if the employee may be at fault.

Neither the City of New Fairview nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off duty recreational, social or athletic activity sponsored by the City of New Fairview.

#### BENEFITS CONTINUATION (COBRA) (Reserved)

~~The federal Consolidated Omnibus Budget Reconciliation Act (Cobra) gives employees and their qualified beneficiaries the opportunity to continue health coverage under the City of New Fairview's health plan when a qualifying event would normally result in the loss of eligibility. Some common qualifying events are resignation and termination of employment.~~

~~Under Cobra, the employee or beneficiary pays the full cost of coverage at the City of New Fairview group rates plus an administration fee of the maximum amount permitted by law. The City of New Fairview provides each eligible employee with a written notice describing rights granted under Cobra when the employee becomes eligible for coverage under the City of New Fairview health insurance plan. The notice contains important information about the employee's rights and obligations.~~

#### TEXAS MUNICIPAL RETIREMENT SYSTEM

The City of New Fairview participates in the Texas Municipal Retirement System (TMRS) to provide a retirement benefit for city employees. The amount of City participation is subject to change based upon budget approval, available funding and the TMRS plan approved.

The current city program adopted by the City requires that employees contribute 7% of their income towards retirement, and the City matches that on a 2 to 1 basis as adjusted for actuarial studies completed by TMRS.

Employees vest in TMRS after five years of municipal or other qualifying service and may retire after 20 years of service with the City, other cities, or other qualifying service. An employee who is ~~60~~ 65 years or older may retire with five years of qualifying service. Employees are eligible to retire in accordance with TMRS rules and regulations which may change if a qualifying employee may retire due to a disability. An employee with a disability can inquire with the City and TMRS on how to evaluate this alternative if it is needed.

An employee may work with the City and TMRS to obtain information about retirement and retirement benefits, to designate beneficiaries, or to make other changes to their individual TMRS plan alternatives.

New Fairview Personnel Policy

SOCIAL SECURITY AND OTHER FEDERAL PROGRAMS

The City of New Fairview participates in the Social Security program, Medicare and other mandated programs of the federal government. The required amounts are withheld from employee paychecks and are processed through the federal government as required by law. Benefits are available based upon the policies and regulations of the federal government.

UNEMPLOYMENT INSURANCE

The City of New Fairview participates in unemployment insurance as required by the State of Texas. Unemployment benefits may be subject to the conditions of separation from employment. A termination by the City for cause may result in a former employee not qualifying for unemployment benefits.

PRE TAX FLEXIBLE SPENDING PROGRAM (Reserved)

Employees may choose to participate in a Pre-Tax Flexible Spending Program. This program is subject to change by federal law and regulations. Under the program, employees can choose to pay for some benefits on a pretax basis. Health insurance, out of pocket medical, dental and other qualifying health related costs, and day care expenses are normally options in the plan. The City generally holds an annual meeting for employees on this and other benefits that are available for employees and helps answer questions so they can choose to participate or not.

OTHER BENEFIT PROGRAMS

The City of New Fairview participates in other benefit programs including life insurance, dental insurance and vision insurance. These programs may change as program benefits and costs change from year to year.

FLEX TIME

Flextime is a tool used to allow exempt employees to work hours that are not within the standard work schedule. There are times when a department’s operational needs require employees to either come in earlier than their normal reporting time, or to stay later than their normal end of shift time.

The adjustment of an employee’s work schedule must be approved in advance by the City Administrator prior to the employee working the adjusted schedule. The employee must notify the City Administrator with in 48 hours of the time they have worked more than the standard work schedule. It is the responsibility of the immediate supervisor to verify and ensure the performance of employees who are granted flextime. Good relationships with everyone involved are important for a successful flex-time policy. Trust is a big factor; City Administrator must feel confident that

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the employees will not abuse the benefits that are inherent in a flex-time schedule. Flextime is a privilege, not a right and if abused can be taken away at the discretion of the supervisor.

**Examples of Flextime schedules:**

- **Adjusted leave or start time** – An employee may be allowed to report later or leave earlier.
- **Adjusted Lunch Period** – An employee’s length of their lunch period may be adjusted while still working a full day.
- **Compressed Workweek** - An employee may, for example, be allowed to work four nine (9) hour days and one four (4) hour day.
- **On Call/ On Stand-By-** if an employee is called in under this section then the City Administrator may adjust this employees work schedule, preferably within the work week.

**SECTION 6: CITY PROPERTY & EQUIPMENT AND VEHICLES**

**USE OF EQUIPMENT AND VEHICLES**

~~Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using city property employees are expected to exercise care, perform required maintenance and follow all operating instructions, safety standards and guidelines.~~

~~Employees must notify the supervisor if any equipment, machines, tools or vehicles appear to be damaged, defective or are in need of repair. Prompt reporting of damages, defects and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job.~~

~~The improper, careless, negligent, destructive or unsafe use or operation of equipment or vehicles as well as excessive or avoidable traffic and parking violations may result in disciplinary action up to and including termination of employment.~~

~~Employees with an assigned vehicle may use the vehicle to drive to and from work if they live within a 15-mile radius of City Hall. Certain vehicles are considered to be a benefit to the employee when used to commute to and from work. Employees will be taxed in accordance with IRS rules for the use of a City vehicle to commute between work and home.~~

CITY PROPERTY AND EQUIPMENT:

Each employee is responsible for the proper use and maintenance of equipment, tools, vehicles or motorized equipment and other City property assigned to the employee for use in City operations. Employee negligence that leads to lost or damaged equipment ~~may will~~ result in the employee reimbursing the City the cost of said ~~equipment, with such~~ **equipment, with such** ~~The costs will be withheld from the employee’s paycheck, subject to federal and state law.~~

Use of City equipment, tools, vehicles, motorized equipment, or supplies for private or political purposes is strictly prohibited.

**Commented [RC49]:** What if it is covered by insurance? There is also no cap on cost...

**Commented [RC50]:** This provision without this language could run afoul of the FLSA, if it takes them below minimum wage or doesn't leave enough for tax or insurance withholding, or a QDRO, etc.

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City computers, electronic equipment and software are to be used for City business. No software other than software approved by the City or an employee's Department Director may be installed, kept, or used on a City computer or other electronic hardware. This limitation on software is to avoid software that may interfere with the operation of the City's computer systems and other electronic hardware or may contain computer viruses that could cause operational problems or the loss of City data, as well as trademark and licensing issues. Access to the internet, e-mail and messaging and voice mail and other electronic hardware is for City business only.

**Commented [RC51]:** There needs to be a separate policy addressing Information Technology; this is insufficient. Suggest a separate IT policy

City property, including but not limited to facilities, desks, files, vehicles, motorized equipment, telephones, and computers is subject to City inspection and removal of illegal or unauthorized items. ~~There is no expectation of privacy.~~

**Commented [RC52]:** Don't think this language is needed here.

#### VALID DRIVER'S LICENSE:

Operators of vehicles and motorized equipment used in City business are required to have a valid State of Texas driver's license necessary for legal operations of that vehicle or equipment and to notify their Department Director of any changes of status or suspensions in licenses immediately. Failure to maintain a safe driving record may be grounds for disciplinary action including termination. .

Suspension, revocation, or lapse in the validity of the required driver's license of an employee who operates vehicles or motorized equipment in the conduct of City business may result in termination or re-assignment of the employee.

#### -ACCIDENT REPORTING:

Any accident on City property, at a City worksite, or involving a City vehicle or motorized equipment must be reported immediately to the employee's supervisor, including an accident report ~~and when warranted the Police Department.~~

Any employee ~~observing or~~ involved in a motor vehicle accident must immediately notify the appropriate law enforcement authorities ~~Police Department.~~

An employee witnessing or involved in an accident must stay on the accident scene (-unless medical treatment is needed) until released by law enforcement.

#### CITY OWNED VEHICLE AND EQUIPMENT USE

The purpose of this policy is to define and describe the usage parameters related to the operation of City vehicles and motor-driven equipment by City employees.

- A. Ensure the safety and well-being of City employees
- B. Facilitate the efficient and effective usage of City vehicle and motor-driven equipment use.

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- C. Minimize liability to the City and set standardized disciplinary procedures.
- D. Establish standard requirements and procedures for all City employees who drive a City-owned vehicle or motor driven equipment in the course of City business.

City-owned vehicles and equipment must meet certain standards and following the requirements outlined in this policy. Some departments have additional vehicle use policies, and in the case of conflict, the most restrictive provision shall apply unless specifically stated herein.

Supervisors and Department Directors are responsible for implementing and enforcing this policy. All employees who operate City vehicles and equipment shall be briefed by their immediate supervisor. On this policy and shall be informed that violation of this policy can result in suspension, demotion, and termination.

### Definitions

The items defined within this section of this policy shall apply only to this section of the policy.

- **“City owned Vehicle or Piece of Equipment** – A vehicle or piece of equipment owned or leased by the City.
- **“De Minimis”** – Latin for “of minimum importance.” Essentially refers to something that is so little, small, miniscule, or tiny that the law does not refer to it and will not consider it.
- **“Driver”** – Operator of a motor vehicle, motor driven equipment or equipment attached to a vehicle or motor driven equipment.
- **“Preventable”** – The employee failed to exercise every reasonable precaution to prevent an accident
- **“Chargeable”** – The employee violated a sState traffic law; violated an established department safety policy or practice or both. The employee was at fault or contributed to the cause of the accident.
- **“Employee”** – means a person who is paid by the City, but does not include an independent contractor, an agent or employee of an independent contractor or a person who performs tasks the details which the City does not have the legal right to control.
- **“Take home vehicle”** – A City owned or leased vehicle which may be stored at an assigned employee’s residence who resides in the City or has received approval from their Department Director if the employee resides outside of the City limits.
- **“Scope of Employment”** – means the performance for the City of the duties of an employee’s office or employment and includes being in or about performance of a task lawfully assigned to an employee by their supervisor or Department Director.
- **“Vehicle accident”** – includes all accidents or incidents involving personal injury or property damage to or caused by a City vehicle, motor driven equipment, or equipment attached to a vehicle or motor driven equipment.

**Commented [RC53]:** Above policy states NO personal/private use. Here introduces de minimus

**Commented [RC54]:** What vehicles does the City have that can be characterized as “take home?”

### UTILIZATION OF VECHICLES AND EQUIPMENT

City-owned vehicles and motor-driven equipment shall not be used for personal reasons or personal business. This prohibits the hauling of personal property from one place to another, personal shopping trips, and non-business-related transportation of family members.

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Only City employees, the City Administrator and City Council members are authorized to travel in a City vehicle and use equipment unless authorized by City Administrator.

### TAKE HOME VEHICLES

~~Generally, in accordance with the IRS considers requirements, de minimis (personal use) of City-owned vehicles as is a non-taxable allowed other than commuting to and from work and de minimis personal use. Benefit. The IRS regulations do not consider use of City vehicles for commuting as de minimus, income, if it occurs more than once monthly. This will be accounted for to the IRS. More than de minimus use of~~ as required on the employee's W2 ~~for~~. The Supervisor or Department Director will provide to Human Resources a listing of Employees who have been authorized to take a City vehicle home with the number of days in any given month that the City vehicle has been taken home ~~to Human Resources~~ so that those employees driving a City vehicle home will have the correct income added to their pay-check period.

**Calculation:** Usage will be recorded in the payroll system by multiplying the daily dollar amount of \$3.00 times the number of days driven home. Example \$3.00/day X 10 days = \$30.00 entered in the employee record.

Department Directors and/or supervisors are responsible for ensuring that employees properly log the correct days when vehicles were taken home.

Vehicles assignments shall be evaluated based on department provided services, special/critical needs, special skills, emergency status, and frequency of recall after hours. The Department Director will consider the following criteria in approving an employee to be permitted to take a City vehicle home after normal work hours:

- The employee is the primary operator of the vehicle.
- The employee meets the City driving requirements.
- The employee has not had his or her driving privileges revoked or suspended within the last five (5) years.
- The vehicle is to be used to respond to emergencies or as a part of on-call responsibilities.
- The vehicle is used to contribute to the efficiency and/or effectiveness of City operations.
- Has been approved by the City Administrator.

Take home authorization may be revoked by :

- The employee uses the vehicle for personal reasons
- The employee violates any federal or state law
- The employee allows any non-employee or City official to travel in the vehicle or motor-driven equipment without authority.
- The employee fails to comply with the provisions of this policy.
- The employee has a change in job assignment, duties, or responsibilities such as that a take home vehicle is no longer justified or
- When it is in the best interest of the City.

**Commented [RC55]:** What take home vehicles does the City in fact have?

**Commented [RC56]:** IRS does not consider commuting more than one day a month as de minimus  
[https://www.irs.gov/publications/p15b#en\\_US\\_2024\\_pu\\_blink1000193660](https://www.irs.gov/publications/p15b#en_US_2024_pu_blink1000193660)

**Commented [RC57]:** IRS does not consider commuting more than one day a month as de minimus  
[https://www.irs.gov/publications/p15b#en\\_US\\_2024\\_pu\\_blink1000193660](https://www.irs.gov/publications/p15b#en_US_2024_pu_blink1000193660)

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Employees operating take-home City owned or leased vehicles who submit leave notices for three (3) or more consecutive workdays must make arrangements with their supervisor to leave the vehicle and keys for use by other City personnel during such period.

### ELIGIBILITY FOR OPERATING A CITY OWNED/LEASED VEHICLES AND EQUIPMENT

No employee shall operate a City vehicle or a piece of equipment without first being trained, instructed, licensed, or certified as may be applicable in its proper operation and use. An employee that knowingly operates a City vehicle or a piece of equipment without the proper license or does not notify their supervisor of their suspended or expired license, will be subject to disciplinary action up to and including termination

To be eligible to operate a City- owned vehicle or piece of equipment, employees shall:

- Be a minimum of 18 years of age (~~employees 17 years of age may drive in accordance with guidelines from the Department of Labor~~).
- Maintain a valid Texas driver's license of the type that is required for the vehicle/equipment being operated.
- Have an acceptable driving record. An acceptable driving record shall mean that the employee or applicant has:
  - A. No more than three (3) moving violations within the preceding two years.
  - B. No more than two (2) moving violations within the preceding twelve (12) month period resulting in conviction. (Evidence of traffic violations includes, but is not limited to convictions, "no contest pleas," dismissal for defensive driving purposes, receiving deferred adjudication and any current charges pending adjudication).
  - C. ~~Not been~~ convictions ed of driving while intoxicated d or within the preceding three (3) years.

**Commented [RC58]:** Will TMLIRP insure 1 year old driver?

By applying for, or continuing employment, in a position that may involve driving a City owned or leased vehicle or operating City-owned equipment, an employee thereby consents to checks of his/her driving record.

Employees who drive City owned vehicles on City business must notify their supervisor immediately of any change in driver's license status, including State suspension, revocation, or restriction. These violations may result in the immediate suspension of the employee's privilege to operate a City owned vehicle or equipment. Additionally, the employee may be subject to disciplinary action up to and including termination.

If an employee is charged with DWI/DUI, City driving privileges shall be immediately suspended pending the final disposition of the charge. If convicted, the employee may be subject to termination. Additionally, an employee who normally drives a City vehicle for business purposes, who has their driving privileges suspended, may not drive their personal vehicle to conduct City

**Commented [RC59]:** I don't know that this is permissible & have to review the Driver's Privacy Protection Act (DPPA) & the Motor Vehicle Records Disclosure Act

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business, unless such personal use is approved by the employee's Department Director, and they obtain a State Occupational license, as necessary. A copy of the State Occupational license will need to be given to both the employee's Department Director as well as Human Resources to be placed in the employee's personnel file. It is the responsibility of the employee to pay for all state occupation licensing cost.

#### GENERAL MAINTENANCE AND CONDITION OF VEHICLES

Assigned employees are responsible for the overall condition of the vehicles assigned to their department. Supervisors and Department Directors shall ensure that all vehicles are maintained in optimum running condition for maximum fuel economy and life span. Vehicles will be always kept clean, inside, and out.

Employees shall not:

- Smoke or utilize any tobacco products, electronic cigarettes or any electronic vapes inside City owned vehicles or motor driven equipment.
- Employees shall not possess, purchase or be under the influence of drugs or alcoholic beverages while operating City vehicles or motor driven equipment.
- Alter the body, design, appearance, or markings of the vehicle.
- Use fuel, oil, or other substances not approved by the department director or
- Perform mechanical repairs unless authorized by the department director.

Each day, employees who operate City owned vehicles or motor driven equipment shall ensure the vehicle or equipment is in a safe, clean, and operable condition by checking the fuel, fluid levels, tires, and overall condition of the vehicle. Employees shall immediately report deficiencies to their supervisor who will take appropriate action to allow a vehicle or piece of equipment to remain in service or remove it for repair. Under no circumstances shall a vehicle or piece of equipment be allowed to remain in service that a serious safety defect such as slick tires, leaking fuel lines, exhaust entering passenger compartment, or defective brakes.

Vehicles shall be kept sufficiently fueled for emergency responses. City personnel shall only keep authorized City equipment and authorized personal equipment in the assigned vehicle.

#### VEHICLE AND EQUIPMENT ACCIDENTS

If an employee is involved in an accident, ~~in the course of performing their duties, while driving a City or personal vehicle~~ in the course of performing their duties, the employee should at individual will be required to follow the specific accident-reporting procedure below.

- Stop the vehicle at the scene of the accident without obstructing traffic more than necessary and stay at the scene of the accident.
- Activate warning/safety lights
- Contact the applicable law enforcement authorities ~~Police Department or Sheriff's Department~~ as applicable

- Contact supervisor
- Exchange drivers' license and insurance information, as required by law
- Give a statement of facts of the sequence of events to the investigating officer.
- The driver of the City Vehicle will be drug tested as soon as practicable but not later than 32 hours after the accident.

The employee's supervisor will investigate all accidents involving a City vehicle that is a part of their departmental fleet. The supervisor and employee will complete and submit a City Incident Investigation Report within 48 hours of the accident to the City Administrator.

Commented [RC60]: Does the City have such a form?

An employee that fails to report an accident or injury within eight (8) hours of the accident, or who falsifies any information pertaining to an accident, may will be subject to disciplinary action up to and including termination.

#### Responsibilities of Vehicle and Equipment Operators

- Employees shall always operate City vehicles and equipment in a safe and courteous manner. Unsafe, negligent, or reckless driving is prohibited. Drivers must obey all traffic laws.
- When unattended, City vehicles shall be legally parked and properly locked
- Employees who operate City vehicles or motor driven equipment shall keep vehicle doors and trunk always locked with the ignition turned off and keys in their possession upon every exit of vehicle or motor driven equipment. At no time should a vehicle be left unattended with engine running and/or keys in or on the vehicle. (An exemption to this may be when City vehicles are being used as a cooling station for employees during heat advisory days, and as authorized by the department director.)
- Employees utilizing City owned vehicles or motor driven equipment are strongly encouraged to find a safe and secure location and stop their vehicles to use cellular phones and lap top computers.
- Employees must immediately report damage or vandalism to their supervisor.
- When stopped on any roadway or on the shoulder of a roadway, the driver of the City vehicle shall activate warning/safety lights except when lawfully parked at the curb or street side.

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G. Employees who use City owned vehicles and motor driven equipment should be aware that the operation and appearance of such vehicles reflects on the professionalism of the driver, their respective department, and the City. Accordingly, personnel must be constantly aware of their actions and ensure that their behavior, appearance, and operation exhibit the highest level of professionalism and courtesy.

### DISCIPLINARY ACTION

Supervisors will use the following guidelines to decide regarding disciplinary action after a thorough review of all circumstances.

The following shall be grounds for disciplinary action. Such disciplinary action may include suspension or revocation of the use of an assigned vehicle, suspension, or termination.

- Negligence, abuse or misuse-Negligence, abuse, or misuse on the part of an employee in the care or operation of City owned vehicles or equipment.
- Failure to follow procedures and regulations. Failure of an employee to follow the procedures and regulations governing the use of the individually assigned vehicle established herein.
- Traffic law violation. Violations of any traffic law pertaining to the use and operation of a motor vehicle while operating a City vehicle.
- Criminal law violations. Violations of any criminal law in the use of operation of the assigned vehicle pursuant to any law of the State of Texas, City Ordinance, or Federal Law.
- Operating vehicle while possessing/under the influence of drugs or alcohol. Operating a City vehicle while possessing or being under the influence of alcohol or drugs, or consuming alcoholic beverages or using drugs in a City vehicle (immediate termination).
- Excessive accidents. Employees having a combination of two or more Preventable or Chargeable accidents within thirty-six (36) months.

The first preventable vehicle or equipment incident ~~may will~~ result in a written reprimand. The supervisor will create a corrective action notice, which will outline a corrective action plan to rectify the problem. The supervisor will inform the employee of possible consequences if the problem is not corrected.

The second preventable vehicle or equipment incident within three (3) years of the first preventable incident ~~may will~~ result in suspension and three (3) month probation. The supervisor will create a corrective action notice, which will outline a corrective action plan to rectify the problem. The Supervisor will inform the employee of the possible consequences if the problem is not corrected.

The third preventable vehicle or equipment incident within three (3) years of the first preventable incident will result in immediate termination.

As an additional countermeasure leading to reduced driver error and ticketed incidents, employees may be required to take a Defensive Driving, or a Municipal Vehicle Operations course offered through Texas Municipal League. Employees may also be required to complete additional operation training if it is identified as a contributing factor in the incident.

Employees who fail to report incidents in accordance with department policy may be disciplined up to and including termination.

### PERSONAL PHONE

Normally use of a personal phone for personal business during city work hours should be minimized.

With approval of the City Administrator and the Department Director or Supervisor, an employee may elect to use their personal phone for city work instead of a City phone. The phone and phone service must be equal in quality to that provided by the City. The City will pay the employee up to \$35.00 a month if they elect to use their personal phone. To qualify for this benefit, the employee ~~must~~ will be required to have a phone for City business purposes.

If an employee elects to participate in this option and receive pay for their personal phone, the employee acknowledges and agrees that information on phone use may be subject to an information request as provided by this policy for City Computers and Communication Equipment. This includes call information, ~~texting text~~ messages, ~~and~~ web sites and data downloaded to the phone.

### CITY ISSUED CELLULAR PHONES

Where job needs demand immediate access to an employee, the City may issue a City owned cellular telephone to an employee for work-related communications. These phones are intended to be used for business purposes and incidental personal calls should be as brief as possible. It is recognized that employees will use City issued cellular phones for personal use. Abuse of City issued cellular phones can result in disciplinary actions up to and including termination.

Employees shall make no changes to City issued phones as it relates to passcodes and phone identification. Returned cell phones that have been altered that cause the phone to be inoperable upon separation of employment shall be the responsibility of the employee.

**Maintenance:** Each employee who is assigned a City cell phone is responsible for good care and maintenance of the assigned device. Reasonable precautions should be made to prevent theft of or damage to the cell phone and related equipment.

**Replacement:** Any person who loses or causes a cellular phone to be disabled or no-repairable may request a replacement phone, if the event that caused the damage can be justified as work related. If an employee requires a replacement phone. Multiple replacements may lead to disciplinary action.

### RETURN OF PROPERTY

Employees are responsible for all property, materials or written information issued to them or in their possession or control. Employees must return all City of New Fairview property immediately

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upon request or upon termination of employment. ~~Where permitted by applicable laws, the City of New Fairview may withhold from the employee's check or final paycheck the cost of any items that are not returned when required. Failure to return City property or equipment may will result in the cost of the depreciated equipment being charged to the employee in the total amount being deducted from an employee's final check.~~ The City of New Fairview may also take all action necessary to recover or protect its property. All employees are responsible financially liable for all city issued property.

**Commented [RC62]:** While the City is not subject to the Texas Payday Law, it is subject to the FLSA, which limits deductions from pay. There would also need to be some sort of due process before withholding wages to which the employee is otherwise entitled.

## I. POLICY OVERVIEW

The City will provide employees who need computers to work with computer and communications resources, when City management determines that these resources are appropriate considering the person's job responsibilities. City computer and communication resources provided to a computer user are solely the property of the City and are provided by the City to assist in the conduct of City business only. City computer and communication resources include, but are not limited to:

- A. City provided Personal computers,
- B. City provided Laptops/tough books/thin client devices,
- C. City-provided telecommunication devices (cell phones, ~~Blackberries~~, tablet computers or similar, I-Pads, ~~I-Phones~~ GPS devices and radios),
- D. Software programs (either on the employee's system or on the City network),
- E. Access to the City's business network, including wireless and VPN network access, and network-based devices (laser/color printers, Multi-Function printers, etc.). This includes access to City resources from a device provided by the employee.
- F. Internet access available through the City network,
- G. Any electronic data created by or provided to the employee,
- H. The City e-mail system, including any message transmitted through that system regardless of original source or final destination.

For purposes of this policy, computer users are defined as an authorized employee, volunteer, or contractor of the City who uses City computer resources

## II. USE OF COMPUTER AND COMMUNICATION RESOURCES

City computer and communication resources are for use in conducting City business only and may not be used for the computer user's personal gain.

The City strives to maintain a workplace free of harassment and sensitive to the diversity of its workforce. All City policies related to the workplace environment, including policies on Harassment and Sexual Harassment, fully apply to the use of the City's computer and communication resources (particularly including e-mail, internet and mobile text-based services). Therefore, the City prohibits the use of computer and communication resources in ways that are disruptive, offensive to others or harmful to morale.

A computer user shall be responsible for the information contained in this policy, including

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guidelines and definitions of acceptable and unacceptable uses of City computer systems, e-mail communications, the Internet and other services. The burden of responsibility is on the user to inquire as to acceptable and unacceptable uses prior to accessing the system.

### III. CONFIDENTIALITY AND PRIVACY

Any data created, sent or received using the City computing and communications resources, regardless of what device is used to access the message, is and remains the property of the City.

Further, in accordance with State law, all data that is composed, transmitted, or received via City computer systems are considered to be part of the official records of the City and, as such, are subject to the Texas Open Records Act, which may result in disclosure to law enforcement or other third parties without consent of the sender or receiver. As a result, **there is NO expectation of personal privacy in the use of City computing resources, the Internet or e-mail.**

Certain types of data created and/or stored in the City's computer systems and networks are protected from disclosure under Federal, State, local or other law, including but not limited to personnel/payroll data, privileged communications between attorney and client, and confidential communications exempted from the Texas Open Records Act. Computer users are responsible for protecting the confidentiality of these types of data from intentional or accidental disclosure to unauthorized parties. If there is uncertainty about whether a particular type of data must be protected, obtain permission from the appropriate Department Director.

### IV. MONITORING

To ensure compliance with this policy, the City has systems which monitor, review and access any computer resource, including computers, computer files, e-mail and Internet traffic, at any time and without prior notification of any computer user.

A supervisor may monitor the activities of and inspect the files of a specific computer user on his/her computer or network. A supervisor who believes such monitoring or inspection is necessary shall obtain approval from the applicable Department Director and the City Secretary, who will provide the necessary written authorization to the IT Staff.

Additionally, the contents of electronic messages or computer files may be viewed by a system administrator or IT staff in the course of routine maintenance, or as needed for City administrative purposes, including investigation of possible violations of this policy.

City-provided vehicles may also have GPS tracking devices to show the current location, previous locations, status and speed of the vehicle at any time. As needed, supervisors may access systems which provide current and historical information on vehicle movements.

V. PROPERTY, OWNERSHIP AND ACCESS RIGHTS

Computer users are prohibited from stealing or vandalizing City owned computing devices (PCs, laptops, tablets, printers, etc.), and City-owned software and data. All software, data, reports, messages and information received and stored on local and network hard drives or other storage medium (such as portable hard drives or USB storage devices), as well as other products created using the City's computer resources, are the property of the City. An employee shall not access, copy, alter or destroy anyone else's computer files, or portions thereof, without explicit permission (unless authorized or required to do so by law or regulation)

All computer users shall respect the legal protection provided by copyrights, licenses, and federal, state, or local laws and regulations. Copying City-owned or licensed software to another City computer system, or to a personal/external system is not allowed without the prior written consent of the City Administrator or designee and the employee's Department Director.

The City IT staff, and/or contractor as managers of the City computer and communications resources, has access to all resources without prior authorization by the user/creator, and reserves the right to set permissions and accessibility rights as it deems necessary to all city computer resources.

VI. REQUIRED COMPUTING PRACTICES

In order to ensure safe usage of City computer resources, all computer users are required to employ the following practices whenever applicable for their situation:

- A. User IDs and passwords. The City's computer systems require that each user have a unique identity, referred to as an Active Directory "User ID" which represents and identifies a user in various system activities, provides access to certain software and data and associates his/her own software and data with his/her identity. (Certain employees may have additional User IDs related to specific systems or websites.) Assuming another person's User ID, or assuming an anonymous identity, is expressly prohibited. User passwords should be changed every 90 days, as practical.

The employee is responsible for any modification or access to system information made using his/her User ID. **Therefore, users must not share his/her User ID or passwords and should take care not to leave a system unattended while a user is logged on.**

- B. Internet Content. Due to the nature of Internet and on-line services, the City cannot control the content of messages or information postings on non-City websites or services. The City reserves the right to use available technology to monitor for, and screen out, information that may be offensive, contains viruses or malware, or is not business- related, as determined by the City, although technology cannot block all sites that may contain

offensive material, nor can the City prevent transmission and/or receipt of all offensive e-mail messages.

- C. Internet connection. Internet use is provided through the use of a dedicated connection, a firewall and a proxy or authorization system. Internet use outside of this configuration is prohibited unless specifically authorized by the IT Staff and ~~appropriate Department Director~~/or contractor.

D. E-mail Services

- **Any electronic mail message sent or received through the City's computer resources is considered City records.** The City reserves the right to access and use for business purposes the content of any message sent over its e-mail systems, including electronic mail sent over the Internet. An employee should not expect or assume any privacy regarding the content of e-mail communications. Most e-mail communications are subject to disclosure under the Public Information Act. Employees should keep in mind that any written communication, whether by e-mail or otherwise, could be publicized under Texas law.
- When communicating with individuals, groups, or institutions, an employee does so as a representative of the City. A user of City-provided e-mail systems shall use these systems in a professional manner.
- A user shall represent him/herself according to his/her true and accurate identity in any electronic message, file and transaction at all times.
- Incidental and occasional personal use of electronic mail may be permitted within the City, but such messages will be treated the same as other messages.

- E. Computer Virus Issues. The City desires to protect its computing resources from both the intentional and unintentional introduction of any computer virus. Therefore, an employee shall also take responsibility by practicing safe computing, including the following computing guidelines:

- Leave the anti-virus software running on his/her computer.
- Exercise care when receiving Internet e-mail or outside files on external media

(such as a USB "flash drive"), particularly if the originator is unknown. Running programs directly from a USB "flash drive" or downloading/installing software from the Internet without IT staff involvement, is prohibited.

- Immediately report any suspicions of viruses to the IT Staff.
- All appropriate employees are required to take the annual cyber security training, as required by state law.

F. Remote Access and Wireless Access. Employees, vendors, contractors or other users who access resources inside of the City network must use an access method provided or approved by the IT Department and/or contractor. The City provides Virtual Private Network [VPN] software which is suitable for most requirements in this area. If an outside party requires an Internet-based remote access service (such as GoToAssist, Webex, etc.) to access City resources, it must be approved by the IT Staff, and/or contractor must be continuously monitored by a City employee while the remote connection is active.

In addition, only wireless equipment provided by the City IT staff may be used on the City network - computer users are expressly prohibited from connecting other wireless routers or access points to the City network, since this represents a potential security risk to the entire network.

G. Purchasing and Upgrade Processes. To provide the most cost-effective and efficient service, any hardware or software acquisition, whether new or upgrades, shall be coordinated with the requesting department and IT Staff and/or contractor before a purchase is made. If found in violation, a system may not be supported and may be removed from service. In order to ensure compatibility and avoid possible problems, hardware and software installations shall be made by the IT staff and/or contractor.

Physical software license documents and software installation disks product keys are stored by IT.

H. Telephone movement. The IT Department is required by State law to maintain an accurate, up-to-date database with the physical location of each telephone handset in the City's phone system. This database is used by emergency systems which direct emergency personnel to the handset's location when the user dials 911. For this reason, employees are required to contact IT staff to move a telephone handset to another location, even if the new location is within the same building.

I. Portable Computing Devices. The City may issue a portable computing device (laptop, Toughbook or tablet device, plus chargers or other accessories) to an employee for the purpose of completing their job function. By accepting the device, the employee agrees to the following rules:

- The employee is required to exercise due care for the physical security of the device at all times. This includes, but is not limited to, protection from theft, protection from heat, moisture or other elements, protection from drops, shocks, scratches, crushing or other excessive forces.
- If a protective cover or case is provided for the device, the user must ensure that the cover/case is used at all possible times.
- Employees do not allow any unauthorized use by any person.
- The City will install management software on the device which may allow for tracking of the device, and also to manage software on the device. The employee agrees not to alter or disable this software.
- In the event the unit is damaged, the unit **must** be returned to the Department Director for repair/replacement.
- The City reserves the right to charge employees for negligent or malicious damage to an assigned device, or if the device is reported as lost.

J. Employee-provided devices. The City may permit employee-provided telephones or tablet devices to connect to the City network to access specific applications and data (for example, email and calendaring services). Such access must be approved by the employee's Department Director. The City reserves the right to limit the brand/model of devices permitted to access the network, to discontinue a specific brand or type of device in the future, allow the City to run management software on the device, and to require that the employee follow certain security standards as a condition of allowing the device to connect to the City network.

K. Unacceptable Computer and Internet Usage. Users are not allowed to use the City's computer resources in any manner identified in this section. ~~Specific exemption to these unacceptable uses may be made for Police Department investigations with the approval of the Chief or his/her designee, (who will provide the necessary authorization to the City Administrator or designee).~~ Such unacceptable usage includes, but is not limited to:

- Use of City computers, systems, communication equipment, the Internet or any other on-line service for any purpose which violates any City, state or federal law.
- Destruction or damage to equipment, software, or data belonging to the City or others.
- Use of city computers and communication equipment for private business, commercial purposes or personal financial gain, including external consulting, commercial advertising, or for online purchasing of personal items, etc.
- Inappropriate or excessive personal use of electronic mail, Internet or other computer resources, including social media and computer gaming.
- Viewing, sending, copying or soliciting of sexually oriented messages or images.
- Accessing internet sites which are "adult-oriented" in nature, or which offer gambling services, or which contain obscene content of any nature.
- Use to defraud, threaten, libel or harass others, including transmission of offensive or harassing statements or images that disparage others based on their race, national origin, sex, sexual orientation, age, disability, religious beliefs or political beliefs; Impersonation of any person or communication under a false or unauthorized name.
- Inappropriate mass mailing, "spamming" or "mail bombing".
- Tampering with any software protections or restrictions placed on computer applications or files or attempting to circumvent local or network system security measures.
- Knowingly or maliciously introducing any invasive or destructive programs (i.e., viruses, worms, Trojan Horses) into City computers or networks or intentionally developing programs designed to harass other users or infiltrate a computer or computing system and/or damage or alter the software components of same;
- Attempting to damage, interfere with or disrupt operation of computing equipment, services, or network or data communications lines.

- Using City computing resources for purposes other than those intended by the department authorizing access, including allowing access by unauthorized persons.
- Attempting to modify City-owned or licensed software or related data files without prior written approval by the city's IT Department.
- Using City computer resources (particularly large amounts of printer or plotter use) for fundraising, partisan politics, charity or public relations activities not specifically authorized by the Department Director **and** not related to City activities.
- Intentionally seeking information or security access rights on, obtaining copies of, or modifying files or data without proper authorization.
- Intentionally copying or printing any software, electronic file, program or data using City provided computer systems, internet or other, on-line services without a prior, good faith determination that such copying or printing is, in fact, permissible. Any efforts to obtain permission should be adequately documented.

Violation of Policy. A user who violates this Policy, including engaging in inappropriate and/or unacceptable use of the City's computer and communication resources, shall be subject to revocation or suspension of user privileges and/or disciplinary action, up to and including termination of employment.

#### SOCIAL MEDIA POLICY

~~Purpose: This policy establishes guidelines for the establishment and use of social media sites by the City of New Fairview (including but not limited to Facebook and Twitter) as a means of conveying City information to the public.~~

~~The intended purpose behind establishing City of New Fairview social media sites is to disseminate information from the City, about the City, to its citizens.~~

~~The City of New Fairview has an overriding interest and expectation in deciding what is "spoken" on behalf of the City on City social media sites.~~

~~For purposes of this policy: social media" is understood to be content created by individuals, using~~

~~accessible, expandable, and upgradable publishing technologies, through and on the Internet. Examples of social media include, but are not limited to Facebook, blogs, RSS, YouTube, Twitter, LinkedIn, Pinterest, Delicious, Foursquare and Fliker. For purposes of this policy: "comments" include information, articles, pictures, videos or any other form of communication content posted on a City of New Fairview social media site.~~

~~General Policy:~~

~~1. The establishment and use by any City department of City social media sites is subject to approval by the City Administrator or his/her designee. All City of New Fairview social media sites shall be administered by City Secretary, department directors, or department director's designee.~~

~~2. City social media sites should make clear that they are maintained by the City of New Fairview and that they follow the City's Social Media Policy.~~

~~3. Wherever possible, City social media sites should link back to the official City of New Fairview website for forms, documents, online services and other information necessary to conduct business with the City of New Fairview.~~

~~4. The Public Information Officer will monitor content on City social media sites to ensure adherence to both the City's Social Media Policy and the interest and goals of the City of New Fairview.~~

~~5. The City reserves the right to restrict or remove content that violates its Social Media Policy or any applicable law. Any content removed based upon these guidelines must be retained by the City Secretary for a reasonable period of time, including the time, date and identity of the poster, when available.~~

~~6. These policies must be displayed to users or made available by hyperlink.~~

~~7. The City will approach the use of social media tools as consistently as possible, entity wide.~~

~~8. The City of New Fairview's website at [www.newfairview.org](http://www.newfairview.org) will remain the City's primary and predominant internet presence.~~



~~9.—All City social media sites shall adhere to applicable federal, state and local laws, regulations and policies.~~

~~10.—City social media sites are subject to the Texas Public Information Act. Any content maintained in a social media format, including a list of subscribers, posted communication, and communication submitted for posting, may be a public record subject to public disclosure.~~

~~11.—Comments on topics or issues not within the jurisdictional purview of the City of New Fairview may be removed.~~

~~12.—Employees representing the City government via City social media sites must conduct themselves at all times as a representative of the City and in accordance with all City policies.~~

~~13.—This Social Media Policy may be revised at any time.~~

~~Comment Policy:~~

~~1.—As a public entity the City must abide by certain standards to serve all its constituents in a civil and unbiased manner.~~

~~2.—The intended purpose for establishing City of New Fairview social media sites is to disseminate information from the City, about the City, to its citizens.~~

~~3.—Comments containing any of the following inappropriate forms of content shall **not** be permitted on City of New Fairview social media sites and are subject to removal and/or restriction by the Public Information Officer or his/her designee.~~

~~•—Comments not related to the original topic, including random or unintelligible comments.~~

~~•—Profane, obscene, violent, or pornographic content and/or language.~~

~~•—Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, or national origin.~~

- ~~• Defamatory or personal attacks.~~
- ~~• Threats to any person or organization.~~
- ~~• Comments in support of, or in opposition to, any political campaigns or ballot measures.~~
- ~~• Solicitation of commerce, including but not limited to advertising of any business or product for sale.~~
- ~~• Conduct in violation of any federal, state or local law.~~
- ~~• Encouragement of illegal activity.~~
- ~~• Information that may tend to compromise the safety or security of the public or public systems.~~
- ~~• Content that violates a legal ownership interest, such as a copyright, of any party.~~
- ~~4. A comment posted by a member of the public on any City of New Fairview social media site is the opinion of the commentator or poster only, and publication of a comment does not imply endorsement of, or agreement by, the City of New Fairview, nor do such comments necessarily reflect the opinions or policies of the City of New Fairview.~~
- ~~5. The City of New Fairview reserves the right to deny access to City of New Fairview social media sites for any individual, who violates the City of New Fairview's Social Media Policy, at any time and without prior notice.~~
- ~~6. Departments shall monitor their social media sites for comments requesting responses from the City and for comments in violation of this policy.~~
- ~~7. When a City of New Fairview employee responds to a comment, in his/her capacity as a City of New Fairview employee, the employee's name and title should be made available, and the employee shall not share personal information about himself or herself, or other City employees.~~
- ~~8. All comments posted to any City of New Fairview Facebook site are bound by Facebook's Statement of Rights and Responsibilities, located at <http://www.facebook.com/terms.php>, and the City of New Fairview reserves the right to report any violation of Facebook's Statement of Rights~~

~~and Responsibilities to Facebook with the intent of Facebook taking appropriate and reasonable responsive action.~~

The purpose of the City's social media presence is to establish a greater level of transparency of City government and services. Build a one-on-one connection that creates an open dialogue with residents and other interested parties, to be able to publish time sensitive information to residents and media quickly. This policy establishes procedures for the City's participation in various social media venues and to establish the standards for posting, allowing, or forbidding certain content and commentary on social media sites which include but not limited to Facebook, YouTube, and Twitter. The City encourages the uses of social media to convey information from the City to its citizens, to facilitate a sense of community and for residents and for residents and to allow businesses to communicate with and obtain information about the City. The City's website will remain the primary avenue for release of information to reach a broader audience and encourage citizen participation. Nothing contained in any social media site constitutes a binding representation, view, position, opinion, agreement, or endorsement on behalf of the City.

All Department Directors are responsible for their subordinate's compliance with the provisions of this policy and for investigation non-compliance.

#### DEFINITIONS

**Social Media-** Are third party websites containing information that is intended to facilitate communications, influence interaction with peers and with public audiences about some topic, typically via the Internet and mobile communication networks. Types of social media include by are not limited to, Facebook, Twitter, Instagram, and any other social media outlet that serves the purpose of information sharing.

**City Social Media Sites-** are pages, sections or posting on Social Media websites that are established or maintained by an employee of the City who is authorized to do so as part of the employee's job. City Social Media Sites are intended to be used for City business, to communicate with office holders or City staff, and/or communicate or gather feedback from the residents and other interested parties.

**City Social Media Content-** is the practice of engaging in business and/or social contacts by making connections via interactive Web based applications.

**Social Networking-** is the practice of engaging in business and/or social contacts by making connections via interactive Web based applications.

**Blog-** is a web site that contains an online personal journal with reflections, comments, and often hyperlinks provided by the writer.

**Post-** is to display an announcement in a place for public view on social media outlet.

**Comment-** means a response to a City article or social media content submitted by any person or entity.

**Link-** is short for hyperlink which connects a hypertext file to another location or file typically

activated by clicking on the highlighted word or icon at a particular location on the screen.

**Public Information-** is any information collected, assembled, or maintained by the City in the transaction of official business pursuant to chapter 552 of the Texas Government Code.

#### GUIDELINES:

##### General Regulations of City Social Media Sites

All official City presences on social media sites or services are considered an extension of the City's computer information network and are governed by the policies.

Respect copyrights and fair use. All postings must comply with the applicable federal, state, and local laws and regulations and retention schedule according to the Texas Local Government Code Chapters 102 and 205. Records required to be maintained pursuant to the Texas State Library and Archives Commission records retention schedule shall be maintained for the required retention period in a format that preserves the integrity of the original record and is easily accessible using the usual or approved City platform or tools.

Information collected at the this site, become public record that may be subject to inspection and copying by members of the public, unless an exemption in law exists according to the Texas Public Information Act.

When possible, links to more information should direct users back to the City's official website for more information, forms, documents, or online services necessary to conduct business with the City.

It is preferred that only one social media account per platform exists for the City. This is to create a singular source of free-flowing information that City residents will be able to always access easily.

Those wishing to launch new City Social Media sites, add site pages, or add content to the City's site should their request in writing or via email to the City Administrator. If the request is approved, any login and passwords to the information must be shared with the City Administrator's office.

Employees creating or posting information to a City Social Media Site must always conduct themselves in a professional manner as a representative of the City in accordance with all City policies.

The City Administrator may disable a City Social Media site or prohibit posting of City social media content to a site at any time for any reason, including but not limited to violation of this policy, improper content, lack of use or disinterest by the public, or department's failure to properly maintain the site. The City reserves the right to remove any content that is not within these guidelines while retaining said content of the appropriate records retention according to state law.

Remember that your postings are ultimately your responsibility.

#### CONTENT OF SOCIAL MEDIA SITES:

A. Employees using social media sites whether as an administrator or as a responder to a posting will follow these principles:

- Keep post factual and accurate. If a mistake is made, admit to it, and post a correction as soon as possible
- Reply to comments in a timely manner, when a response is appropriate. Never get in an argument with a citizen on a City maintained social media site. Do not respond with opinion or conjecture – only respond with complete facts.
- Understand that postings are widely accessible, not retractable, and will be around for a long time, so consider content carefully.
- Ensure your comments do not violate City’s privacy, confidentiality, and applicable legal guidelines for external communication.
- Ensure you have the legal right to publish others’ material including photos and articles pulled from other sites.
- Remember that your postings are ultimately your responsibility.

B. Social Media Terms of Use for Employee/ General Public:

- Persons may permanently be excluded from City social media pages if acting contrary to these rules. Persons who repeatedly break rules will receive a warning prior to removal.
- Persons writing more than 250 characters may be asked to rewrite.
- Anyone using profane language or posting any information that could be considered disrespectful dialogue will be asked to reword their post or it will be deleted.
- Content shall not be that is confidential according to the Texas Public Information Act.
- Comments must not be in support of or opposition to political campaigns or ballot measures; Postings for electoral campaign purposes will not be published.
- Content will be removed that promotes, fosters, or perpetuates discrimination based on race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation.
- Sexual content or links to sexual content is not permitted.
- Conduct or encouragement of illegal activity is not permitted.
- Posted content must be relevant to the City of New Fairview.
- Information or references to the personal addresses, personal telephone numbers, personal email addresses, family members or other personal information of City officials or City employees, shall not be posted.
- No attacks on individual character will be permitted.
- Commercial promotions or spam, shall not be posted.
- Links to websites or pages of outside vendors that are not related to the purpose of the media site.
- You are legally responsible for what you write, and it must not breach any law, confidentiality, or copyright. Because you are responsible for your statements, be careful about exaggeration, innuendo, etc.
- Comments must contribute and be relevant to the dialogue that is being discussed.
- The City reserves the right to restrict or remove any content deemed in violation of

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the terms outlined in this policy. Any content removed based on these guidelines will be retained including the time date and identity of the poster when available. The City of New Fairview reserves the right to update these terms of use.

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## EMPLOYEE SOCIAL MEDIA USE

While the City encourages its employees to enjoy and make good use of their off-duty time, certain activities on the part of employees may become a problem if they have the effect of impairing the work of any employee; harassing, demeaning, or creating a hostile work environment for any employee; disrupting the smooth and orderly flow of work within the City; or harming the goodwill and reputation of the City in the community at large. In the area of social media (print, broadcast, digital, and online), employees may use such media in any way they choose during non-working hours as long as such use does not produce the adverse consequences noted above. For this reason, the City reminds its employees that the following guidelines apply in their off-duty use of social media:

- Employees are strictly prohibited from publishing any personal information about themselves, another employee of the City, or a customer in any public medium (print, broadcast, digital, or online) that:
  - has the potential or effect of involving the employee, his/her co-workers, or the City in any kind of dispute or conflict with other employees or third parties.
  - interferes with the work of any employee.
  - creates a harassing, demeaning, or hostile working environment for any employee.
  - disrupts the smooth and orderly flow of work within the office, or the delivery of services to the City's customers.
  - harms the goodwill and reputation of the City among its customers or the community at large.
  - tends to place in doubt the reliability, trustworthiness, or sound judgment of the person who is the subject of the information.
  - reveals proprietary or confidential information.
- Should an employee decide to create a personal blog, the employee should be sure to provide a clear disclaimer that the views expressed in the blog are the author's alone and do not represent the views of the City.
- Do not discuss the City's customers, or finances without the City's express written consent to do so.
- Do not use any City logos or trademarks without prior written consent of the City.
- Do not make any unauthorized references of any kind to any former employees of the City on social media sites.

An employee who violates this policy will be subject to disciplinary action, up to and including termination of employment. The absence of explicit reference to a particular site does not limit the extent of the application of this policy. If no policy or guideline exists, the City's employees should use their professional judgment and follow the most prudent course of action. If an employee is uncertain, consult with their supervisor or the City Administrator before proceeding.

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## SECTION 7: WORK ENVIRONMENT SAFETY

Some of the best safety improvement ideas come from employees. Those with ideas, concerns or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor or with another supervisor. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of reprisal.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards, who cause hazardous or dangerous situations, or who fail to report or where appropriate, remedy such situations may be subject to disciplinary action up to and including termination of employment.

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees should immediately notify the supervisor. Such reports are necessary to comply with laws and initiate insurance and workers' compensation benefits procedures. Following an accident, the City of New Fairview may require the employee to undergo drug testing in accordance with the drug testing policy in this section.

### SMOKING

In keeping with the City of New Fairview's intent to provide a safe and healthful work environment, ~~the City maintains a smoke- and tobacco-free office. No smoking or and tobacco products, including cigarettes, cigars, pipes, water pipes (hookahs), electronic cigarettes, snuff, chewing tobacco, and any non-FDA approved nicotine delivery service, is not permitted inside any part of City buildings or in City owned vehicles, leased, or vehicles rented by the City are prohibited throughout the workplace.~~ Employees may smoke outside in designated areas during breaks. When smoking or otherwise using tobacco or similar products outside, employees should avoid leaving cigarette butts or other traces of litter or tobacco use on the ground or anywhere else. No additional breaks beyond those allowed under the City's break policy may be taken for the purpose of using tobacco or similar products. Employees are to dispose of any litter properly in the receptacles provided for that purpose. Smoking a~~Areas may be designated where smoking is allowed before or after work, or during brief authorized breaks, these areas must be a minimum of 25 feet from any city building.~~

This policy applies equally to all employees, customers and visitors. ~~Areas may be designated where smoking is allowed before or after work, or during brief authorized breaks, these areas must be a minimum of 25 feet from any city building.~~

### EMERGENCY CLOSINGS

~~At times emergencies such as severe weather, fires, power outages or earthquakes can disrupt company operations. In extreme cases, these circumstances may require the closing of a work facility. Closings may be declared by the City Administrator and/or the City Administrator's designee.~~

New Fairview Personnel Policy

~~When operations are officially closed due to emergency conditions, the time off from scheduled work will be paid. Employees in essential operations may be asked to work on a day when operations are officially closed. In these circumstances, employees who work these days will receive regular pay.~~

Occasionally, severe weather may create a serious transportation hazard and make it difficult for employees to arrive at work. Management evaluates such situations carefully before determining whether to close the City. Typically, during severe weather, the City will close and/or delay opening in accordance with the Northwest Independent School District's (NISD), or Wise County determination and schedule. The decision will be made by the City Administrator, and this information will be posted on the City's website.

You should report to work unless you believe the weather proves to be an actual safety threat or a City closing has been announced. You should use appropriate discretion in determining whether to attempt to come to work. If the City has not announced a closing and you will be late or absent from work due to the severe weather, you must notify your supervisor as soon as possible.

A nonexempt employee scheduled to work on a day on which the City is officially closed, opens late, or closes early, will receive his/her normal pay for the day, ~~unless he/she arrives after or leaves prior to the time the closing was effective.~~ If an employee has previously scheduled vacation or called in with an excused absence, he/she will be charged with the time off as originally scheduled.

**Commented [RC65]:** Docking exempt employee for partial day?

When the City is not officially closed, nonexempt employees will not be paid for time missed due to severe weather unless they use available personal time. Based upon individual circumstances, the supervisor may allow an employee to make up any missed time due to severe weather if the time is made up within the same workweek.

**Commented [KS66]:** Source: City of Rhome Handbook

### VISITORS IN THE WORKPLACE

To ensure the completion of assigned work, the safety and security of employees and visitors, and to protect City resources and facilities, only authorized visitors are allowed for any extended period of time in the workplace. An extended period of time is defined as longer than five (5) minutes. Restricting unauthorized visitors helps to maintain safety standards, protect against theft, ensure security of equipment, protect confidential information, safeguard employee welfare and avoid potential distractions and disturbances.

The employee or visitor must speak with the employee's director or supervisor and obtain permission prior to visiting the employee. Visitors are not authorized to enter a construction work site where safety is a concern. Visitors are not allowed to enter an employee workspace or behind a desk or area where sensitive information is managed, or financial resources are controlled. If necessary, the employee shall leave the work site to meet with and speak with a visitor.

Employees who endanger themselves, other employees or visitors, who endanger city equipment or resources, or who allow assigned work to be stopped for an extended period of time by not following these guidelines may be subject to personnel action.

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## ~~DRUG-FREE WORKPLACE~~

### ~~PURPOSE~~

~~It is our responsibility to our citizens to assure that we deliver the highest degree of service, which can only be delivered by drug-free employees. For this reason, the City will seek to prevent drug use/abuse during an employee's course of employment with the City. Drug and/or alcohol testing will be conducted based on reasonable suspicion, following accidents, prior to employment and randomly for certain employees. Due to the importance of the policy, the City reserves the right to conduct searches and inspections of employees and their personal property to the extent permitted by law. The City has and may, within its sole discretion, conduct inspections at any time of any and all City property which may include lockers, gloveboxes of City vehicles, desks, and computers.~~

### ~~POLICY~~

~~In order to maintain a drug-free workplace, an employee may not manufacture, distribute, dispense, possess, use or be under the influence of the following substances or drug paraphernalia while in the workplace, during working hours, otherwise discharging duties as a City employee, or in a City vehicle:~~

~~A. Illegal drugs, controlled substances, or controlled substances analogues as used in this policy is defined by Texas Health and Safety Code, as amended. Marijuana and abusable glues and aerosol paints (inhalants), outside of the employee's normal job function, as defined in Vernon's Texas Codes Annotated Health and Safety Code, as amended Section 485.001.~~

~~B. Alcoholic beverages means alcohol or any beverage containing more than one-half of one percent of alcohol by volume alone or when diluted.~~

~~C. Drug paraphernalia means equipment, a product or material of any kind that may be used in connection with drugs, as defined in the Texas Health and Safety Code. Under the influence of drugs means a presence in the body or urine of a quantity of a drug sufficient to register a positive result on the drug screen utilized by the City.~~

~~Under the influence of alcoholic beverages is defined as follows:~~

- ~~1. Not having the normal use of mental or physical faculties by reason of the introduction of alcohol into the body; or~~
- ~~2. Having an alcohol concentration equal to or greater than 0.04 grams of alcohol per 210 liters of breath.~~

### ~~TESTING~~

~~To ensure compliance with the rules of this policy, the City may require that an employee or job applicant submit to a test to detect the presence of illegal drugs or alcohol and as a condition of employment or continued employment under the following circumstances:~~

~~A. Prior to employment with the City, all applicants will be required to submit to a drug or alcohol test as part of the pre-employment screening process. An unconditional job offer may be~~

~~extended when results are negative. A job offer must be revoked if given prior to a positive test result.~~

~~B. Post incident drug testing is mandatory under the following circumstances:~~

- ~~1. If an employee is involved in an accident and/or damages property and another person is involved.~~
- ~~2. When an employee who possesses a Commercial Driver's License (CDL) is involved in a fatal crash, even if the driver is not cited for a moving violation.~~
- ~~3. When an employee who possesses a CDL is cited for a moving violation that results in either the vehicle being towed from the scene or someone is medically evacuated from the scene.~~

~~Breath alcohol tests must be conducted within 8 hours of the accident and drug screens must be conducted within 32 hours of the accident for employees who possess a CDL.~~

~~C. Supervisors will utilize the City's Reasonable Suspicion Analysis checklist and will direct a drug test when:~~

- ~~1. A supervisor believes an employee who sustains an on-the-job injury requiring medical attention may be under the influence of drugs and/or alcohol.~~
- ~~2. A supervisor believes an employee who is involved in an accident and/or damages property and no other person is involved may be under the influence of drugs and/or alcohol.~~

~~D. All employees who are subject to Department of Transportation rules regarding safety sensitive positions will be subject to a breath test for alcohol and urine test for the presence of illicit drugs at detectable limits established by the DOT.~~

~~F. The City reserves the right to utilize any drug or alcohol test performed by local law enforcement officials or appropriately trained medical personnel.~~

## ~~NOTIFICATION~~

~~Pursuant to the Drug Free Workplace Act of 1988, the City requires all employees to notify their supervisor of any criminal drug related conviction (state or federal) no later than five (5) days after the conviction. This requirement does not relieve the employee of the obligation to report an arrest under this policy.~~

## ~~OVER-THE-COUNTER/PRESCRIPTION DRUGS~~

~~A. The City reserves the right at all times to determine the effect(s) that any medication (prescribed or over the counter) may have upon an employee's work performance and to restrict the employee's work activity or presence at the work place accordingly.~~

~~B. Employees are directed to notify his/her supervisor when he/she is taking medication that has the potential to affect motor skills and mental clarity. Failure to provide this notification creates an unacceptable risk and will result in disciplinary action up to and including termination~~

## REHABILITATION

~~A. The City encourages employees and their dependents to seek early voluntary treatment for substance abuse problems through the City's Employee Assistance Program (EAP), which provides counseling and referral services.~~

~~B. However, those who are discovered by drug testing, being visibly intoxicated or having a detectable amount of alcohol in their system while on the job, or being in possession of controlled substances or alcoholic beverages while on duty will be subject to disciplinary action up to and including termination.~~

## REFUSAL

~~Refusing to submit to drug or alcohol tests when required by the City will result in non-selection for a job applicant or immediate termination for current employees.~~

## POSITIVE RESULTS

~~A. Termination of an employee or automatic rejection of a job applicant will occur when an employee or job applicant tests positive for the presence of alcohol or controlled substances. All breath samples with an alcohol concentration of 0.04% or greater will result in termination. An alcohol concentration of 0.02% or greater, but less than 0.04% may be subject to disciplinary action up to and including termination.~~

~~B. If an employee is subject to DOT rules regarding safety sensitive positions, those rules will take precedence over the rules in this policy pertaining to drug and alcohol testing and detectable limits. However, disciplinary actions if necessary, will occur under the full extent of this policy.~~

~~C. The following circumstances will serve as an affirmative defense under this chapter:~~

- ~~1. If an employee or job applicant has a valid prescription from a licensed medical practitioner for the positively tested controlled substance.~~
- ~~2. If an employee or job applicant has ingested an over the counter medication administered in accordance with the manufacturer's instructions.~~
- ~~3. If an employee or job applicant has a valid prescription from a licensed medical practitioner for a controlled substance that was taken for a therapeutic purpose that was taken in accordance with instructions.~~

~~The burden of proving such an affirmative defense will rest on the employee or job applicant and not the City. These affirmative defenses will not apply if the drug or medication may have impaired the employee's ability to function safely and the employee failed to notify his/her supervisor and the City Secretary.~~

## SUBSTANCE ABUSE AND ALCOHOL CONSUPTION

The City is dedicated to providing and maintaining a safe, healthy, and productive working environment free from drugs, alcohol, and other controlled substances. It is a violation of the City's policy for an employee to:

- report for work or perform work duties under the influence of alcohol, illegal drugs or inhalants, or other controlled substances.
- manufacture, sell, distribute, dispense, possess, purchase, or use alcohol, illegal drugs or inhalants, or other controlled substances in the workplace.
- use legal drugs in an improper manner.

Improper use of legal drugs refers to the use of prescription medication not prescribed for current personal treatment by a licensed medical professional, or the use of prescription or nonprescription medication to an extent or in a manner that impairs the performance of an employee's job duties. No prescription drug is to be brought on City property by any employee other than the employee for whom it is prescribed. Such drug must be used by said employee only in the manner, combination, and quantity prescribed.

The City reserves the right to implement testing for illegal drugs or inhalants, alcohol, or other controlled substances. Such testing may be implemented in any of the following circumstances:

- Upon consideration of an applicant for employment
- Following a work-related accident (at the discretion of management)
- If an employee has been observed using a prohibited substance on the job
- If an employee exhibits a severe or prolonged reduction in productivity
- If management has other reasonable suspicion as grounds for testing such employee

Any employee convicted of a criminal drug statute violation must notify their supervisor or the City Administrator immediately after such conviction.

The City's group health insurance may provide limited coverage for expenses related to substance abuse treatment or rehabilitation programs. Employees should contact their supervisor for information regarding any such assistance. In accordance with all applicable laws, disciplinary action, up to and including termination of employment, may be enacted at any point for violation of the SUBSTANCE ABUSE AND ALCOHOL CONSUMPTION policy, regardless of any rehabilitation or counseling programs offered.

Employees are prohibited from consuming alcohol or being under the influence of alcohol while performing work on behalf of the City. Intoxication will not be permitted, and any employee who is intoxicated or who appears to be intoxicated will be subject to disciplinary action.

Commented [KS67]: Source: City of Rhome Handbook

## CITY OF NEW FAIRVIEW PERSONNEL POLICY WEAPONS CONTROL

The City strives to provide a safe and secure working environment for its employees. This policy is designed to help protect employees from workplace violence by providing policies for employees carrying firearms on City property.

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**Weapons Restrictions.** Unless specifically authorized by the City Administrator in accordance with this policy, no employee, other than a licensed peace officer, shall ~~carry or possess a firearm or other~~ be in possession of a prohibited weapon on City property, in a City-owned vehicle, while on duty, or at any time while engaging in City-related business. Prohibited weapons include, but are not limited to, ~~firearms,~~ clubs, explosive devices, knives with blades exceeding 5-~~1/2~~ inches, switchblades, etc. Employees do not have an expectation of privacy and the City retains the right to investigate inspect City property and search for ~~firearms or other~~ the presence of prohibited weapons on City property.

The City Administrator may specifically authorize an employee to carry a handgun in accordance with this policy. Employees authorized to carry a handgun on City property may only carry in a concealed manner after receiving written approval from the City Administrator. To be eligible to carry a concealed handgun on City property the employee must be legally licensed CHL holder by the State of Texas to carry a handgun and provide a copy of the current license to carry to the City Administrator. A new license shall be presented in the month the license is obtained, and then by January 31<sup>st</sup> each year thereafter. The City Administrator shall confirm the validity of an employee's license to carry and place a copy in the employee's personnel file. The City Administrator may require an employee to receive additional firearm training prior to being authorized to carry a concealed handgun on City property. The City Administrator has discretion to withdraw an employee's authorization to carry a concealed handgun at any time and without cause. There shall be no handling of weapons unless in a defensive use.

While on City property, employees are solely responsible for concealing their handgun in a safe and secure manner so that it is not accessible by other employees or members of the public. An employee authorized to carry a handgun on City property has a heightened duty to not harass, intimidate, or threaten violent behavior toward anyone whether the conduct occurs on-duty or off-duty.

Employees lawfully possessing any firearms or other weapons in their personal vehicles, NOT a City vehicle, must lock the vehicle when it is parked in a City parking lot and/or space.

#### Mandatory Reporting of Weapon Restriction Policy Violations.

Department Directors are responsible for ensuring employees comply with the provisions of this policy. Any employee observing another employee violating the Weapons Restrictions must immediately notify his/her supervisor and Department Director who must report to the City Administrator. The supervisor, Department Director or City Administrator who receives a verbal complaint from an employee shall document in writing the alleged Weapon Restriction policy violation, the date the verbal complaint was received and the name of the employee making the complaint. Any employee who observes a Weapons Restriction violation by an employee causing a disturbance or behavior that raises concern for safety should:

Move to a safe location.

Notify a supervisor immediately. Call 911.

New Fairview Personnel Policy

When appropriate, harassment, intimidation, and threats and incidents of violence will be documented. Documentation will be maintained by the City Administrator ~~and/or the Police Department.~~

**Confidentiality.** To the extent possible, while accomplishing the purposes of this policy, the City will respect the privacy of employees complying with the mandatory reporting requirements for Weapons Restriction violations and/or acts or threats of violence and will treat information and reports confidentially. Such information will be released or distributed only to appropriate law enforcement personnel, City management, and others on a need-to-know basis and as may otherwise be required by law, such as the Texas Public Information Act.

**City Property.** For purposes of this policy, City property includes but is not limited to owned or leased vehicles, buildings and facilities, entrances, exits, break areas, parking lots and surrounding areas, ~~recreation centers, swimming pools,~~ and parks.

**Policy Violations.** Violations of this policy may lead to disciplinary action, up to and including termination of employment. Policy violations that involve a criminal act may also result in arrest and prosecution

#### ~~ATTENDANCE AND PUNCTUALITY~~

~~To maintain a safe and productive work environment, the City of New Fairview expects employees to be reliable and punctual in reporting for work. Absenteeism and tardiness place a burden on other employees. In the rare instance when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence by a phone call or by a phone message.~~

~~Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and, including termination of employment.~~

~~All time off, including sick, vacation, etc., must be reported as follows: employees must notify their immediate supervisor, Department Directors must notify the City Secretary and the City Administrator.~~

#### ABSENTEEISM AND TARDINESS

The City expects all employees to conduct themselves in a professional manner during their employment. This includes practicing good attendance habits. All employees should regard coming to work on time, working their shift as scheduled, and leaving at the scheduled time as essential functions of their jobs, i.e., good attendance habits form an integral part of every employee's job description. The City expects all employees to assume diligent responsibility for their attendance and promptness. If you are unable to work because of illness; you must notify your supervisor at least thirty (30) minutes prior to the start of your shift on each day of your absence.

Under some circumstances, absence or tardiness on your part may be excused, but only if you give proper notice of such a problem before the start of your shift. The City needs advance notice of attendance problems so that other arrangements can be made to cover your absence, if necessary. "Proper notice" means that you call the City at a designated number for such calls prior to the start of your shift and personally notify your supervisor or another member of management about the problem, unless a verifiable emergency makes it impossible for you to do so.

#### GUIDELINES:

- A. When you have advance knowledge of an impending absence, you must request permission to be absent at least (3) days in advance of the schedule absence, or as soon as you become aware. The request should be submitted and approved by your supervisor. Some departments may have additional requirements because of scheduling and shifts.
- B. Should you have a personal, or family emergency or illness, and are unable to provide advanced notice of your absence, you must notify your Supervisor as soon as permitted by the emergency circumstance.
- C. If you expect to be late for the start of your shift, you must call you supervisor and inform them of your delay.
- D. Only under emergency situations may a family member contact your supervisor to notify of your absence.
- E. If you are absent from your job, due to an illness, for three (3) or more consecutive workdays, a doctor's note may be requested upon your return. The doctor's note should provide the date of your illness or injury, when you were seen or when placed under the physician's care and a release that allows you to return to work, with or without limitations.
- F. ~~In addition, an employee who the City suspects is abusing this policy (e.g., habitually tardy, unacceptable absenteeism, etc.) may be required to submit a physician statement or to be examined by a city designated physician~~

#### DISCIPLINE

An employee who fails to properly notify the appropriate personnel in advance of an absence or tardiness may be subject to disciplinary action.

If you are absent from your shift and have not contacted your supervisor regarding your absence for two (2) consecutive days you will have been considered to have abandoned the job without notice, effective at the end of their normal shift on the second day.

#### PERSONAL APPEARANCE

~~As a requirement for employment, City employees will dress in a clean, orderly and professional manner. The City Administrator may provide written direction from time to time to clarify any questions about what constitutes a clean, orderly and professional appearance. A clean, orderly, and professional appearance reflects on the City as an organization and helps communicate that the City intends to conduct its services in a professional manner.~~

~~Operational public contact employees shall wear City issued uniforms while on duty to aid in their~~

**Commented [RC68]:** Title I of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12111-12117, makes it unlawful for an employer to "require a medical examination" or to "make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity." Id. § 12112(d)(4)(A). According to the Equal Employment Opportunity Commission ("EEOC"), this means that an employer should not make disability-related inquiries or require a medical examination of an employee unless the employer "has a reasonable belief, based on objective evidence, that: (1) an employee's ability to perform essential job functions will be impaired by a medical condition; or (2) an employee will pose a direct threat due to a medical condition."

**Commented [KS69]:** Source: City of Justin Employee Handbook

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~~identification, enhance security, and promote the professional image of the organization.~~

## DRESS CODE

### PURPOSE

To have the City of New Fairview employees project a high standard of personal cleanliness, always grooming and professional appearance during working hours with business casual attire or uniforms. The dress code guidelines in this policy are designed for the employees to maintain a neat business-like but comfortable professional image to the public and fellow employees.

### GENERAL

~~The City provides a casual yet professional work environment for its employees. Even though the dress code is casual, it is important to project a professional image to our customers, visitors, and coworkers. All employees are expected to dress in a manner consistent with good hygiene, safety, and good taste. Please use common sense.~~

~~Certain employees may be required to meet special dress and grooming requirements, such as wearing uniforms or safety equipment/clothing, depending on the nature of their job. Any questions or complaints regarding the appropriateness of attire should be directed to the City Administrator. Except for employees required to wear uniforms, decisions regarding attire will be made by the City Administrator and not by individual departments or managers.~~

~~These dress code guidelines apply to all full-time, part-time, temporary and seasonal employees. Clothing must be in good condition, pressed, clean, properly fitting, and appropriate to position. Employees shall always wear appropriate shoes when working in the City and/or at City offices.~~

~~For attendance at Council Meetings and other meetings outside the City of New Fairview's offices, business casual employees.~~

Supervisors are responsible for:

- ~~• Administering this dress code.~~
- ~~• Determining appropriateness of questionable attire.~~
- ~~• Counseling when necessary.~~
- Determining special department needs.

~~The Department Director shall determine which dress standard is applicable in order to maintain acceptable dress and appearance. Employees may be held to different standards, depending upon the work assignment.~~

~~An employee shall refrain from wearing apparel that is low cut, strapless, backless, tank top style (with straps less than 2 inches wide), excessively tight or excessively short. All employees shall refrain from wearing apparel that is provocative or revealing, low-cut, body-hugging, backless, see-through, tank top style.~~

Commented [RC70]: What are "appropriate" shoes?

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~~excessively tight, excessively short, wrinkled, ripped, tattered, soiled, containing obscene messages or promoting/endorsing alcohol, tobacco, drugs, pornography, or offensive materials of any kind.~~

### UNIFORMED EMPLOYEES

Employees required to wear uniforms and/or specified apparel will be provided new uniforms and apparel with required insignia upon employment. Replacement uniforms and apparel will be furnished at the City's expense on "as needed" basis and per individual Department Guidelines.

Uniform shirts must be worn buttoned and always tucked in. Uniform trousers/pants must be worn free of rips, holes, or tears.

Each Department determines what type of footwear to be worn based on the safety needs of the job. Uniformed employees who terminate employment with the City must return all uniforms and apparel issued by the City before his/her final paycheck is issued. Department Directors are responsible for the removal and return of identifying patches and insignia.

Employees will not wear City-issued uniforms, including any issued hat, for other than City work. However, uniforms may be worn to and from work, including any incidental stops that may occur while on the way to and from work (examples include basic errands such as trips to the bank or grocery store). An employee who wears the City of New Fairview uniform is representing the City of New Fairview and ~~should will~~ always conduct themselves in a professional manner whether the employee is on or off duty or outside of the City of New Fairview.

### PERSONAL HYGIENE

Well-groomed employees should be aware that it is necessary to include daily bathing, the use of deodorant and the practice of good dental hygiene in their personal habits to project a professional appearance and non-offensive work environment.

~~Based on the safety needs of the job, employees with long hair must wear it tucked under a cap or hat.~~ Employees with facial hair must be neatly trimmed. Supervisors or Department Heads will make the determination when this will be needed.

**Commented [KS71]:** Source City of Justin Employee Handbook

### TATTOOS AND BODYPIERCING

Generally, tattoos ~~that have depictions of violence, foul language, nudity, or symbolism that may be considered offensive~~ must be covered by clothing during working hours. Generally, body piercing is not acceptable (except for earrings), especially where work involves construction or use of equipment that might catch and cause an accident or injury.

**Commented [RC72]:** And since what tattoos are offensive is in the eye of the beholder, and involves First Amendment issues, it is simply easier to require that they be covered

### ENFORCEMENT

New Fairview Personnel Policy

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Department Directors and supervisors are responsible for monitoring and enforcing this policy. The policy will be administered according to the following action steps:

- If questionable attire is worn in the office, the respective Department Director/Supervisor will hold a personal, private discussion with the employee to counsel the employee regarding the inappropriateness of the attire.
- If an obvious policy violation occurs, the Department Director/Supervisor will ~~confer with the City Administrator or his designed, prior to hold a private discussion with the employee~~ and asking the employee to go home and change ~~their his/her~~ attire immediately.
- Repeated policy violations will result in disciplinary action, up to and including termination.

The City of New Fairview reserves the right to rescind and/or amend this policy at any time

### SECURITY INSPECTIONS

The City of New Fairview wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosive or other improper materials. To this end, the City of New Fairview prohibits the possession, transfer, sale or use of such materials on its premises. The City of New Fairview requires the cooperation of all employees in administering this policy.

Desks, lockers and other storage devices may be provided for the convenience of employees, but they remain the sole property of the City of New Fairview. Accordingly, they, and any articles found within, may be inspected by any agent or representative of the City of New Fairview at any time with or without prior notice.

~~The City of New Fairview wishes to discourage theft, and unauthorized possession of property belonging to any employee, the City of New Fairview, visitors and customers. To facilitate enforcement of this policy, the City of New Fairview or its representative may inspect not only desks and lockers, but also persons entering and or leaving the premises and any packages or other belongings. Any employee who wishes to avoid inspection of any articles or materials should not bring such items onto the City of New Fairview's premises.~~

**Commented [RC73]:** 4<sup>th</sup> Amendment concerns

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### ACCESSIBILITY FOR EMPLOYEES

~~This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of New Fairview. The City of New Fairview's Personnel Policy governs employment related complaints of disability discrimination.~~

**Commented [RC74]:** There should be one process for discrimination complaints, not different processes based on the type of discrimination.

~~The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of the complainant and location, date, and description of the~~  
New Fairview Personnel Policy

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~~problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.~~

~~The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:~~

~~City Administrator~~

~~City of New Fairview~~

~~999 Illinois Ln~~

~~New Fairview, TX~~

~~76078~~

~~Within 15 calendar days after receipt of the complaint, the City Administrator will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, he/she will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City of New Fairview and offer options for substantive resolution of the complaint. This response will be a final resolution of the complaint.~~

~~All written complaints received by the City Administrator, appeals to the City Administrator and responses will be retained by the City of New Fairview for at least three years.~~

## SECTION 8: TRAVEL AND EDUCATION

### BUSINESS TRAVEL EXPENSES

The City of New Fairview recognizes that direct benefits accrue to the City as the result of employee attendance and training at seminars and meetings. All proposed travel must be for job related or professional activities. The following guidelines must be followed:

- A. All Travel ~~request forms~~ Expense Reports will be signed by the Department Director indicating the availability of funds and sent to the ~~Finance Department~~ City Administrator in advance of travel.
- B. Brochures, registration forms, agendas and other descriptive data must accompany the travel request.
- C. All requests must normally be submitted at least two weeks prior to the date of departure.

D. For approved travel, employees ~~will be reimbursed by the City~~ should use the city issued purchasing card for their travel, lodging, and registration fee expenses. However if an employee chooses to use their personal finances for travel, lodging and registration they will be reimbursed for these expenses. Employees will not use the City issued purchasing card for meals, beverages, or personal items.

E. Receipts are required for all reimbursable expenses including fees, tuition, lodging and other approved expenses. Employees will not be reimbursed for personal items including movies, games, ~~long distance phone calls~~, use of alcohol, or other items that are not related to the City purpose that requires travel. ~~Employees will not use the City issued purchasing card for meals, beverages, or personal items.~~

~~F.~~ For meals and Incidentals, a per diem rate will be paid to the employee as set by the General Services Administration The GSA website is <http://www.gsa.gov/portal/content/104877>. Meals and Incidental breakdown can be located at <http://www.gsa.gov/portal/content/101518> for partial days. The GSA approved per diem rate will be attached to the travel expense report. No receipts are necessary for meals paid within the employee's for by-per diem rate. Employees must also be away from the City of New Fairview area before 6:30 a.m. or after 7:00 p.m. to receive the respective breakfast or dinner portion of the per-diem. ~~The employee will normally be paid the per diem in advance before leaving on the trip.~~ Any meal expenses, including tips, above the per diem will be the responsibility for the employee to pay. ~~If the employee receives the per diem in advance of the trip, and then does not travel for any reason, or only travels for part of the number of days approved, the employee shall be responsible to reimburse the City for the unused portion of the per diem amount.~~ Employees shall be paid the per diem cost upon completion of travel and submission and processing of the travel expense report.

~~G.F.~~ Employees using their private automobiles for authorized trips within the state will be reimbursed for the most direct route at the standard IRS mileage rate. Employees using private auto will be reimbursed for parking, toll fees and other travel expenses as approved by the City Administrator, upon submission of valid receipts.

~~H.G.~~ Employees using City vehicles for authorized travel will be reimbursed for all actual operating expenses, tolls, parking fees and other travel expenses approved by the City Administrator, upon submission of valid receipts. ~~The use of private vehicles by employees is discouraged and should only be used when no other option is available.~~

~~H.H.~~ Within ten (10) days of completion of any travel, City employees and/or elected officials

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Commented [RC75]: Some cities issue a partial advance based on a % of the travel cost and per diem

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must submit their completed Travel ~~Request Forms~~ Expense Report and receipts to the Accounts Payable Department.

~~J.I. Payment for lodging and registration should normally be paid in advance unless participation in the training or conference is uncertain. Advance expenses may be allowed to cover the costs of travel, lodging, and registration fees. The meal per diem for meals will be paid in advance to the employee. Requests must be made on the City of New Fairview's Travel Request Form.~~

### TUITION REIMBURSEMENT

Tuition reimbursement ~~is may be~~ offered to all regular full-time employees who have successfully completed ~~their probationary period~~ initial 12 months of employment with the City and who wish to enroll in college-~~legal level~~ courses for academic credits. Tuition reimbursement is intended to help you maintain a satisfactory level of knowledge and expertise in your present position as well as to help develop your skills and increase your potential for future advancement with our City. Tuition reimbursement will be authorized for both undergraduate and graduate courses (excluding doctoral studies) from ~~a fully an~~ accredited college, community college or university recognized as accredited by the Council for Higher Education Accreditation (www.chea.org). The tuition will be reimbursed up to the rate of current tuition at the nearest State University. ~~If you are unsure if a college course is from an accredited college, please contact the City Administrator.~~

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Commented [RC76]: A retired City of Hou attorney said that there area lot of HPD ministers out... Accredited by whom? Have suggested language...

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Courses taken must be job-related, required to complete a job-related degree, or beneficial to the City. ~~Maximum amount of~~ Tuition reimbursement will be \$2,500.00 per fiscal year, subject to availability of funds. Any tuition reimbursement is limited to reimbursement ~~This amount is for of~~ tuition only; ~~t-~~ Textbooks, fees and supplies are not covered.

All classes must be taken on off-duty time. All coursework must be completed in the employee's personal time away from work. Failure to do so will affect an employee's eligibility to receive reimbursement.

If you are considering taking a college course for credit, talk to your supervisor to be sure your intended courses will qualify for reimbursement and to allow consideration for it during the budget process. Before you enroll in the course the required forms must be approved by your Director and submitted to the City Secretary Administrator. ~~You may~~, Associate and bachelor's degree courses will be reimbursed at 100% for a grade of "CB" or better or "Pass" in a course utilizing the "Pass/Fail" grading scale. Grades of "De" or lower or "Fail" will not be reimbursed. Within 30 days of receiving your grade report showing completion with eligible grades, with a grade "C" or better, submit your grade report and a you must submit the report and copy of your receipts to your Director. Your Director will prepare a payment authorization for tuition reimbursement and forward the City Administrator for processing.

Commented [RC77]: Some employees just don't test well or have education-related learning disabilities that make C grades difficult. Respectfully, it is hard to work full time and go to school. Will this policy have a disparate impact on disabled or even minority employees?

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If an employee resigns or is terminated for any reason prior to course completion, the City of New Fairview shall not be obligated to reimburse any part of the expense.

The city offers tuition reimbursement assistance under the guidelines of Section 127 of the Internal Revenue Code (26 USC § 127) which covers employer-provided educational programs. Under Section 127, an employer may exclude educational expenses from an employee's gross income up to a maximum amount in a calendar year. The City will issue the appropriate tax documents to employees participating in the Tuition Reimbursement Program.

An employee who resigns or is terminated less than two years after completion of reimbursed course must return the monies to the City upon termination.

**Commented [RC78]:** Is there going to be an agreement to this effect? Not everything can be enforced via a Handbook

CERTIFICATION PAY

In addition to regular pay, certification pay is available to all certified employees as authorized by the City Council as follows:

CITY SECRETARY

License	Amount	Pay Frequency
MMC- Master Municipal Clerk	\$125 per month	Annually
CMC- Certified Municipal Clerk	\$100 per month	Annually
TRMCA- Texas Registered Municipal Clerk	\$75 per month	Annually

MUNICIPAL COURT

Certification	Amount	Pay Frequency
Level I	\$25 per month	Annually
Level II	\$50 per month	Annually
Level III	\$75 per month	Annually
CCM	\$100 per month	Annually
CCE	\$125 per month	Annually

**Commented [RC79]:** These are certifications which appear to be offered for higher level courts See, [https://mytaca.wildapricot.org/Court-Management-Program-\(CMP\)](https://mytaca.wildapricot.org/Court-Management-Program-(CMP)) and compare with <https://texasclerk.org/Education-&-Certification>

PARKS

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Irrigation and Pesticide License	\$100 per month	Annually
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The City does not currently have a water utility, but at such time as the City enjoys such a utility, the proposed employees would receive the following Certification Pay:

WATERWORKS

Certification	Amount	Pay Frequency
Class D	\$25 per month	Annually
Class C	\$50 per month	Annually
Class B	\$75 per month	Annually
Class A	\$100 per month	Annually

WASTEWATER TREATMENT

Certification	Amount	Pay Frequency
Class D	\$25 per month	Annually
Class C	\$50 per month	Annually
Class B	\$75 per month	Annually
Class A	\$100 per month	Annually

OTHER

Certification/License	Amount	Pay Frequency
Code Enforcement I- <del>I</del>	\$75 per month	Annually
Bilingual Pay	\$25 per month	Annually
Class B CDL	\$75 per month	Annually
Class A CDL	\$100 per month	Annually
Certified Public Manager	\$125 per month	Annually
Certified Records Manager	\$75 per month	Annually

An employee eligible for certification should be paid only for the highest level of certification and education required beyond the hiring qualifications for their assigned position. The amount paid will be for the highest level of certification ~~achieved~~~~earned; it is,~~ not cumulative. An employee assigned responsibilities to more than one department will receive the highest level of certification pay according to their work assignment. All employees responsibilities and required certifications are listed in the job description. Certification pay is paid ~~bi-weekly~~.

**SECTION 9: EMPLOYEE DISCIPLINE AND GRIEVANCE PROCEDURE**

New Fairview Personnel Policy

**Commented [KS80]:** Source: City of Decatur Handbook

**Commented [RC81R80]:** Decatur is a much larger city.

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EMPLOYEE WORK RULES, CONDUCT AND POLICY CONDUCT WARRANTING

DISCIPLINARY ACTION

Disciplinary action may be taken based upon any of the items listed below. This list is not intended to be all-inclusive; it is however representative of the kinds of conduct and incidents which warrant disciplinary action.

- Failure to perform assigned work.
- Failure to perform work in a satisfactory manner.
- Failure to observe safety policies, procedures, rules, regulations or standards.
- Engaging in behavior that threatens the safety of self, co-workers or the general public.
- Possessing a record or pattern of unsafe work behavior as evidenced by multiple preventable accidents.
- Carelessness or negligence in performing work.
- Failure to call in to notify supervisor of tardiness or absence.
- Misrepresentation or failure to adequately document the need to be off work.
- Failure to maintain or operate equipment, tools or vehicle in appropriate manner.
- Misrepresenting or omitting information for the benefit of self or others.
- Engaging in behavior which is inappropriate or disruptive in the workplace.
- Discourteous treatment of others.
- Violation of the City's ~~Alcohol Misuse and Drug Abuse~~ Substance Abuse and Alcohol Consumption
- Insubordination
- Possession of unauthorized firearms, weapons, illegal drugs, alcohol or any other inappropriate item in the workplace (i.e., **jobsite, vehicle** or any location while engaged in city business).
- Reporting to work or working under the influence of drugs or alcohol and/or consuming such items during work hours.
- **Giving or accepting gifts, money or favors in exchange for some benefit to self or others, in violation of state law.**
- Failure to maintain confidentiality.
- Violation of written city, departmental or division work rules, procedures or policies.
- ~~Horseplay in the workplace.~~
- Misuse or misrepresentation of one's position or authority.
- Sexual, racial, ethnic, and religious harassment in the workplace and/or while conducting city business.
- Engaging in behavior while off duty which reflects adversely upon the City.
- Continued absenteeism or tardiness.
- Poor performance appraisals.
- **Absence without approval** - Employees who exhaust all appropriate leave ~~and FMLA~~ benefits and are unable to return to full duty status work may be terminated. In those instances where an employee fails to report to work and management has no knowledge of

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his/her whereabouts, an automatic termination for being absent without leave may be appropriate. ~~The City Administrator must be consulted before exercising this action. The City Administrator must be consulted before exercising this action.~~

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Commented [RC82]: City is a General Law City and authority may be delegated from Mayor, must be by ordinance

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- **Off the Job Conduct** - In order to maintain the trust of the public, it is of utmost importance that employees not engage in conduct which could be detrimental to that trust, including public intoxication, criminal activity, illegal drug activity, ~~standering or defaming public officials,~~ appointees or staff and any other conduct which could damage/harm the public's perception and/or trust of the City and any of its officials, appointees or ~~staff~~.

Commented [RC83]: First Amendment issues

**~~The following employee actions will result in termination:~~**

- ~~• Theft of money, equipment, supplies, time, etc.~~
- ~~• Misuse or misappropriation of City monies and/or property.~~
- ~~• Falsifying documentation.~~
- ~~• Job Abandonment~~
- ~~• Reduction in force/Reorganization~~

DISMISSAL/TERMINATION

The City may terminate an employee's employment as a result of unsatisfactory performance or conduct and/or violation of City policies or procedures, including a new hire who fails the orientation period. City employees who are terminated, or who resign in lieu of termination, due to unsatisfactory performance, pending results of an investigation, or conduct and/or violation of City policies or procedures, are not eligible for rehire.

Commented [KS84]: Source: City of Decatur Employee Handbook

Commented [RC85R84]: This handbook uses Probationary period. Can use Orientation period, but must be consistent. Use or Probationary period requires "additional at-will language"

PROGRESSIVE DISCIPLINE

The City of New Fairview's own best interests lie in ensuring fair treatment of all employees and making certain that disciplinary action is prompt, uniform and impartial. The major purpose of any disciplinary action is to correct the problem, prevent recurrence and prepare the employee for satisfactory service in the future.

Although employment with the City of New Fairview is based on the choice of the employee to work for the City and the "at will" employment policy of the City, the City of New Fairview may use progressive discipline at its discretion.

Disciplinary action may call for any of the following four steps: verbal warning, written warning, suspension with or without pay, or termination of employment, depending on a variety of factors.

The City of New Fairview recognizes that there are certain types of employee behavior or performances that are serious enough to justify either a suspension, or termination of employment, without going through the usual progressive discipline steps.

~~While it is impossible to list every type of behavior that may be deemed a serious offense, the~~

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~~EMPLOYEE CONDUCT AND WORK RULES policy includes examples of problems that may result in immediate suspension or termination of employment. However, the problems listed are not all necessarily serious offenses, but may be examples of unsatisfactory conduct that will trigger progressive discipline.~~

The following employee actions may result in immediate termination without progressive discipline:

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- Theft of money, equipment, supplies, time, etc.
- Misuse or misappropriation of City monies and/or property.
- Falsifying documentation.
- Job Abandonment
- Reduction-in-force/Reorganization

By using progressive discipline, we hope that most employee problems can be corrected at an early stage, benefiting both the employees and the City of New Fairview.

PROBLEM RESOLUTION

The City of New Fairview is committed to providing the best possible working conditions for its employees. Part of this commitment is encouraging an open and frank atmosphere in which any problem, complaint, suggestion or question receives a timely response from the City of New Fairview supervisors and management.

The City of New Fairview strives to ensure fair and honest treatment of all employees. All employees regardless of position are expected to treat each other with mutual respect. Employees are encouraged to offer positive and constructive criticism.

If employees disagree with established rules of conduct, policies or practices they can express their concern through the problem resolution procedure. No employee will be penalized, formally or informally, for voicing a complaint with the City of New Fairview in a reasonable, businesslike manner or for using the problem resolution procedure.

If a situation occurs when an employee believes that a condition of employment or decision affecting them is unjust or inequitable, they are encouraged to make use ~~of the following steps of the problem resolution procedure:~~ (The employee may discontinue the procedure at any step).

PROBLEM RESOLUTION PROCEDURE

1. Employee presents the problem to the immediate supervisor and/or Department Director after the incident occurs.

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2. Supervisor responds to problems during discussion or after consulting with appropriate management when necessary. The supervisor must document the discussion.
3. Employee presents the problem to the City Administrator if the problem is unresolved.
4. City Administrator counsels and advises employees, assists in putting problems in writing, visits with employee's supervisor if necessary.
5. If an employee feels the problem is still not resolved, the employee presents the problem to the City Administrator in writing including why he or she feels it is not resolved.
6. The City Administrator reviews and considers the problem. The City Administrator informs the employee of the decision and forwards a copy of the written response to the employee's file. The City Administrator has full authority to make any adjustment deemed appropriate to resolve the problem.

Not every problem can be resolved to everyone's satisfaction but only through understanding and discussion of problems can employees and management develop confidence in each other. This confidence is important to the operation of an efficient and harmonious work environment and helps to ensure everyone's job security.

#### HARASSMENT/DISCRIMINATION COMPLAINTS

The following procedures are to be used for reporting and investigating harassment/discrimination complaints:

- A. Any employee who feels victimized by harassment/discrimination should report, verbally or in writing, the harassment/discrimination to his or her Supervisor immediately. If the employee's immediate Supervisor is the source of the alleged harassment, or is so closely associated with the source of the harassment that the employee does not feel comfortable reporting to that person, the employee may report the complaint to their Director, City Secretary, or the City Administrator. The employee is not required to follow his or her chain of command when reporting harassment/discrimination.

- B. Any Supervisor or Director that learns of or receives a complaint of harassment/discrimination is required to report it to the City Secretary or the City Administrator's office.
- C. If the complaint alleges harassment/discrimination, the City Secretary will contact the City Attorney's Office or their designee and they will conduct a prompt and impartial investigation.
- D. Management, upon being informed about a harassment/discrimination complaint, shall take immediate and appropriate action when necessary to ensure any inappropriate behavior is not repeated during the investigation. Depending on the nature and severity of the complaint, the City reserves the right to take any immediate action necessary to address the complaint including, but not limited to, immediate suspension without pay of the employee against whom a complaint has been made. If, at the conclusion of the investigation, no discipline is imposed, the City may award back pay for the period of the unpaid suspension, except for any unpaid periods imposed as discipline.
- E. The investigation may include, but is not limited to, obtaining all factual evidence, conducting interviews and obtaining witness statements, determining whether a reasonable basis exists for the allegations of harassment, determining if there has been a violation of Federal or state law and/or City policy, and affording the accused the opportunity to respond verbally or in writing to the allegations. If harassment is found to have occurred, recommendations for remedial action shall be made.
- F. The investigator shall conduct the investigation carefully and discreetly to protect all employees questioned and all information gathered. Confidentiality during an investigation is not guaranteed, but the investigator, to the extent possible, shall conduct the investigation to protect the privacy of those involved and relate facts only on a need-to-know basis. Every effort shall be made to conduct the investigation promptly so as to respect the rights of all individuals involved.
- G. Upon completion of the investigation and based upon the findings of the investigation and the conclusions of the investigator, City Secretary or the designee shall promptly relay the results of the investigation to the accused, ~~and~~ the complainant, and the city administrator.
- H. If the investigation finds that harassment/discrimination has occurred, the City shall take

appropriate corrective disciplinary action, which may include but not be limited to oral reprimand, written reprimand, suspension, demotion and/or termination. The City shall take all steps necessary to effectively remedy the harassment/discrimination that was found during an investigation.

- I. No employee shall be subject to any form of retaliation or discipline for pursuing or participating in a harassment/discrimination complaint. The City shall insure that complainants and witnesses shall suffer no retaliation as a result of their involvement in the investigation.
- J. If the investigation does not find that harassment/discrimination occurred or that the alleged incident(s) did not constitute harassment/discrimination, the matter shall be referred back to the Department Director to be addressed.

**Commented [RC86]:** This looks to be a duplication of prior language

#### GRIEVANCE PROCEDURE

The City of New Fairview has a grievance procedure for work or discipline related concerns and complaints. The first level of grievance is with the immediate supervisor. If the immediate supervisor is not able to resolve the issue, then the next level is with the Department Director. If the Department Director is not able to resolve the issue then the next level is with the City Administrator, or in his or her absence, with the City Secretary. The decision of the City Administrator is the final step in the grievance process.

An employee should file a grievance in a timely manner. No limitation is placed on the time that may elapse, but a grievance should normally be filed within 30 days of the issue arising. The Supervisor, Department Director and City Administrator should also respond in a timely manner. No limitation is placed on the time that may elapse in order to ensure a thorough evaluation, but generally a response should be given within 15 workdays of the hearing or meeting with the employee.

The employee should document the grievance in writing. A letter or an email is sufficient. Dates and times and other relevant details should be included as necessary.

No employee, supervisor, department director or other administrator will take any retaliatory action as a result of a grievance being filed.

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**City of New Fairview  
City Council  
Regular Meeting Minutes  
999 Illinois Lane  
Monday, March 18, 2024**

**CITY COUNCIL  
Mayor John Taylor  
Mayor Pro Tem Steven King  
Place 1 Councilman Harvey Lynn Burger  
Place 3 Councilwoman Sarah Adams  
Place 5 Councilman Richard Greene**

**City Staff  
Brooke Boller, City Secretary  
Susan Greenwood, Deputy City Secretary  
Roberta (Robin) Cross, City Attorney – Virtual**

**Absent  
Place 2 Councilman Peter Kozlowski  
John Cabrales Jr, City Administrator**

**WORK SESSION**

1. Call to Order and Determination of Quorum (**Work Session called to order by Mayor John Taylor at 6:35 pm; Roll Call with the above-mentioned names.**)
2. Receive a report and hold a discussion regarding revisions to the Personnel Policy and Procedure Manual.  
**The council heard from Deputy City Secretary Susan Greenwood and City Attorney Robin Cross in regards to changes to the Personnel Policy and Procedures. The council advised staff to move forward with the changes to sections 1,6,8 & 16.**
3. Adjournment  
**Motion: Councilwoman Sarah Adams  
Second: Councilman Harvey Lynn Burger  
Vote: All in Favor  
Result: Work Session adjourned at 7:55 pm.**

**REGULAR SESSION**

1. Call to Order and Determination of Quorum (**Regular Session called to order by Mayor John Taylor at 6:00 pm; 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. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. City Administrator's Report: The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. Public Comment: The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens with the opportunity to speak, there is a three-minute limit on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. Consent Agenda: All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.

A. Approve the City Council Meeting minutes for March 4, 2024.

**Motion: Councilwoman Sarah Adams**

**Second: Mayor Pro Tem Steven King**

**Vote: All in Favor**

**Result: Council approved the minutes for March 4, 2024.**

7. New Business: All matters listed in New Business will be discussed and considered separately.

A. Receive, consider, and act on a Resolution amending the Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City's contract engineer.

**Motion: Mayor Pro Tem Steven King**

**Second: Councilman Richard Greene**

**Vote: All in Favor**

**Result: Council approved a Resolution amending the Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City's contract engineer.**

B. Receive, consider, and act on a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

**Motion: Councilman Richard Greene**

**Second: Councilwoman Sarah Adams**

**Vote: All in Favor**

**Result: Council approved a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.**



- C. Receive, consider, and act on a Memorandum of Understanding between the Cities of Aurora, Boyd, New Fairview, and Rhome, and Wise County, resulting from the Joint Resolution where each party agreed to contribute ten thousand dollars to cover expenses associated with seeking regional water and wastewater solutions.

**Motion: Councilman Richard Greene**

**Second: Councilwoman Srah Adams**

**Vote: All in Favor**

**Result: Council approved a Memorandum of Understanding between the Cities of Aurora, Boyd, New Fairview, and Rhome, and Wise County, resulting from the Joint Resolution where each party agreed to contribute ten thousand dollars to cover expenses associated with seeking regional water and wastewater solutions.**

- D. Receive, consider and act on appointing members to the Planning and Zoning Commission.

- **Tabled**

- E. Receive, consider, and act on appointing members to the Parks and Recreation Board and the Keep New Fairview Beautiful Committee.

- **Tabled**

8. Executive Session: Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

**The council left for executive session at 6:15 pm.**

1. § 551.071(2): Consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding:

1. Employment Agreement for John Cabrales, Jr.

- **No Action**

2. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.

- **No Action**

2. §551.074: (a) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee:

1. Employment Agreement for John Cabrales, Jr.

- **No Action**

3. Section 551.072: to deliberate the purchase, exchange, lease, or value of real property.

1. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.

- **No Action**

9. Return to Open Session: Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.

**The Council returned to open session at 6:31 pm.**

10. Mayor & Council Member Announcements: The City Council 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.

**Reminder that the City & New Fairview Fire Rescue were hosting an Easter Egg Hung at the City Park Saturday March 23, 2024 from 9am -11am.**

11. Adjournment

**Motion: Councilman Richard Greene**

**Second: Councilwoman Sarah Adams**

**Vote: All in Favor**

**Result: Work session adjourned at 6:35pm.**

**MINUTES APPROVED ON THIS, THE 1ST DAY OF APRIL 2024**

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**John Taylor, Mayor**

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**Brooke Boller, City Secretary**

City of New Fairview  
 Revenue And Expense Report  
 As of September 30, 2023

3/28/2024 10:16 AM

<b>01 - General Fund</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
<b>Revenue Summary</b>					
-	(341,128.65)	1,915,195.47	1,793,185.51	(122,009.96)	(6.80%)
Revenue Totals	<u>(341,128.65)</u>	<u>1,915,195.47</u>	<u>1,793,185.51</u>	<u>(122,009.96)</u>	<u>-6.80%</u>
<b>Expense Summary</b>					
2001-City Council	2,345.00	25,690.71	37,420.00	11,729.29	31.34%
2002-Administration	54,844.56	467,190.06	433,070.07	(34,119.99)	(7.88%)
2003-City Secretary	18,416.93	120,272.69	113,017.63	(7,255.06)	(6.42%)
2007-Municipal Court	17,346.23	123,021.46	103,666.21	(19,355.25)	(18.67%)
2008-Planning & Development	28,588.04	230,501.93	147,900.00	(82,601.93)	(55.85%)
2009-Public Works	97,558.01	627,403.71	602,519.45	(24,884.26)	(4.13%)
2010-Code Enforcement	3,851.00	10,761.81	34,135.00	23,373.19	68.47%
2011-Public Safety	5,774.37	106,795.52	111,320.00	4,524.48	4.06%
2013-Parks & Recreation	2,665.27	(348,605.10)	163,973.00	512,578.10	312.60%
2099-Non-Departmental	(5,657.91)	(11,315.82)	0.00	11,315.82	0.00%
Expense Totals	<u>225,731.50</u>	<u>1,351,716.97</u>	<u>1,747,021.36</u>	<u>395,304.39</u>	<u>22.63%</u>
Revenues Over(Under) Expenditures	<u>(566,860.15)</u>	<u>563,478.50</u>	<u>46,164.15</u>	<u>0.00</u>	<u>0.00%</u>

City of New Fairview  
 Revenue and Expense Report  
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<b>01 - General Fund Department Revenue</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
<hr/>					
<b>Property Tax</b>					
-4101 Current Property Tax	1,940.29	656,956.99	656,790.05	(166.94)	(0.03%)
-4102 Delinquent Property Tax	0.00	190.55	0.00	(190.55)	0.00%
<b>Total Property Tax</b>	<u>1,940.29</u>	<u>657,147.54</u>	<u>656,790.05</u>	<u>(357.49)</u>	<u>(0.05%)</u>
<b>Sales and Mixed Beverage Tax</b>					
-4201 Sales/ Beverage Tax	39,714.32	465,445.45	378,000.00	(87,445.45)	(23.13%)
<b>Total Sales and Mixed Beverage Tax</b>	<u>39,714.32</u>	<u>465,445.45</u>	<u>378,000.00</u>	<u>(87,445.45)</u>	<u>(23.13%)</u>
<b>Franchise Fees</b>					
-4301 Franchise Fees	0.00	78,246.76	71,795.46	(6,451.30)	(8.99%)
<b>Total Franchise Fees</b>	<u>0.00</u>	<u>78,246.76</u>	<u>71,795.46</u>	<u>(6,451.30)</u>	<u>(8.99%)</u>
<b>Permits</b>					
-4401 Construction Permits	21,194.27	400,642.07	500,000.00	99,357.93	19.87%
-4402 Septic Permits	3,341.50	18,286.12	14,000.00	(4,286.12)	(30.62%)
-4403 Contractor Registration	409.00	4,926.00	3,600.00	(1,326.00)	(36.83%)
<b>Total Permits</b>	<u>24,944.77</u>	<u>423,854.19</u>	<u>517,600.00</u>	<u>93,745.81</u>	<u>18.11%</u>
<b>Fines and Fees</b>					
-4501 Court Fines	2,693.99	21,501.18	10,000.00	(11,501.18)	(115.01%)
-4510 Mun Court Svc Fee Retained	36.20	36.20	0.00	(36.20)	0.00%
-4530 Local Truancy Prevention and Diversion Fund	5.00	5.00	0.00	(5.00)	0.00%
<b>Total Fines and Fees</b>	<u>2,735.19</u>	<u>21,542.38</u>	<u>10,000.00</u>	<u>(11,542.38)</u>	<u>(115.42%)</u>
<b>Other Revenue</b>					
-4800 Interest Income	62,666.78	62,666.78	0.00	(62,666.78)	0.00%

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<b>01 - General Fund Department Revenue</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
Total Other Revenue	62,666.78	62,666.78	0.00	(62,666.78)	0.00%
<u>Other Revenues</u>					
-4901 Other Revenue	(93,876.76)	182,040.77	154,000.00	(28,040.77)	(18.21%)
-4905 Grant Revenue	(397,026.55)	3,014.59	0.00	(3,014.59)	0.00%
-4906 Sponsorship	1,000.00	4,463.70	5,000.00	536.30	10.73%
Total Other Revenues	(489,903.31)	189,519.06	159,000.00	(30,519.06)	(19.19%)
<u>Municipal Court</u>					
-4907 Boyd Municipal Court	16,773.31	16,773.31	0.00	(16,773.31)	0.00%
Total Municipal Court	16,773.31	16,773.31	0.00	(16,773.31)	0.00%
Total	(341,128.65)	1,915,195.47	1,793,185.51	(122,009.96)	(6.80%)
Total Revenue	(341,128.65)	1,915,195.47	1,793,185.51	(122,009.96)	(6.80%)

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
<b>2001-City Council</b>					
<u>Contract Labor</u>					
2001-5108 Legal Expenses	1,995.00	14,038.50	15,000.00	961.50	6.41%
Total Contract Labor	1,995.00	14,038.50	15,000.00	961.50	6.41%
<u>Supplies</u>					
2001-5201 Office Supplies	0.00	244.36	2,000.00	1,755.64	87.78%
2001-5299 Miscellaneous Supplies	0.00	388.13	300.00	(88.13)	(29.38%)
Total Supplies	0.00	632.49	2,300.00	1,667.51	72.50%
<u>Services</u>					
2001-5310 Software	0.00	108.24	120.00	11.76	9.80%
2001-5322 Training/Dues/Memberships	350.00	5,600.03	15,000.00	9,399.97	62.67%
2001-5370 Election Expense	0.00	3,790.95	5,000.00	1,209.05	24.18%
Total Services	350.00	9,499.22	20,120.00	10,620.78	52.79%
<u>Memberships</u>					
2001-5323 Membership	0.00	1,520.50	0.00	(1,520.50)	0.00%
Total Memberships	0.00	1,520.50	0.00	(1,520.50)	0.00%
Total City Council	2,345.00	25,690.71	37,420.00	11,729.29	31.34%
<b>2002-Administration</b>					
<u>Salaries &amp; Payroll</u>					
2002-5001 Salaries	16,153.81	155,710.15	119,700.00	(36,010.15)	(30.08%)
2002-5004 Longevity Pay	0.00	100.00	100.00	0.00	0.00%
2002-5005 TMRS	1,030.61	385.57	7,636.86	7,251.29	94.95%
2002-5006 Health Insurance	1,756.59	12,474.16	10,740.96	(1,733.20)	(16.14%)

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
2002-5007 FICA - Payroll Taxes	1,235.78	3,888.08	9,157.05	5,268.97	57.54%
2002-5008 Worker's Comp	0.00	17.87	400.00	382.13	95.53%
2002-5010 Unemployment	0.00	309.57	3,591.00	3,281.43	91.38%
2002-5011 Deferred Compensation	0.00	0.00	6,000.00	6,000.00	100.00%
2002-5012 LTD, STD and Life	188.32	2,055.93	456.00	(1,599.93)	(350.86%)
Total Salaries & Payroll	<u>20,365.11</u>	<u>174,941.33</u>	<u>157,781.87</u>	<u>(17,159.46)</u>	<u>(10.88%)</u>
<u>Contract Labor</u>					
2002-5101 Contract Labor	640.00	6,960.00	6,240.00	(720.00)	(11.54%)
2002-5108 Legal Expenses	20,818.59	58,525.69	50,000.00	(8,525.69)	(17.05%)
2002-5111 Information Technology	605.36	7,547.66	8,000.00	452.34	5.65%
2002-5113 Website	0.00	0.00	10,000.00	10,000.00	100.00%
Total Contract Labor	<u>22,063.95</u>	<u>73,033.35</u>	<u>74,240.00</u>	<u>1,206.65</u>	<u>1.63%</u>
<u>Supplies</u>					
2002-5201 Office Supplies	43.46	2,356.76	2,500.00	143.24	5.73%
2002-5202 Equipment	0.00	1,673.61	500.00	(1,173.61)	(234.72%)
2002-5207 Postage	0.00	42.15	0.00	(42.15)	0.00%
2002-5299 Miscellaneous Supplies	0.00	298.91	500.00	201.09	40.22%
Total Supplies	<u>43.46</u>	<u>4,371.43</u>	<u>3,500.00</u>	<u>(871.43)</u>	<u>(24.90%)</u>
<u>Services</u>					
2002-5310 Software	2,722.79	13,449.75	15,500.00	2,050.25	13.23%
2002-5315 Electric / Trash	158.91	1,423.89	2,000.00	576.11	28.81%
2002-5320 Equipment Rental	0.00	1,660.47	500.00	(1,160.47)	(232.09%)
2002-5322 Training/Dues/Memberships	1,137.30	5,364.52	4,600.00	(764.52)	(16.62%)

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
2002-5335 Internet/Telephone	71.53	1,560.99	1,500.00	(60.99)	(4.07%)
2002-5340 Auditor	0.00	23,000.00	7,000.00	(16,000.00)	(228.57%)
2002-5350 Professional Services	220.20	3,191.40	5,000.00	1,808.60	36.17%
2002-5355 Miscellaneous Expense	238.61	35,424.03	33,618.00	(1,806.03)	(5.37%)
2002-5360 Prop Tax Collection Fees	6,450.00	17,458.77	14,200.00	(3,258.77)	(22.95%)
2002-5361 Credit Card Fees	1,372.70	6,133.87	20,000.00	13,866.13	69.33%
2002-5365 Penalties Expense	0.00	0.00	1,200.00	1,200.00	100.00%
2002-5375 Chapter 380	0.00	86,029.48	84,000.00	(2,029.48)	(2.42%)
2002-5380 TML Insurance	0.00	20,076.78	8,430.20	(11,646.58)	(138.15%)
Total Services	<u>12,372.04</u>	<u>214,773.95</u>	<u>197,548.20</u>	<u>(17,225.75)</u>	<u>(8.72%)</u>
<u>Memberships</u>					
2002-5323 Membership	0.00	70.00	0.00	(70.00)	0.00%
Total Memberships	<u>0.00</u>	<u>70.00</u>	<u>0.00</u>	<u>(70.00)</u>	<u>0.00%</u>
Total Administration	<u>54,844.56</u>	<u>467,190.06</u>	<u>433,070.07</u>	<u>(34,119.99)</u>	<u>(7.88%)</u>
<b><u>2003-City Secretary</u></b>					
<u>Salaries &amp; Payroll</u>					
2003-5001 Salaries	8,630.74	61,880.71	57,750.00	(4,130.71)	(7.15%)
2003-5002 Part Time	1,388.33	2,399.51	0.00	(2,399.51)	0.00%
2003-5004 Longevity Pay	0.00	208.00	64.00	(144.00)	(225.00%)
2003-5005 TMRS	495.99	4,911.32	3,684.45	(1,226.87)	(33.30%)
2003-5006 Health Insurance	1,757.81	12,475.38	10,740.96	(1,734.42)	(16.15%)
2003-5007 FICA - Payroll Taxes	815.99	4,923.96	4,417.88	(506.08)	(11.46%)
2003-5008 Worker's Comp	0.00	17.89	320.00	302.11	94.41%



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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
2003-5010 Unemployment	0.00	309.57	0.00	(309.57)	0.00%
2003-5012 LTD, STD and Life	43.59	601.51	945.34	343.83	36.37%
Total Salaries & Payroll	<u>13,132.45</u>	<u>87,727.85</u>	<u>77,922.63</u>	<u>(9,805.22)</u>	<u>(12.58%)</u>
<u>Contract Labor</u>					
2003-5108 Legal Expenses	1,489.00	5,121.00	10,000.00	4,879.00	48.79%
Total Contract Labor	<u>1,489.00</u>	<u>5,121.00</u>	<u>10,000.00</u>	<u>4,879.00</u>	<u>48.79%</u>
<u>Supplies</u>					
2003-5201 Office Supplies	0.00	907.25	2,000.00	1,092.75	54.64%
2003-5202 Equipment	0.00	849.99	500.00	(349.99)	(70.00%)
2003-5203 Uniforms	0.00	32.00	0.00	(32.00)	0.00%
2003-5207 Postage	0.00	32.40	400.00	367.60	91.90%
2003-5299 Miscellaneous Supplies	0.00	42.50	1,000.00	957.50	95.75%
Total Supplies	<u>0.00</u>	<u>1,864.14</u>	<u>3,900.00</u>	<u>2,035.86</u>	<u>52.20%</u>
<u>Services</u>					
2003-5305 Legal Notices	378.40	2,083.40	2,000.00	(83.40)	(4.17%)
2003-5310 Software	2,426.64	11,872.80	7,695.00	(4,177.80)	(54.29%)
2003-5315 Electric / Trash	158.91	1,423.81	2,000.00	576.19	28.81%
2003-5320 Equipment Rental	0.00	1,308.46	1,000.00	(308.46)	(30.85%)
2003-5322 Training/Dues/Memberships	760.00	7,124.53	7,500.00	375.47	5.01%
2003-5335 Internet/Telephone	71.53	809.67	1,000.00	190.33	19.03%
2003-5350 Professional Services	0.00	23.95	0.00	(23.95)	0.00%
2003-5355 Miscellaneous Expense	0.00	714.08	0.00	(714.08)	0.00%
Total Services	<u>3,795.48</u>	<u>25,360.70</u>	<u>21,195.00</u>	<u>(4,165.70)</u>	<u>(19.65%)</u>

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
<u>Memberships</u>					
2003-5323 Membership	0.00	199.00	0.00	(199.00)	0.00%
Total Memberships	<u>0.00</u>	<u>199.00</u>	<u>0.00</u>	<u>(199.00)</u>	<u>0.00%</u>
Total City Secretary	<u>18,416.93</u>	<u>120,272.69</u>	<u>113,017.63</u>	<u>(7,255.06)</u>	<u>(6.42%)</u>
<u><b>2007-Municipal Court</b></u>					
<u>Salaries &amp; Payroll</u>					
2007-5001 Salaries	10,308.59	57,655.43	50,232.00	(7,423.43)	(14.78%)
2007-5002 Part Time	4,334.66	7,394.04	0.00	(7,394.04)	0.00%
2007-5003 Overtime	1,804.59	5,801.86	5,000.00	(801.86)	(16.04%)
2007-5004 Longevity Pay	0.00	100.00	64.00	(36.00)	(56.25%)
2007-5005 TMRS	635.41	4,567.39	3,204.80	(1,362.59)	(42.52%)
2007-5006 Health Insurance	1,756.59	10,717.43	10,740.96	23.53	0.22%
2007-5007 FICA - Payroll Taxes	1,176.65	2,690.89	3,842.75	1,151.86	29.97%
2007-5008 Worker's Comp	0.00	17.86	320.00	302.14	94.42%
2007-5010 Unemployment	0.00	309.57	0.00	(309.57)	0.00%
2007-5012 LTD, STD and Life	99.49	1,174.21	561.70	(612.51)	(109.05%)
Total Salaries & Payroll	<u>20,115.98</u>	<u>90,428.68</u>	<u>73,966.21</u>	<u>(16,462.47)</u>	<u>(22.26%)</u>
<u>Contract Labor</u>					
2007-5106 Municipal Judge	120.00	3,270.00	2,400.00	(870.00)	(36.25%)
2007-5108 Legal Expenses	1,599.50	6,388.50	5,000.00	(1,388.50)	(27.77%)
2007-5114 Prosecutor	100.00	100.00	0.00	(100.00)	0.00%
Total Contract Labor	<u>1,819.50</u>	<u>9,758.50</u>	<u>7,400.00</u>	<u>(2,358.50)</u>	<u>(31.87%)</u>
<u>Municipal Court</u>					

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
2007-5115 Boyd Court	166.13	3,485.20	0.00	(3,485.20)	0.00%
Total Municipal Court	166.13	3,485.20	0.00	(3,485.20)	0.00%
<u>Supplies</u>					
2007-5201 Office Supplies	15.00	451.16	1,500.00	1,048.84	69.92%
2007-5202 Equipment	0.00	447.99	500.00	52.01	10.40%
2007-5203 Uniforms	0.00	32.00	0.00	(32.00)	0.00%
2007-5207 Postage	0.00	63.81	500.00	436.19	87.24%
2007-5222 Signs	0.00	0.00	500.00	500.00	100.00%
2007-5299 Miscellaneous Supplies	391.76	472.26	500.00	27.74	5.55%
Total Supplies	406.76	1,467.22	3,500.00	2,032.78	58.08%
<u>Services</u>					
2007-5310 Software	15.00	3,030.00	0.00	(3,030.00)	0.00%
2007-5315 Electric / Trash	158.91	1,423.76	2,000.00	576.24	28.81%
2007-5320 Equipment Rental	0.00	1,308.46	2,000.00	691.54	34.58%
2007-5322 Training/Dues/Memberships	250.00	1,481.19	2,450.00	968.81	39.54%
2007-5325 Municipal Judge Training	0.00	0.00	350.00	350.00	100.00%
2007-5335 Internet/Telephone	71.53	809.63	1,000.00	190.37	19.04%
2007-5350 Professional Services	0.00	617.65	1,000.00	382.35	38.24%
2007-5355 Miscellaneous Expense	(5,657.58)	9,096.22	10,000.00	903.78	9.04%
Total Services	(5,162.14)	17,766.91	18,800.00	1,033.09	5.50%
<u>Memberships</u>					
2007-5323 Membership	0.00	114.95	0.00	(114.95)	0.00%
Total Memberships	0.00	114.95	0.00	(114.95)	0.00%

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
Total Municipal Court	17,346.23	123,021.46	103,666.21	(19,355.25)	(18.67%)
<b><u>2008-Planning &amp; Development</u></b>					
<u>Contract Labor</u>					
2008-5102 Public Infrastructure	0.00	625.00	0.00	(625.00)	0.00%
2008-5105 Building Inspector	13,676.00	135,495.09	60,000.00	(75,495.09)	(125.83%)
2008-5108 Legal Expenses	0.00	0.00	5,000.00	5,000.00	100.00%
2008-5109 City Engineer	350.00	25,196.55	25,000.00	(196.55)	(0.79%)
2008-5110 City Planner	3,646.88	35,769.76	40,000.00	4,230.24	10.58%
Total Contract Labor	17,672.88	197,086.40	130,000.00	(67,086.40)	(51.60%)
<u>Supplies</u>					
2008-5201 Office Supplies	0.00	801.17	1,500.00	698.83	46.59%
Total Supplies	0.00	801.17	1,500.00	698.83	46.59%
<u>Services</u>					
2008-5305 Legal Notices	0.00	1,031.25	0.00	(1,031.25)	0.00%
2008-5310 Software	0.00	1,000.00	700.00	(300.00)	(42.86%)
2008-5350 Professional Services	0.00	5,524.00	15,700.00	10,176.00	64.82%
2008-5355 Miscellaneous Expense	10,915.16	25,059.11	0.00	(25,059.11)	0.00%
Total Services	10,915.16	32,614.36	16,400.00	(16,214.36)	(98.87%)
Total Planning & Development	28,588.04	230,501.93	147,900.00	(82,601.93)	(55.85%)
<b><u>2009-Public Works</u></b>					
<u>Salaries &amp; Payroll</u>					
2009-5001 Salaries	16,503.79	132,449.50	105,924.00	(26,525.50)	(25.04%)
2009-5002 Part Time	4,005.32	13,525.54	0.00	(13,525.54)	0.00%

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
2009-5003 Overtime	1,504.42	8,736.65	5,000.00	(3,736.65)	(74.73%)
2009-5004 Longevity Pay	0.00	136.00	64.00	(72.00)	(112.50%)
2009-5005 TMRS	966.20	8,655.32	6,757.95	(1,897.37)	(28.08%)
2009-5006 Health Insurance	3,515.62	20,467.64	21,481.92	1,014.28	4.72%
2009-5007 FICA - Payroll Taxes	1,656.18	5,211.24	8,103.19	2,891.95	35.69%
2009-5008 Worker's Comp	0.00	28.45	640.00	611.55	95.55%
2009-5010 Unemployment	0.00	647.29	3,177.72	2,530.43	79.63%
2009-5012 LTD, STD and Life	88.47	882.01	1,890.67	1,008.66	53.35%
Total Salaries & Payroll	<u>28,240.00</u>	<u>190,739.64</u>	<u>153,039.45</u>	<u>(37,700.19)</u>	<u>(24.63%)</u>
<u>Contract Labor</u>					
2009-5101 Contract Labor	0.00	0.00	15,000.00	15,000.00	100.00%
2009-5102 Public Infrastructure	0.00	375.00	5,000.00	4,625.00	92.50%
2009-5105 Building Inspector	0.00	0.00	750.00	750.00	100.00%
Total Contract Labor	<u>0.00</u>	<u>375.00</u>	<u>20,750.00</u>	<u>20,375.00</u>	<u>98.19%</u>
<u>Supplies</u>					
2009-5201 Office Supplies	0.00	318.68	3,000.00	2,681.32	89.38%
2009-5202 Equipment	18.99	5,656.94	7,500.00	1,843.06	24.57%
2009-5203 Uniforms	0.00	3,097.94	3,500.00	402.06	11.49%
2009-5207 Postage	0.00	8.80	500.00	491.20	98.24%
2009-5222 Signs	1,836.20	9,732.60	8,000.00	(1,732.60)	(21.66%)
2009-5299 Miscellaneous Supplies	0.00	2,629.17	2,000.00	(629.17)	(31.46%)
Total Supplies	<u>1,855.19</u>	<u>21,444.13</u>	<u>24,500.00</u>	<u>3,055.87</u>	<u>12.47%</u>
<u>Services</u>					

City of New Fairview  
Revenue and Expense Report  
As of September 30, 2023

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
2009-5301 Fuel	643.54	10,123.00	8,000.00	(2,123.00)	(26.54%)
2009-5302 Tractor/ Truck Repairs	2,567.32	6,108.06	8,000.00	1,891.94	23.65%
2009-5303 Tolls	0.00	183.16	50.00	(133.16)	(266.32%)
2009-5305 Legal Notices	0.00	158.25	0.00	(158.25)	0.00%
2009-5310 Software	156.94	336.25	0.00	(336.25)	0.00%
2009-5315 Electric / Trash	1,049.10	9,722.77	12,000.00	2,277.23	18.98%
2009-5320 Equipment Rental	0.00	6,478.66	5,000.00	(1,478.66)	(29.57%)
2009-5322 Training/Dues/Memberships	250.00	2,659.19	4,410.00	1,750.81	39.70%
2009-5335 Internet/Telephone	0.00	0.00	1,030.00	1,030.00	100.00%
2009-5345 Street Lights	229.46	5,387.58	11,940.00	6,552.42	54.88%
2009-5355 Miscellaneous Expense	0.00	989.37	1,500.00	510.63	34.04%
2009-5361 Credit Card Fees	0.00	4.00	0.00	(4.00)	0.00%
2009-5385 Building Repairs	11,616.61	23,958.69	15,000.00	(8,958.69)	(59.72%)
2009-5395 Road Maintenance	3,328.50	29,517.98	50,000.00	20,482.02	40.96%
<b>Total Services</b>	<b>19,841.47</b>	<b>95,626.96</b>	<b>116,930.00</b>	<b>21,303.04</b>	<b>18.22%</b>
<b>City Projects</b>					
2009-5630 TDLR	0.00	10,709.50	10,300.00	(409.50)	(3.98%)
2009-5635 CR 4717	0.00	22,624.90	0.00	(22,624.90)	0.00%
<b>Total City Projects</b>	<b>0.00</b>	<b>33,334.40</b>	<b>10,300.00</b>	<b>(23,034.40)</b>	<b>(223.63%)</b>
<b>Capital Outlay</b>					
2009-6010 Vehicles - Capital	788.00	64,207.75	65,000.00	792.25	1.22%
2009-6020 Equipment - Capital	16,000.00	105,718.35	92,000.00	(13,718.35)	(14.91%)
2009-6030 Buildings - Capital	30,833.35	30,957.48	35,000.00	4,042.52	11.55%

City of New Fairview  
Revenue and Expense Report  
As of September 30, 2023

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
Total Capital Outlay	47,621.35	200,883.58	192,000.00	(8,883.58)	(4.63%)
<u>Transfers</u>					
2009-7185 Transfer Out - Special Revenue	(85,000.00)	0.00	0.00	0.00	0.00%
2009-9100 Transfers Out	85,000.00	85,000.00	85,000.00	0.00	0.00%
Total Transfers	0.00	85,000.00	85,000.00	0.00	0.00%
Total Public Works	97,558.01	627,403.71	602,519.45	(24,884.26)	(4.13%)
<b><u>2010-Code Enforcement</u></b>					
<u>Contract Labor</u>					
2010-5102 Code Enforcement	0.00	0.00	2,000.00	2,000.00	100.00%
2010-5103 Septic Inspector	2,700.00	3,850.00	5,500.00	1,650.00	30.00%
2010-5104 Animal Control	0.00	550.00	2,000.00	1,450.00	72.50%
2010-5108 Legal Expenses	541.00	2,914.00	3,000.00	86.00	2.87%
2010-5112 Abatement	0.00	0.00	15,000.00	15,000.00	100.00%
Total Contract Labor	3,241.00	7,314.00	27,500.00	20,186.00	73.40%
<u>Supplies</u>					
2010-5201 Office Supplies	0.00	201.76	0.00	(201.76)	0.00%
2010-5207 Postage	0.00	190.92	0.00	(190.92)	0.00%
2010-5222 Signs	0.00	121.98	0.00	(121.98)	0.00%
2010-5299 Miscellaneous Supplies	0.00	106.95	0.00	(106.95)	0.00%
Total Supplies	0.00	621.61	0.00	(621.61)	0.00%
<u>Services</u>					
2010-5310 Software	0.00	0.00	1,400.00	1,400.00	100.00%
2010-5320 Equipment Rental	0.00	0.00	1,000.00	1,000.00	100.00%

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
2010-5322 Training/Dues/Memberships	550.00	800.00	1,760.00	960.00	54.55%
2010-5390 Cleanup Days	0.00	1,766.20	2,475.00	708.80	28.64%
Total Services	550.00	2,566.20	6,635.00	4,068.80	61.32%
<b>Memberships</b>					
2010-5323 Membership	60.00	260.00	0.00	(260.00)	0.00%
Total Memberships	60.00	260.00	0.00	(260.00)	0.00%
Total Code Enforcement	3,851.00	10,761.81	34,135.00	23,373.19	68.47%
<b>2011-Public Safety</b>					
<b>Contract Labor</b>					
2011-5101 Contract Labor	2,950.00	35,900.00	37,400.00	1,500.00	4.01%
2011-5107 Contract Deputies	943.41	13,683.00	44,000.00	30,317.00	68.90%
Total Contract Labor	3,893.41	49,583.00	81,400.00	31,817.00	39.09%
<b>Supplies</b>					
2011-5201 Office Supplies	0.00	179.92	0.00	(179.92)	0.00%
2011-5202 Equipment	0.00	200.95	0.00	(200.95)	0.00%
Total Supplies	0.00	380.87	0.00	(380.87)	0.00%
<b>Services</b>					
2011-5310 Software	17,098.00	17,098.00	0.00	(17,098.00)	0.00%
2011-5322 Training/Dues/Memberships	0.00	2,635.00	2,200.00	(435.00)	(19.77%)
2011-5385 Building Repairs	0.00	2,791.19	0.00	(2,791.19)	0.00%
Total Services	17,098.00	22,524.19	2,200.00	(20,324.19)	(923.83%)
<b>City Projects</b>					
2011-5645 EMS Buildout	0.00	100.66	0.00	(100.66)	0.00%



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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
Total City Projects	0.00	100.66	0.00	(100.66)	0.00%
<u>Capital Outlay</u>					
2011-6020 Equipment - Capital	5,600.00	5,600.00	0.00	(5,600.00)	0.00%
2011-6030 Buildings - Capital	(20,817.04)	7,493.92	17,270.00	9,776.08	56.61%
2011-6060 Buildings - Extractor	0.00	21,112.88	10,450.00	(10,662.88)	(102.04%)
Total Capital Outlay	(15,217.04)	34,206.80	27,720.00	(6,486.80)	(23.40%)
Total Public Safety	5,774.37	106,795.52	111,320.00	4,524.48	4.06%
<b><u>2013-Parks &amp; Recreation</u></b>					
<u>Supplies</u>					
2013-5201 Office Supplies	0.00	0.00	500.00	500.00	100.00%
2013-5202 Equipment	0.00	1,039.26	1,000.00	(39.26)	(3.93%)
2013-5299 Miscellaneous Supplies	0.00	152.97	500.00	347.03	69.41%
Total Supplies	0.00	1,192.23	2,000.00	807.77	40.39%
<u>Services</u>					
2013-5304 Special Events	738.76	15,375.28	10,500.00	(4,875.28)	(46.43%)
2013-5320 Equipment Rental	0.00	1,735.94	4,000.00	2,264.06	56.60%
2013-5322 Training/Dues	1,095.00	1,095.00	0.00	(1,095.00)	0.00%
2013-5355 Miscellaneous Expense	0.00	1,610.94	4,000.00	2,389.06	59.73%
2013-5385 Building Repairs	16.51	16.51	500.00	483.49	96.70%
Total Services	1,850.27	19,833.67	19,000.00	(833.67)	(4.39%)
2013-5316 Water/Wastewater Feasibility	815.00	815.00	0.00	(815.00)	0.00%

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<b>01 - General Fund Department Expense</b>	Current Month Expense/Rev	Year To Date Expense/Rev	Current Year Budget	Budget Balance Remaining	% Balance Remaining
Total	815.00	815.00	0.00	(815.00)	0.00%
<b>Memberships</b>					
2013-5323 Membership	0.00	500.00	0.00	(500.00)	0.00%
Total Memberships	0.00	500.00	0.00	(500.00)	0.00%
<b>Transfers</b>					
2013-9000 Transfers Out	0.00	(370,946.00)	142,973.00	513,919.00	359.45%
Total Transfers	0.00	(370,946.00)	142,973.00	513,919.00	359.45%
Total Parks & Recreation	2,665.27	(348,605.10)	163,973.00	512,578.10	312.60%
<b>2099-Non-Departmental Services</b>					
2099-5355 Miscellaneous Expense	(5,657.91)	(11,315.82)	0.00	11,315.82	0.00%
Total Services	(5,657.91)	(11,315.82)	0.00	11,315.82	0.00%
Total Non-Departmental	(5,657.91)	(11,315.82)	0.00	11,315.82	0.00%
<b>Total Expense</b>	<b>225,731.50</b>	<b>1,351,716.97</b>	<b>1,747,021.36</b>	<b>395,304.39</b>	<b>22.63%</b>



**City Council  
AGENDA MEMO**

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Prepared By: Stephen A. Cook, AICP Senior Planner

April 1, 2024

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**Approval of Final Plat for Hills of Oliver Creek Phase Two**

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**DESCRIPTION:**

Receive, consider, and act on the approval of a final plat for Lots 260A and 260B, Hills of Oliver Creek Phase Two, 2.0 acres in M.E.O & P.R.R. Co. Survey, Abstract No. 633 generally located in the 200 block of Private Road No. 4440.

**BACKGROUND INFORMATION:**

Gustavo Vargas owns a two acre property in the City of New Fairview Extraterritorial Jurisdiction. The tract is located within an area of unincorporated Wise County called Hills of Oliver Creek. The property is a separate lot but has never been platted. This final plat will subdivide the two acre tract into two, one acre lots. Private Road 4440 is a private road and is privately maintained. In order to develop these lots a final plat is required to be submitted and recommended for approval by the Planning and Zoning Commission and approved by the City Council.

The final plat conforms to the subdivision requirements of the City of New Fairview.

The Planning and Zoning Commission considered this final plat at their March 25 meeting and they recommended approval.

Staff recommends approval of the final plat.

**FINANCIAL CONSIDERATION:**

None

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny/Approve with Conditions**, of the request to final plat Lots 260A and 260B, Hills of Oliver Creek Phase Two, 2.0 acres in M.E.O & P.R.R. Co. Survey, Abstract No. 633 generally located in the 200 block of Private Road 4440.

**ATTACHMENT(S):**

1. Hills of Oliver Creek Phase Two Final Plat
2. Presentation



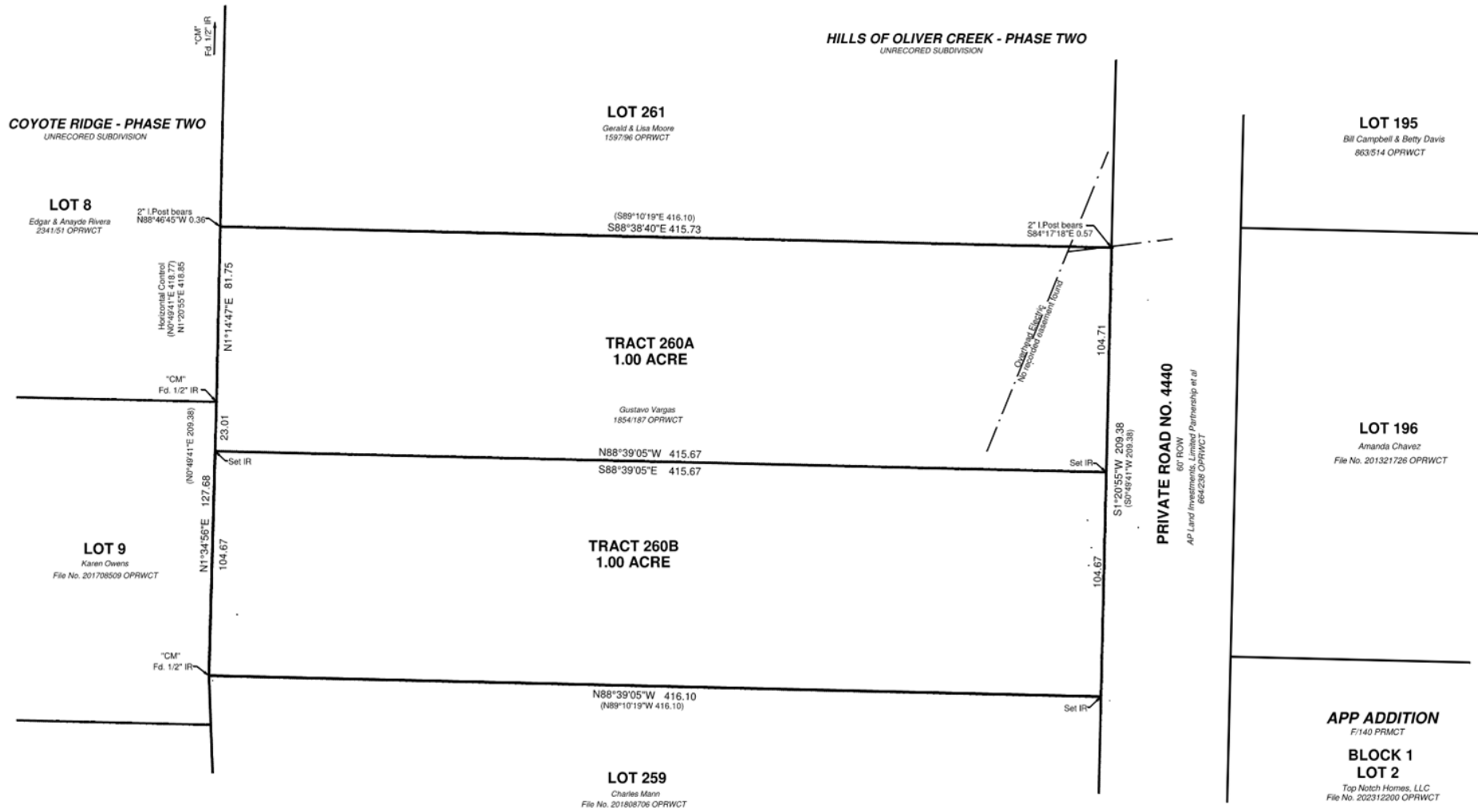


# **City of New Fairview City Council**

Agenda Item

Hills of Oliver Creek Phase Two Lots 260A and 260B

2.0 Acres



# Final Plat – Hills of Oliver Creek PH Two



## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

April 1, 2024

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### Atmos 2023 Rates

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#### **DESCRIPTION:**

Consider approval of an ordinance of the City of New Fairview, Texas approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the Company’s 2023 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attachment establishing a benchmark for pensions and retiree medical benefits; requiring the Company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the Company and the ACSC’s legal counsel.

#### **BACKGROUND INFORMATION:**

The City of New Fairview (“City”), along with 185 other Texas cities served by Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex”), is a member of the Atmos Cities Steering Committee (ACSC). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by Atmos for an interim rate adjustment commonly referred to as a GRIP filing, arising out of the Gas Reliability Infrastructure Program legislation. That settlement created a new rate review process, referred to as Rate Review Mechanism (“RRM”), as a substitute for the GRIP statute in future rate filings. This process has been in place with some modifications since that time.

On or about March 31, 2023, Atmos Mid-Tex filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2022, entitled it to additional system-wide revenues of \$165.9 million.

Application of the standards set forth in ACSC’s RRM Tariff reduces the Company’s request to \$156.1 million, \$113.8 million of which would be applicable to ACSC members. After reviewing the filing and conducting discovery, ACSC’s consultants concluded that the system-wide



deficiency under the RRM regime should be \$130.9 million instead of the claimed \$156.1 million.

After several settlement meetings, the parties have agreed to settle the case for \$142 million. This is a reduction of \$23.9 million to the Company's initial request. This includes payment of ACSC's expenses. The settlement also includes an additional \$19.5 million for the securitization of regulatory asset expenses related to Winter Storm Uri. This was previously approved by the Texas Legislature and Railroad Commission.

**Summary:**

**\$165.9M:** Atmos Original Request (system-wide)

**\$156.1M:** Tariff-Related (System-wide)

**\$142M:** Increase to after review/negotiation

**\$23.9M:** Savings from original request

Atmos does not currently have any customers in the city limits at this time, however, it is important to adopt tariffs that reflect the rate adjustments consistent with the negotiated settlement. Staff recommend approval of the Ordinance.

**FINANCIAL CONSIDERATION:**

**Bill Impact**

The impact of the settlement on average residential rates is an increase of \$6.47 monthly, or 7.31%. The increase in average commercial usage will be \$24.72 or 5.19%.

**RRM Savings Over GRIP**

The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. When new rates become effective on October 1, 2023, ACSC customers will maintain a monthly cost advantage over GRIP and DARR rates.

## Comparison to Other Mid-Tex Rates (Residential)

	AVERAGE BILL	COMPARED TO RRM CITIES
RRM CITIES	\$42.62	-
ATM CITIES	\$44.39	+\$1.77
ENVIRONS	\$44.27	+\$1.65

### **RECOMMENDED MOTIONS:**

I move to **Approve/Deny** an ordinance of the City of New Fairview, Texas approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the Company’s 2023 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attachment establishing a benchmark for pensions and retiree medical benefits; requiring the Company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the Company and the ACSC’s legal counsel.

### **ATTACHMENT(S):**

1. Ordinance 202404-01-108
2. RRM Proof of Rates
3. Tariffs
4. Average Bill Comparison
5. Pension and Retiree Benchmark

**ORDINANCE NO. 202404-01-108**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2023 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHMENT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.**

**WHEREAS**, the City of New Fairview, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates, charges, and services of Atmos Mid-Tex; and

**WHEREAS**, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

**WHEREAS**, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

**WHEREAS**, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

**WHEREAS**, on about March 31, 2023, Atmos Mid-Tex filed its 2023 RRM rate request with ACSC Cities based on a test year ending December 31, 2022; and

**WHEREAS**, ACSC coordinated its review of the Atmos Mid-Tex 2023 RRM filing through its Executive Committee, assisted by ACSC’s attorneys and consultants, to resolve issues identified in the Company’s RRM filing; and

**WHEREAS**, the Executive Committee, as well as ACSC’s counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$156.1 million on a system-wide basis with an Effective Date of October 1, 2023; and

**WHEREAS**, ACSC agrees that Atmos plant-in-service is reasonable; and

**WHEREAS**, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

**WHEREAS**, the attached tariffs (Attachment 1) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

**WHEREAS**, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Attachment 2); and

**WHEREAS**, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS:**

**Section 1.** That the findings set forth in this Ordinance are hereby in all things approved.

**Section 2.** That, without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$142 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2023 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

**Section 3.** That despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

**Section 4.** That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Attachment 1, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$142 million on a system-wide basis, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

**Section 5.** That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Attachment 2, attached hereto and incorporated herein.

**Section 6.** That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of ACSC in processing the Company's 2023 RRM filing.

**Section 7.** That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

**Section 8.** That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 9.** That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

**Section 10.** That consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2023.

**Section 11.** That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, BY A VOTE OF \_\_\_\_AYES TO \_\_\_\_NAYS, ON THIS THE 1<sup>st</sup> DAY OF APRIL, 2024.**

\_\_\_\_\_  
John Taylor, Mayor

ATTEST:

\_\_\_\_\_  
Brooke Boller, City Secretary

**ATMOS ENERGY CORP., MID-TEX DIVISION  
RRM CITIES RATE REVIEW MECHANISM  
PROOF OF REVENUES - SUMMARY  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Description	Systemwide (with revenue related taxes)	Systemwide (without revenue related taxes)	Affected Cities (with revenue related taxes)	Affected Cities (without revenue related taxes)
	(a)	(b)	(c)	(d)	(e)
1	Residential	\$ 110,690,287	\$ 104,191,727	\$ 80,787,402	\$ 76,044,423
2	Commercial	27,546,618	25,929,373	20,044,871	18,868,048
3	Industrial & Transportation	3,758,375	3,537,723	2,659,929	2,503,767
4	Total Base Rates	<u>\$ 141,995,280</u>	<u>\$ 133,658,823</u>	<u>\$ 103,492,202</u>	<u>\$ 97,416,238</u>
5					
6	Residential	\$ 16,826,925	\$ 15,839,026	\$ 12,303,639	\$ 11,581,300
7	Commercial	11,075,694	10,425,447	7,888,746	7,425,603
8	Industrial & Transportation	914,305	860,627	544,208	512,257
9	Total Securitization	<u>\$ 28,816,924</u>	<u>\$ 27,125,100</u>	<u>\$ 20,736,593</u>	<u>\$ 19,519,160</u>
10					
11	Total Base Rates & Securitization	<u>\$ 170,812,205</u>	<u>\$ 160,783,923</u>	<u>\$ 124,228,795</u>	<u>\$ 116,935,398</u>

Description	Current Rates	Proposed Base Rates	Securitization Recovery Rates	Total Proposed Rates
(a)	(b)	(c)	(d)	(e) = (c) + (d)
12 Residential				
13 Customer Charge per month	\$ 21.55	\$ 22.25		\$ 22.25
14 Consumption Charge per Ccf	\$ 0.36223	\$ 0.46724	\$ 0.01843	\$ 0.48567
15				
16 Commercial				
17 Customer Charge per month	\$ 63.50	\$ 72.00		\$ 72.00
18 Consumption Charge per Ccf	\$ 0.14137	\$ 0.16437	\$ 0.01843	\$ 0.18280
19				
20 Industrial				
21 Customer Charge per month	\$ 1,204.50	\$ 1,382.00		\$ 1,382.00
22 Consumption Charge Tier 1 per MMBtu	\$ 0.4939	\$ 0.5684	\$ 0.1800	\$ 0.7484
23 Consumption Charge Tier 1 per MMBtu	\$ 0.3617	\$ 0.4163	\$ 0.1800	\$ 0.5963
24 Consumption Charge Tier 1 per MMBtu	\$ 0.0776	\$ 0.0893	\$ 0.1800	\$ 0.2693
25				
26 Transportation				
27 Customer Charge per month	\$ 1,204.50	\$ 1,382.00		\$ 1,382.00
28 Consumption Charge Tier 1 per MMBtu	\$ 0.4939	\$ 0.5684		\$ 0.5684
29 Consumption Charge Tier 1 per MMBtu	\$ 0.3617	\$ 0.4163		\$ 0.4163
30 Consumption Charge Tier 1 per MMBtu	\$ 0.0776	\$ 0.0893		\$ 0.0893

**ATMOS ENERGY CORP., MID-TEX DIVISION  
RRM CITIES RATE REVIEW MECHANISM  
PROOF OF REVENUES (BASE RATES) - SYSTEMWIDE  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Customer Class (a)	Current (b)	Proposed (c)	Bills (d)	Ccf/MmBtu (e)	Current Revenues (f)	Proposed Revenues (g)	Systemwide Increase (with revenue related taxes) (h)	Systemwide Increase (without revenue related taxes) (i)
1	<u>Residential</u>								
2	Customer Charge	\$ 21.55	\$ 22.25	19,946,328		\$ 429,843,368	\$ 443,805,798	\$ 13,962,430	\$ 13,962,430
3	Consumption Charge	\$ 0.36223	\$ 0.46724		859,244,812	311,244,248	401,473,546	90,229,298	90,229,298
4	Revenue Related Taxes					46,222,502	52,721,062	6,498,560	-
5	Total Class Revenue					<u>\$ 787,310,118</u>	<u>\$ 898,000,405</u>	<u>\$ 110,690,287</u>	<u>\$ 104,191,727</u>
6									
7	<u>Commercial</u>								
8	Customer Charge	\$ 63.50	\$ 72.00	1,520,160		\$ 96,530,160	\$ 109,451,520	\$ 12,921,360	\$ 12,921,360
9	Consumption Charge	\$ 0.14137	\$ 0.16437		565,565,769	79,954,033	92,962,045	13,008,013	13,008,013
10	Revenue Related Taxes					11,007,526	12,624,771	1,617,245	-
11	Total Class Revenue					<u>\$ 187,491,718</u>	<u>\$ 215,038,336</u>	<u>\$ 27,546,618</u>	<u>\$ 25,929,373</u>
12									
13	<u>Industrial &amp; Transportation</u>								
14	Customer Charge	\$ 1,204.50	\$ 1,382.00	9,960		\$ 11,996,820	\$ 13,764,720	\$ 1,767,900	\$ 1,767,900
15	Consumption Charge Tier 1	\$ 0.4939	\$ 0.5684		10,649,237	5,259,658	6,053,026	793,368	793,368
16	Consumption Charge Tier 2	\$ 0.3617	\$ 0.4163		12,661,224	4,579,565	5,270,868	691,303	691,303
17	Consumption Charge Tier 3	\$ 0.0776	\$ 0.0893		24,371,990	1,891,266	2,176,419	285,152	285,152
18	Revenue Related Taxes					1,479,900	1,700,552	220,652	-
19	Total Class Revenue					<u>\$ 25,207,209</u>	<u>\$ 28,965,585</u>	<u>\$ 3,758,375</u>	<u>\$ 3,537,723</u>
20									
21	<b>Total Base Rates Excluding Other Revenue</b>					<u>\$ 1,000,009,046</u>	<u>\$ 1,142,004,326</u>	<u>\$ 141,995,280</u>	<u>\$ 133,658,823</u>
22									
23	<b>Revenue Related Tax Factor</b>	6.2371%							

**ATMOS ENERGY CORP., MID-TEX DIVISION  
RRM CITIES RATE REVIEW MECHANISM  
PROOF OF REVENUES (SECURITIZATION) - SYSTEMWIDE  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Customer Class (a)	Current (b)	Proposed (c)	Ccf/MmBtu (d)	Current Revenues (e)	Proposed Revenues (f)	Systemwide Increase (with revenue related taxes) (g)	Systemwide Increase (without revenue related taxes) (h)
1	<u>Residential</u>							
2	Consumption Charge	\$ -	\$ 0.01843	859,244,812	\$ -	\$ 15,839,026	\$ 15,839,026	\$ 15,839,026
3	Revenue Related Taxes				-	987,899	987,899	-
4	Total Residential Class				\$ -	\$ 16,826,925	\$ 16,826,925	\$ 15,839,026
5								
6	<u>Commercial</u>							
7	Consumption Charge	\$ -	\$ 0.01843	565,565,769	\$ -	\$ 10,425,447	\$ 10,425,447	\$ 10,425,447
8	Revenue Related Taxes				-	650,247	650,247	
9	Total Commercial Class				\$ -	\$ 11,075,694	\$ 11,075,694	\$ 10,425,447
10								
11	<u>Industrial Sales Only</u>							
12	Consumption Charge - Tier 1	\$ -	\$ 0.1800	1,260,536	\$ -	\$ 226,917	\$ 226,917	\$ 226,917
13	Consumption Charge - Tier 2	\$ -	\$ 0.1800	839,772	-	151,173	151,173	151,173
14	Consumption Charge - Tier 3	\$ -	\$ 0.1800	1,024,570	-	184,439	184,439	184,439
15	Non-Tariff Industrial Sales	\$ -	\$ 0.1800	1,655,951	-	298,098	298,098	298,098
16	Revenue Related Taxes				-	53,678	53,678	-
17	Total Industrial Class				\$ -	\$ 914,305	\$ 914,305	\$ 860,627
18								
19	<b>Total Securitization</b>				\$ -	\$ 28,816,924	\$ 28,816,924	\$ 27,125,100
20								
21	<b>Revenue Related Tax Factor</b>	6.2371%						



**ATMOS ENERGY CORP., MID-TEX DIVISION  
RRM CITIES RATE REVIEW MECHANISM  
PROOF OF REVENUES (BASE RATES) - AFFECTED CITIES  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Customer Class (a)	Current (b)	Proposed (c)	Bills (d)	Ccf/MmBtu (e)	Current Revenues (f)	Proposed Revenues (g)	Affected Cities Increase (with revenue related taxes) (h)	Affected Cities Increase (without revenue related taxes) (i)
1	<u>Residential</u>								
2	Customer Charge	\$ 21.55	\$ 22.25	14,385,540		\$ 310,008,387	\$ 320,078,265	\$ 10,069,878	\$ 10,069,878
3	Consumption Charge	\$ 0.36223	\$ 0.46724		628,269,163	227,577,939	293,552,484	65,974,545	65,974,545
4	Revenue Related Taxes					33,529,888	38,272,868	4,742,980	-
5	Total Class Revenue					\$ 571,116,214	\$ 651,903,616	\$ 80,787,402	\$ 76,044,423
6									
7	<u>Commercial</u>								
8	Customer Charge	\$ 63.50	\$ 72.00	1,129,764		\$ 71,740,014	\$ 81,343,008	\$ 9,602,994	\$ 9,602,994
9	Consumption Charge	\$ 0.14137	\$ 0.16437		402,828,448	56,947,858	66,212,912	9,265,054	9,265,054
10	Revenue Related Taxes					8,026,413	9,203,235	1,176,822	-
11	Total Class Revenue					\$ 136,714,285	\$ 156,759,155	\$ 20,044,871	\$ 18,868,048
12									
13	<u>Industrial &amp; Transportation</u>								
14	Customer Charge	\$ 1,204.50	\$ 1,382.00	7,260		\$ 8,744,670	\$ 10,033,320	\$ 1,288,650	\$ 1,288,650
15	Consumption Charge Tier 1	\$ 0.4939	\$ 0.5684		7,644,156	3,775,449	4,344,938	569,490	569,490
16	Consumption Charge Tier 2	\$ 0.3617	\$ 0.4163		8,830,180	3,193,876	3,676,004	482,128	482,128
17	Consumption Charge Tier 3	\$ 0.0776	\$ 0.0893		13,974,290	1,084,405	1,247,904	163,499	163,499
18	Revenue Related Taxes					1,047,736	1,203,899	156,163	-
19	Total Class Revenue					\$ 17,846,135	\$ 20,506,065	\$ 2,659,929	\$ 2,503,767
20									
21	<b>Total Base Rates Excluding Other Revenue</b>					<b>\$ 725,676,634</b>	<b>\$ 829,168,837</b>	<b>\$ 103,492,202</b>	<b>\$ 97,416,238</b>
22									
23	<b>Revenue Related Tax Factor</b>	6.2371%							

**ATMOS ENERGY CORP., MID-TEX DIVISION  
RRM CITIES RATE REVIEW MECHANISM  
PROOF OF REVENUES (SECURITIZATION) - AFFECTED CITIES  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Customer Class (a)	Current (b)	Proposed (c)	Ccf/MmBtu (d)	Current Revenues (e)	Proposed Revenues (f)	Affected Cities Increase (with revenue related taxes) (g)	Affected Cities Increase (without revenue related taxes) (h)
1	<u>Residential</u>							
2	Consumption Charge	\$ -	\$ 0.01843	628,269,163	\$ -	\$ 11,581,300	\$ 11,581,300	\$ 11,581,300
3	Revenue Related Taxes				-	722,339	722,339	-
4	Total Residential Class				\$ -	\$ 12,303,639	\$ 12,303,639	\$ 11,581,300
5								
6	<u>Commercial</u>							
7	Consumption Charge	\$ -	\$ 0.01843	402,828,448	\$ -	\$ 7,425,603	\$ 7,425,603	\$ 7,425,603
8	Revenue Related Taxes				-	463,144	463,144	
9	Total Commercial Class				\$ -	\$ 7,888,746	\$ 7,888,746	\$ 7,425,603
10								
11	<u>Industrial Sales Only</u>							
12	Consumption Charge - Tier 1	\$ -	\$ 0.1800	843,968	\$ -	\$ 151,928	\$ 151,928	\$ 151,928
13	Consumption Charge - Tier 2	\$ -	\$ 0.1800	485,448	-	87,389	87,389	87,389
14	Consumption Charge - Tier 3	\$ -	\$ 0.1800	858,651	-	154,571	154,571	154,571
15	Non-Tariff Industrial Sales	\$ -	\$ 0.1800	657,551	-	118,370	118,370	118,370
16	Revenue Related Taxes				-	31,950	31,950	-
17	Total Industrial Class				\$ -	\$ 544,208	\$ 544,208	\$ 512,257
18								
19	<b>Total Securitization</b>				\$ -	\$ 20,736,593	\$ 20,736,593	\$ 19,519,160
20								
21	<b>Revenue Related Tax Factor</b>	6.2371%						

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RATE SCHEDULE:</b>	<b>R – RESIDENTIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

**Application**

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Bill	\$ 22.25 per month
Rider CEE Surcharge	\$ 0.05 per month <sup>1</sup>
<b>Total Customer Charge</b>	<b>\$ 22.30 per month</b>
Commodity Charge – All <u>Ccf</u>	\$0.48567 per Ccf <sup>2</sup>

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

<sup>1</sup>Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2023.

<sup>2</sup>The commodity charge includes the base rate amount of \$0.46724 per Ccf and Securitization Regulatory Asset amounts related to financing costs in the amount of \$0.01843 per Ccf until recovered.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RATE SCHEDULE:</b>	<b>C – COMMERCIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

**Application**

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Bill	\$ 72.00 per month
Rider CEE Surcharge	(\$ 0.02) per month <sup>1</sup>
<b>Total Customer Charge</b>	<b>\$ 71.98 per month</b>
Commodity Charge – All Ccf	\$ 0.18280 per Ccf <sup>2</sup>

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**Presumption of Plant Protection Level**

For service under this Rate Schedule, plant protection volumes are presumed to be 10% of normal, regular, historical usage as reasonably calculated by the Company in its sole discretion. If a customer believes it needs to be modeled at an alternative plant protection volume, it should contact the company at [mdtx.plantprotection@atmosenergy.com](mailto:mdtx.plantprotection@atmosenergy.com).

<sup>1</sup> Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2023.

<sup>2</sup>The commodity charge includes the base rate amount of \$0.16437 per Ccf and Securitization Regulatory Asset amounts related to financing costs in the amount of \$0.01843 per Ccf until recovered.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RATE SCHEDULE:</b>	<b>I – INDUSTRIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

**Application**

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 200 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 200 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Meter	\$ 1,382.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.7484 per MMBtu <sup>1</sup>
Next 3,500 MMBtu	\$ 0.5963 per MMBtu <sup>1</sup>
All MMBtu over 5,000 MMBtu	\$ 0.2693 per MMBtu <sup>1</sup>

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Curtailement Overpull Fee**

Upon notification by Company of an event of curtailement or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailement or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

**Replacement Index**

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees

<sup>1</sup> The tiered commodity charges include the base rate amounts of \$0.5684, \$0.4163, and \$0.0893 per MMBtu, respectively, plus Securitization Regulatory Asset amounts related to financing costs in the amount of \$0.1800 per MMBtu until recovered.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RATE SCHEDULE:</b>	<b>I – INDUSTRIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**Special Conditions**

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**Presumption of Plant Protection Level**

For service under this Rate Schedule, plant protection volumes are presumed to be 10% of normal, regular, historical usage as reasonably calculated by the Company in its sole discretion. If a customer believes it needs to be modeled at an alternative plant protection volume, it should contact the company at [mdtx.plantprotection@atmosenergy.com](mailto:mdtx.plantprotection@atmosenergy.com).

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RATE SCHEDULE:</b>	<b>T – TRANSPORTATION</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

**Application**

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Meter	\$ 1,382.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.5684 per MMBtu
Next 3,500 MMBtu	\$ 0.4163 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0893 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Imbalance Fees**

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

**Monthly Imbalance Fees**

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RATE SCHEDULE:</b>	<b>T – TRANSPORTATION</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

**Curtailment Overpull Fee**

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

**Replacement Index**

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**Agreement**

A transportation agreement is required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**Special Conditions**

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.



**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>WNA – WEATHER NORMALIZATION ADJUSTMENT</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- $i$  = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$  = Weather Normalization Adjustment Factor for the  $i^{th}$  rate schedule or classification expressed in cents per Ccf
- $R_i$  = Commodity Charge rate of temperature sensitive sales for the  $i^{th}$  schedule or classification.
- $HSF_i$  = heat sensitive factor for the  $i^{th}$  schedule or classification divided by the average bill count in that class
- $NDD$  = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
- $ADD$  = billing cycle actual heating degree days.
- $BL_i$  = base load sales for the  $i^{th}$  schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the  $j$ th customer in  $i$ th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where  $q_{ij}$  is the relevant sales quantity for the  $j$ th customer in  $i$ th rate schedule.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>WNA – WEATHER NORMALIZATION ADJUSTMENT</b>	
<b>APPLICABLE TO:</b>	<b>ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 10/01/2023</b>	

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.51	0.1415	88.91	0.7010
Austin	8.87	0.1213	213.30	0.7986
Dallas	12.54	0.2007	185.00	0.9984
Waco	8.81	0.1325	125.26	0.7313
Wichita Falls	10.36	0.1379	122.10	0.6083

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at [atmosenergy.com/mtx-wna](http://atmosenergy.com/mtx-wna), in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

**ATMOS ENERGY CORP., MID-TEX DIVISION  
MID-TEX RATE REVIEW MECHANISM  
AVERAGE BILL COMPARISON - BASE RATES  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Description	Current	Proposed	Change	
				Amount	Percent
	(a)	(b)	(c)	(d)	(e)
1	<b>Rate R @ 43.6 Ccf</b>				
2	Customer charge	\$ 21.55			
3	Consumption charge	43.6 CCF X \$ 0.36223 =	15.79		
4	Rider GCR Part A	43.6 CCF X \$ 0.63625 =	27.74		
5	Rider GCR Part B	43.6 CCF X \$ 0.41732 =	18.20		
6	Subtotal		\$ 83.28		
7	Rider FF & Rider TAX	\$ 83.28 X 0.06237 =	5.19		
8	Total		\$ 88.47		
9					
10	Customer charge		\$ 22.25		
11	Consumption charge	43.6 CCF X \$ 0.48567 =	21.18		
12	Rider GCR Part A	43.6 CCF X \$ 0.63625 =	27.74		
13	Rider GCR Part B	43.6 CCF X \$ 0.41732 =	18.20		
14	Subtotal		\$ 89.37		
15	Rider FF & Rider TAX	\$ 89.37 X 0.06237 =	5.57		
16	Total		\$ 94.94	\$ 6.47	7.31%
17					

**ATMOS ENERGY CORP., MID-TEX DIVISION  
MID-TEX RATE REVIEW MECHANISM  
AVERAGE BILL COMPARISON - BASE RATES  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Description	Current	Proposed	Change	
				Amount	Percent
	(a)	(b)	(c)	(d)	(e)
18	<b><u>Rate C @ 356.6 Ccf</u></b>				
19	Customer charge	\$ 63.50			
20	Consumption charge	356.6 CCF X \$ 0.14137 =	50.41		
21	Rider GCR Part A	356.6 CCF X \$ 0.63625 =	226.86		
22	Rider GCR Part B	356.6 CCF X \$ 0.30202 =	107.69		
23	Subtotal		\$ 448.46		
24	Rider FF & Rider TAX	\$ 448.46 X 0.06237 =	27.97		
25	Total		\$ 476.43		
26					
27	Customer charge		\$ 72.00		
28	Consumption charge	356.6 CCF X \$ 0.18280 =	65.18		
29	Rider GCR Part A	356.6 CCF X \$ 0.63625 =	226.86		
30	Rider GCR Part B	356.6 CCF X \$ 0.30202 =	107.69		
31	Subtotal		\$ 471.73		
32	Rider FF & Rider TAX	\$ 471.73 X 0.06237 =	29.42		
33	Total		\$ 501.15	\$ 24.72	5.19%
34					

**ATMOS ENERGY CORP., MID-TEX DIVISION  
MID-TEX RATE REVIEW MECHANISM  
AVERAGE BILL COMPARISON - BASE RATES  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Description	Current	Proposed	Change	
				Amount	Percent
	(a)	(b)	(c)	(d)	(e)
35	<b>Rate I @ 1720 MMBTU</b>				
36	Customer charge		\$ 1,204.50		
37	Consumption charge	1,500 MMBTU X \$ 0.4939 =	740.85		
38	Consumption charge	220 MMBTU X \$ 0.3617 =	79.64		
39	Consumption charge	0 MMBTU X \$ 0.0776 =	-		
40	Rider GCR Part A	1,720 MMBTU X \$ 6.2134 =	10,688.12		
41	Rider GCR Part B	1,720 MMBTU X \$ 0.6267 =	1,078.08		
42	Subtotal		\$ 13,791.19		
43	Rider FF & Rider TAX	\$13,791.19 X 0.06237 =	860.17		
44	Total		\$ 14,651.36		
45					
46	Customer charge			\$ 1,382.00	
47	Consumption charge	1,500 MMBTU X \$ 0.7484 =	1,122.62		
48	Consumption charge	220 MMBTU X \$ 0.5963 =	131.30		
49	Consumption charge	0 MMBTU X \$ 0.2693 =	-		
50	Rider GCR Part A	1,720 MMBTU X \$ 6.2134 =	10,688.12		
51	Rider GCR Part B	1,720 MMBTU X \$ 0.6267 =	1,078.08		
52	Subtotal		\$ 14,402.12		
53	Rider FF & Rider TAX	\$14,402.12 X 0.06237 =	898.28		
54	Total		\$ 15,300.40	\$ 649.04	4.43%
55					

**ATMOS ENERGY CORP., MID-TEX DIVISION  
MID-TEX RATE REVIEW MECHANISM  
AVERAGE BILL COMPARISON - BASE RATES  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Description	Current	Proposed	Change	
				Amount	Percent
	(a)	(b)	(c)	(d)	(e)
56	<b>Rate T @ 4720 MMBTU</b>				
57	Customer charge	\$ 1,204.50			
58	Consumption charge	1,500 MMBTU X \$ 0.4939 =	740.85		
59	Consumption charge	3,220 MMBTU X \$ 0.3617 =	1,164.50		
60	Consumption charge	0 MMBTU X \$ 0.0776 =	-		
61	Rider GCR Part B	4,720 MMBTU X \$ 0.6267 =	2,957.85		
62	Subtotal		\$ 6,067.70		
63	Rider FF & Rider TAX	\$ 6,067.70 X 0.06237 =	378.45		
64	Total		\$ 6,446.15		
65					
66	Customer charge		\$ 1,382.00		
67	Consumption charge	1,500 MMBTU X \$ 0.5684 =	852.60		
68	Consumption charge	3,220 MMBTU X \$ 0.4163 =	1,340.29		
69	Consumption charge	0 MMBTU X \$ 0.0893 =	-		
70	Rider GCR Part B	4,720 MMBTU X \$ 0.6267 =	2,957.85		
71	Subtotal		\$ 6,532.74		
72	Rider FF & Rider TAX	\$ 6,532.74 X 0.06237 =	407.45		
73	Total		\$ 6,940.19	\$ 494.04	7.66%

**ATMOS ENERGY CORP., MID-TEX DIVISION  
MID-TEX RATE REVIEW MECHANISM  
PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL  
TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Description	Shared Services		Mid-Tex Direct			Adjustment Total
		Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Post-Employment Benefit Plan	Supplemental Executive Benefit Plan	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Proposed Benefits Benchmark - Fiscal Year 2023 Willis Towers Watson Report as adjusted (1) (2) (3)	\$ 1,434,339	\$ (518,336)	\$ 2,336,419	\$ (2,678,818)	\$ 267,917	
2	Allocation Factor	44.92%	44.92%	78.74%	78.74%	100.00%	
3	Proposed Benefits Benchmark Costs Allocated to Mid-Tex (Ln 1 x Ln 2)	\$ 644,336	\$ (232,848)	\$ 1,839,667	\$ (2,109,267)	\$ 267,917	
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%	
5	Proposed Benefits Benchmark Costs to Approve (Ln 3 x Ln 4)	\$ 644,336	\$ (232,848)	\$ 1,839,667	\$ (2,109,267)	\$ 267,917	\$ 409,804
6							
7	O&M Expense Factor (WP_F-2.3, Ln 2)	78.60%	78.60%	39.63%	39.63%	11.00%	
8							
9	Summary of Costs to Approve (1):						
10	Total Pension Account Plan	\$ 506,464		\$ 729,006			\$ 1,235,469
11	Total Post-Employment Benefit Plan		\$ (183,024)		\$ (835,840)		(1,018,864)
12	Total Supplemental Executive Benefit Plan					\$ 29,471	29,471
13	Total (Ln 10 + Ln 11 + Ln 12)	\$ 506,464	\$ (183,024)	\$ 729,006	\$ (835,840)	\$ 29,471	\$ 246,076



## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

April 1, 2024

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### **First Amended and Restated Pre-Development and Professional Services Agreement with Bloomfield Homes, L.P. and Royal Crest Properties, LLC**

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#### **DESCRIPTION:**

Receive, consider, and act on a Resolution for the First Amended and Restated Pre-Development and Professional Services Agreement with Bloomfield Homes, L.P. and Royal Crest Properties, LLC for the sharing of costs related to engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

#### **BACKGROUND INFORMATION:**

A few years back, the City was approached by the developers of Shoop Ranch and Constellation Lake, approved mixed-use developments in the city, and inquired about the City's capability of providing water and/or wastewater treatment services for these planned developments. The City does not own and operate any public water and public wastewater system, and in fact does not hold a Certificate of Convenience and Necessity (CCN) for either water or wastewater. On March 15, 2021, the City Council approved a Professional Services Agreement with Schaumburg & Polk, Inc to complete and submit an application for a CCN for water and wastewater services. On January 15, 2024, the City Council approved the First Amendment to this Professional Services Agreement to keep the application process moving forward.

The City has had several discussions with the City of Justin and with the Upper Trinity Regional Water District (UTRWD), about purchasing drinking water from UTRWD and connecting to Justin's water infrastructure to receive the water. In January, staff met with City of Justin staff to discuss the next steps for continuing the water and wastewater connection project. Justin staff shared good information about the location connection point for the water line and wastewater line. They also requested a water line survey and water modeling from the connection point near B Judge Lane and FM 407 where our Extraterritorial Jurisdictions meet.

Mayor Taylor, Mayor Pro Tem King, and staff also met with representatives from Schoop Ranch and Constellation Lake developments to discuss the items brought up by the City of Justin. It was agreed that the City will contract with Westwood for the engineering services needed for the water line survey and water modeling. The City will also enter into a funding agreement with both developers to help pay their proportional cost for this. The costs are broken down in the Financial Consideration section below, and Bloomfield Homes, L.P. and Royal Crest Properties, LLC will be responsible for 36.52% of the cost (\$10,590.80).



In September 2020, the City entered into a Pre-Development and Professional Services Agreement (attached) with Bloomfield Homes, L.P. and Royal Crest Properties, LLC for the Constellation Lake development comprising of approximately 732 acres on the Denton County side of the city. Per the terms, Bloomfield Homes, L.P. and Royal Crest Properties, LLC, agreed to pay the city for certain professional services regarding a water/wastewater feasibility study and transportation consulting services. These projects have already been completed, so an amendment is needed to this agreement for Bloomfield Homes, L.P. and Royal Crest Properties, LLC to pay for their proportional cost for the engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection

Staff recommend approval of the Resolution.

**FINANCIAL CONSIDERATION:**

Consulting fees by Westwood shall be a lump sum fee of **\$29,000.00** as summarized below.

**Basic & Special Services**

. Project Management & Coordination	\$5,000.00
. Water Model	\$12,000.00
. Alignment Study	<u>\$12,000.00</u>
<b>TOTAL</b>	<b>\$29,000.00</b>

The percentages of the costs are shown below and are based on the most recent projected water demand tables for each development. The City will also share in this cost so that we will be able to have access to water for future use.

**Based on estimated Equivalent Connections at Build Out**

Constellation Lake:	3,995	41.52%
Oliver Creek Ranch:	<u>5,627</u>	<u>58.48%</u>
<b>TOTAL:</b>	<b>9,622</b>	<b>100.00%</b>

**Estimate with City Participation**

<b>City of New Fairview</b>		<b>10.00%</b>	<b>\$2,900.00</b>
<b>Constellation Lake:</b>	<b>3,995</b>	<b>36.52%</b>	<b>\$10,590.80</b>
<b>Oliver Creek Ranch:</b>	<b><u>5,627</u></b>	<b><u>53.48%</u></b>	<b><u>\$15,509.20</u></b>
<b>TOTAL:</b>	<b>9,622</b>	<b>100.00%</b>	<b>\$29,000.00</b>

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny** a Resolution for the First Amended and Restated Pre-Development and Professional Services Agreement with Bloomfield Homes, L.P. and Royal Crest Properties, LLC for the sharing of costs related to engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

**ATTACHMENT(S):**

1. Pre-Development and Professional Services Agreement (Sept. 2020)
2. Resolution 202404-02-121
3. First Amendment to Agreement
4. Exhibits A & B

**PRE-DEVELOPMENT AND PROFESSIONAL SERVICES AGREEMENT**

**STATE OF TEXAS**                    §

**COUNTY OF WISE**                §

This Pre-Development and Professional Services Agreement (this "Agreement"), executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, is made and entered into by and between the CITY OF NEW FAIRVIEW, TEXAS, a Type A general law municipality (the "City"), and Bloomfield Homes, L.P. (the "Developer"), and Royal Crest Properties LLC (the "Owner"), owner of that certain tract of land comprising approximately 732 acres southeast of the City, as shown on Exhibit A and described in Exhibit B attached hereto (the "Development Area").

WHEREAS, the Developer seeks to develop the Development Area as a master planned community, subject to and conditioned on the execution of a development agreement between the City and the Developer and creation of a public improvement district;

WHEREAS, the City and the Developer hereby recognize and agree that issues associated with and necessitated by developing the Development Area, including exploring and pursuing the establishment of a retail water and wastewater system by the City and the pursuit of transportation projects in the City, will require the City to obtain professional services from independent, third-party consultants ("Professional Services");

WHEREAS, the Developer recognizes that the City has limited financial resources to expend for professional services and without the financial assistance from the Developer, the City may be unable to expeditiously respond to these issues affecting the Development Area;

WHEREAS, as a result and in consideration of the foregoing, the Developer desires and hereby agrees to pay for Professional Services rendered to the City in accordance with the terms of this Agreement; and

WHEREAS, the City Council of the City, by and through this Agreement, shall maintain sufficient controls to ensure that the public purpose and best interest of the City are carried out.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree as follows:

1. Recitals. The representations, covenants, and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby adopted as findings of the City Council.

2. Exhibits. All Exhibits referenced in this Agreement, and listed below, are incorporated herein for all purposes; specifically:

Exhibit A – Depiction of Development Area; and  
Exhibit B – Legal Description of Development Area.

3. Payment for Professional Services.

(a) The Developer agrees to pay for Professional Services rendered to the City in accordance with this Agreement up to a total of Twenty-One Thousand Two Hundred Fifty and NO/100 Dollars (\$21,250.00).

(b) The City shall have the sole discretion to select and employ the number of third-party, independent consultants it deems necessary.

(c) The Developer agrees to pay for Professional Services related to the following:

i. A water/wastewater feasibility study to review options for surface water from Justin (UTRWD), TRWD, Bridgeport, Decatur, Walnut Cree, SUP, and Fort Worth, and to investigate the potential for a regional system with other cities in southeast Wise County; and

ii. Transportation consulting services to leverage federal, state and regional funding and navigating regulatory processes to address transportation issues and needs faced by the City.

(d) The Developer agrees to pay to the City upon execution of this Agreement the amount of Twenty-One Thousand Two Hundred Fifty and NO/100 Dollars (\$21,250.00). The City shall hold the money paid by Developer in escrow to pay for Professional Services in accordance with this Agreement.

(e) The City shall direct payment in full to be made from the money paid by the Developer and held in escrow, within thirty (30) days after receipt from the City of invoices for Professional Services.

(f) If requested by the Developer, the City agrees to provide further information as reasonably necessary to explain and detail any invoice for Professional Services; however, the City shall not be required to provide any information that is privileged.

(g) The City may utilize funds paid by the Developer and held in escrow to pay for any fees for Professional Services covered by this Agreement that have been incurred to date by the City.

4. City's Obligations. In utilizing Professional Services, the City shall act in good faith and shall not incur costs unnecessarily and arbitrarily. The parties agree that nothing in this Agreement obligates the City to file an application for a CCN, establish or operate a water or wastewater system, pursue any transportation related project or otherwise approve any particular project proposed by the Developer and that the City retains its authority to approve, deny, or

approve in part, any project or other request in accordance with state law and the City's adopted regulations.

5. City's Right to Information. Promptly on request by the City or any of the City's professional consultants providing Professional Services in accordance with this Agreement, the Developer agrees to provide such non-privileged information relating to development of the Development Area, including financial information, as the City or its consultants may in their discretion determine is necessary for their evaluation of the feasibility or advisability of the development, the pursuit of a transportation project or of the establishment of a water or wastewater system in furtherance of the Development Area. The City shall direct its City Attorney and other legal counsel retained not to release any data or information provided by the Developer to a third party, unless either the Developer provides written consent for such release or the City is otherwise directed to release the information by the Office of the Texas Attorney General ("OAG"). In addition, absent the Developer's authorization for the release of the Developer's data and information, the City shall direct the City Attorney to diligently seek approval of the OAG to withhold proprietary and confidential information subject to a request for public information pursuant to Chapter 552 of the Texas Government Code.

6. City Attorney's Obligations. Notwithstanding anything to the contrary contained herein, the Developer acknowledges that the City Attorney shall exclusively represent the legal interest of the City of New Fairview, Texas, and that no attorney-client privilege between the Developer and the offices of the City Attorney, or any of its attorneys, shall be established by virtue of this Agreement.

7. Termination.

(a) Either party may, in its sole judgment, terminate this Agreement upon delivery of written notice to the other party.

(b) Upon any termination of this Agreement pursuant to Section 8(a), the City shall direct payment of: (i) all remaining invoices for Professional Services that are outstanding and are unpaid as of the date notice of termination is delivered to the City, provided that such invoices were incurred and performed in accordance with the terms of this Agreement; and (ii) all invoices for Professional Services incurred and performed in accordance with this Agreement prior to the date notice of termination is delivered to the City but not yet billed to the City. Any remaining balance in escrow after all invoices have been paid in accordance with the terms of this Agreement shall be refunded to the Developer.

8. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the obligation of the Developer to pay for Professional Services incurred by the City.

9. Amendment. This Agreement may only be amended or altered by written

instrument signed by the Developer and the City.

10. Successors and Assigns. Neither the City nor the Developer may assign or transfer this Agreement or any interest in this Agreement without prior written consent of the other party. This Agreement is binding upon, and inures to the benefit of the City and the Developer and their permitted assigns; however, this Agreement confers no rights or benefits on any third parties and, in particular, no rights or benefits on any provider of Professional Services other than for payment of services rendered.

11. Notice. Any notice required or contemplated by this Agreement shall be deemed given: (a) if mailed via U.S. Mail, Certified Mail Return Receipt Requested, on the earlier of the date actually received at the delivery address or five business days after mailed; (b) if deposited with a private delivery service (such as U.P.S. or FedEx), when delivered, as evidenced by a receipt signed by a person at the delivery address; and (c) if otherwise given (including by FAX or E-mail), when actually received at the delivery address. All notices shall be addressed as set forth below; however, any party may change its address for purposes of this Agreement by giving notice of such change as provided by this Section 11.

If to the City:

City of New Fairview  
999 Illinois Lane  
New Fairview, TX 76078

If to the Developer:

Bloomfield Homes, L.P.  
Attn: Don Dykstra  
1050 E. Hwy 114, Ste 210  
Southlake, TX 76092

12. Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against either party.

13. Applicable Law. This Agreement is made, and shall be construed in accordance with the laws of the State of Texas and venue for any dispute arising out of this Agreement shall lie in Wise County, Texas.

14. Severability. In the event any portion or provision of this Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or

unenforceable.

15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

16. Sovereign Immunity. The parties agree that the City has not waived its sovereign immunity by entering into and performing its respective obligations under this Agreement.

17. Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

18. Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed herein.

20. Attorney's Fees. In any legal proceeding brought to enforce the terms of this Agreement, the prevailing party may recover its reasonable and necessary attorneys fees from the non-prevailing party.

**CITY OF NEW FAIRVIEW, TEXAS**

**BLOOMFIELD HOMES, L.P.**

\_\_\_\_\_  
Joe Max Wilson, Mayor

  
\_\_\_\_\_  
Donald J. Dykstra, President  
Bloomfield Properties, Inc.  
General Partner

Attest:

STATE OF TEXAS           §  
COUNTY OF WISE       §

\_\_\_\_\_  
Monica Rodriguez, City Secretary

This instrument was acknowledged before me on the  
30<sup>th</sup> day of September, 2020, by  
Donald J. Dykstra, President of Bloomfield  
Properties, Inc., the General Partner of Bloomfield

Homes, L.P., on behalf of such limited partnership.

(city seal)



Notary Public, State of Texas

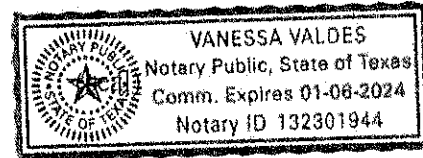
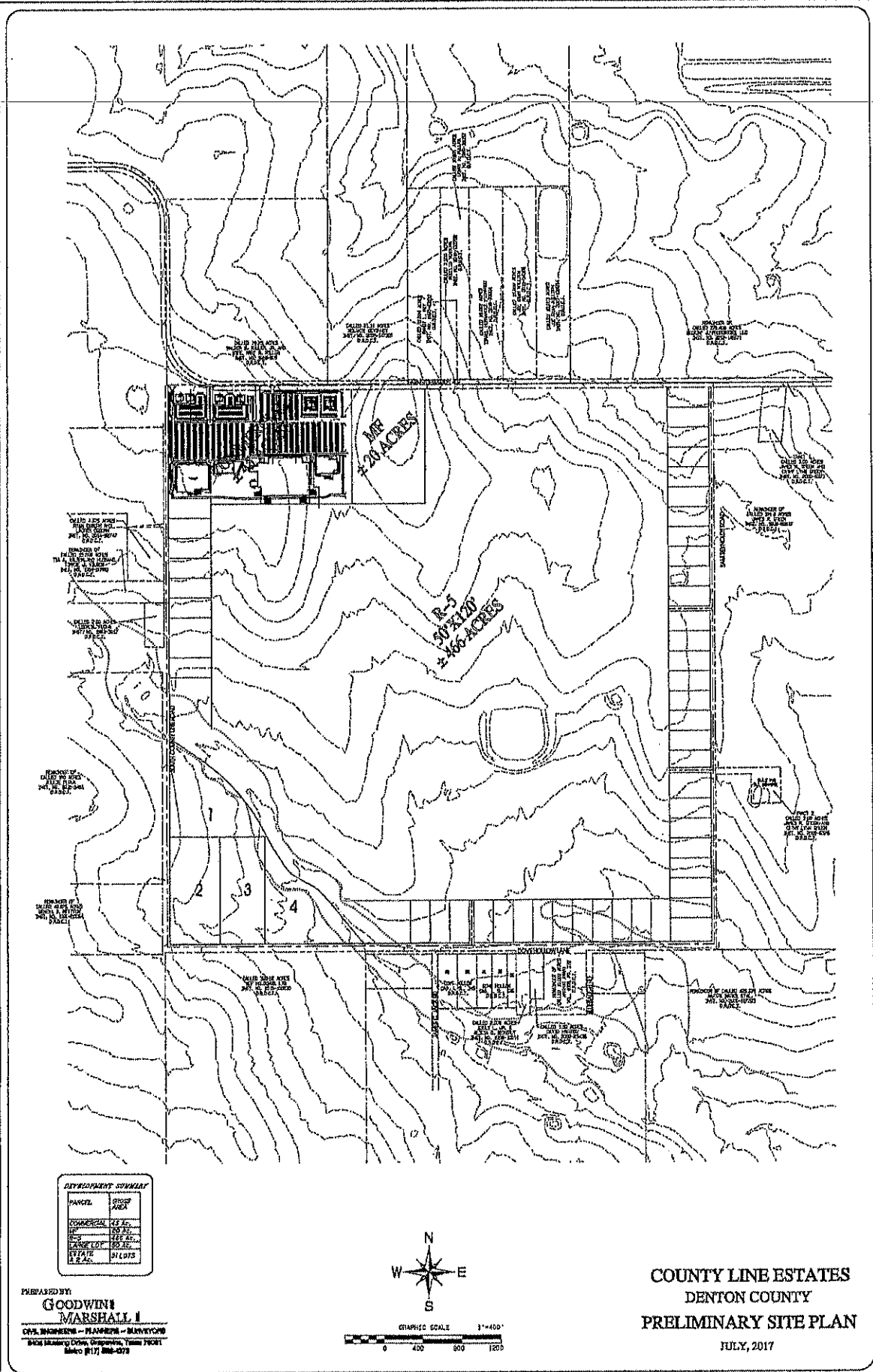




Exhibit "A"

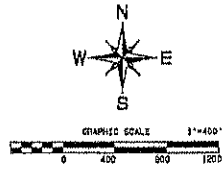
Depiction of Development Area



**DEVELOPMENT SUMMARY**

PANEL	ACRES
COMMERCIAL	145 AC.
IND.	100 AC.
R-3	2,166 AC.
WATER LOT	102 AC.
PRIVATE	1.2 AC.
	21 LOTS

PREPARED BY:  
**GOODWIN  
 MARSHALL & P.**  
 CIVIL ENGINEERS - PLANNERS - SURVEYORS  
 1000 Lakeside Drive, Greenville, Texas 75041  
 Phone (917) 886-0573



**COUNTY LINE ESTATES  
 DENTON COUNTY  
 PRELIMINARY SITE PLAN**

JULY, 2017

DATE PLOTTED: 7/27/17 10:58 AM

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Exhibit "B"

Legal Description of Development Area

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All that certain lot, tract, or parcel of land, situated in a portion of the William C. Brookfield Survey, Abstract No. 34, the Robert A. Walker Survey, Abstract No. 1392, Denton County, Texas, being all of those certain called 398 acre tract and 335.6 acre tract described in a deed to BCT Justin Property, LP recorded in Instrument No. 2014-84946 of the Deed Records of Denton County, Texas (DRDCT), and being more completely described as follows, to-wit:

BEGINNING at a railroad spike found for the Southwest corner of said 398 acre tract, the Northwest corner of a called 322.98 acre tract described in a deed to SEF Holdings, Ltd. recorded in Instrument No. 2015-100230 (DRDCT), being in the approximate centerline intersection of Dove Hollow Lane and South County Line Road, said point being the recognized Southwest corner of said Robert A. Walker Survey, the recognized Northwest corner of James C. Jack Survey, Abstract No. 679, and the recognized East line of the Green B. Buchanan Survey, Abstract No. 32;

THENCE North 00 deg. 10 min. 24 sec. West along the West line of said 398 acre tract and the recognized West line of said Robert A. Walker Survey and the recognized East line of said Green B. Buchanan Survey, and the recognized East line of the Smith County School Land Survey, Abstract No. 1137, a distance of 5636.68 feet to a railroad spike found for the Northwest corner of said 398 acre tract and being the Southwest corner of a remainder of called 70.75 acre tract described in a deed to Walter Stewart Miller, III recorded in Volume 4575, Page 2577 (DRDCT);

THENCE North 89 deg. 55 min. 08 sec. East departing said Survey lines and continue along the North line of said 398 acre tract and the South line of said 70.75 acre tract, a distance of 342.59 feet to a 1/2" iron rod found "bent" in the South right-of-way line of Farm-to-Market Highway No. 407 (90" right-of-way width), said point being a Point of Curvature of a non-tangent circular curve to the left, having a radius of 617.96 feet, a central angle of 22 deg. 00 min. 02 sec., and being subtended by a chord which bears South 79 deg. 04 min. 51 sec. East - 235.83 feet;

THENCE in an easterly direction along said curve to the left, departing said North and South lines, and continue along said South right-of-way line, a distance of 237.29 feet to a 1/2" iron rod found;

THENCE North 89 deg. 55 min. 08 sec. East tangent to said curve and continue along said South right-of-way line, a distance of 1797.59 feet to a 5/8" iron rod found;

THENCE North 89 deg. 56 min. 08 sec. East along said South right-of-way line, a distance of 3240.21 feet to a 5/8" iron rod found in the East line of said 335.6 acre tract and the West line of a called 191.8 acre tract described in a deed to Rosemarie Green Peterson and James Martin Green recorded in Volume 4172, Page 1024 (DRDCT);

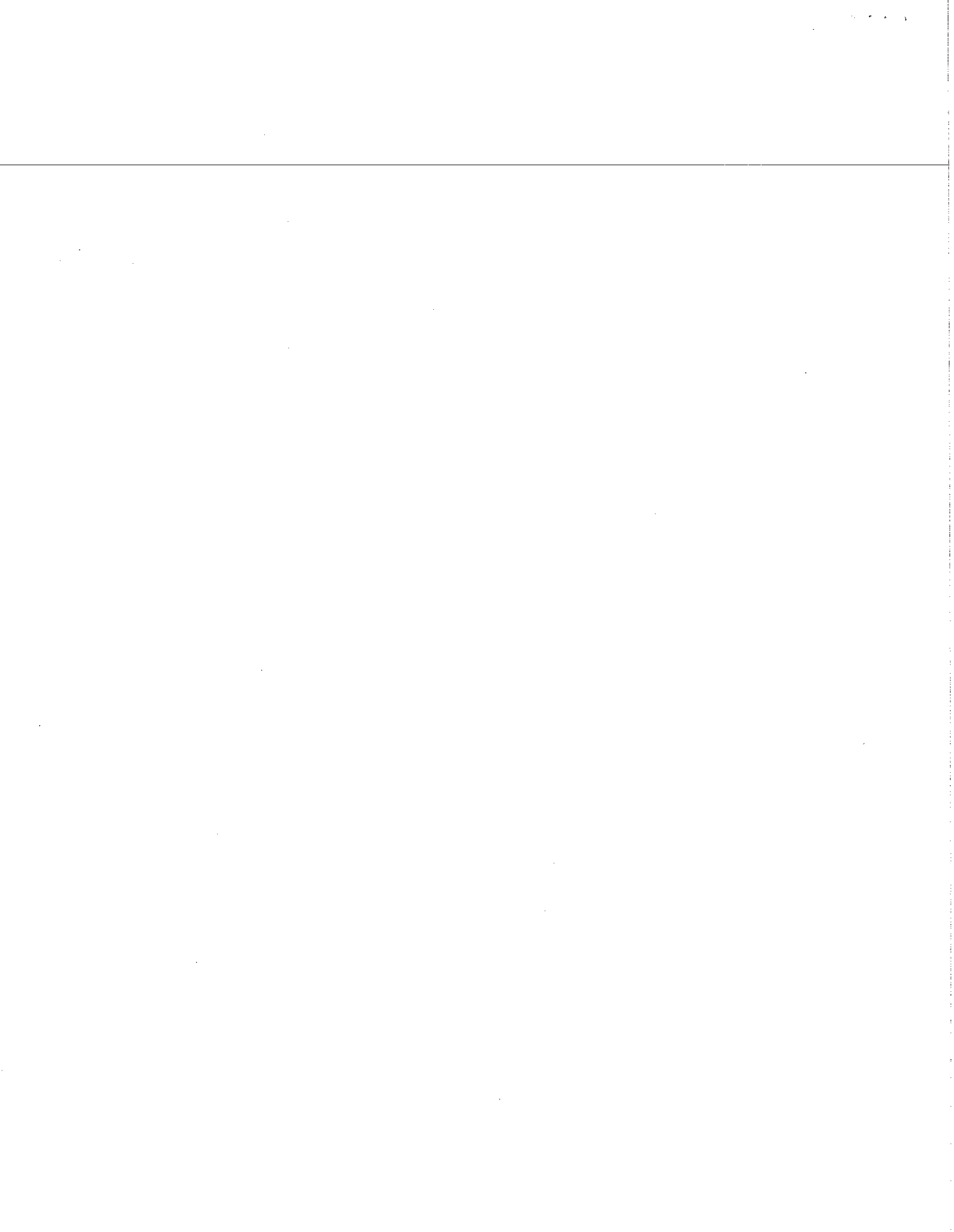
THENCE South 00 deg. 24 min. 47 sec. East along said East and West lines, a distance of 5614.78 feet to a P.K. nail set with washer stamped "GOODWIN & MARSHALL" for the Southeast corner of said 335.6 acre tract and the Southwest corner of said 191.8 acre tract, same being the Southwest corner of a called 770.8 acre tract described in a deed to Nannie B. Andrews, et al recorded in

Volume 112, Page 57 (DRDCT), said 770.8 acre tract being a senior tract of said 191.8 acre tract, and being in the recognized South line of said William C. Brookfield Survey and the recognized North line of said James C. Jack Survey, from which a railroad spike found for the recognized Northeast corner of said James C. Jack Survey bears South 89 deg. 50 min. 15 sec. East - 6642.23 feet and from which a 5/8" iron rod found for the Southeast corner of said 770.8 acre tract bears South 89 deg. 50 min. 15 sec. East - 7151.49 feet.

THENCE North 89 deg. 50 min. 15 sec. West along the South lines of said 335.6 acre tract and 398 acre tract, the recognized South line of said William C. Brookfield Survey, the recognized South line of said Robert A. Walker Survey, and the recognized North line of said James C. Jack Survey, a distance of 5635.41 feet to the POINT OF BEGINNING, containing 31,529,676 square feet or 723.822 acres of land, more or less.

AFTER RECORDING RETURN TO:

Royal Crest Properties, LLC  
5848 Boat Club Road  
Suite 456  
Fort Worth, Texas 76179-7780



**CITY OF NEW FAIRVIEW, TEXAS  
RESOLUTION No. 202404-02-121**

**A RESOLUTION AUTHORIZING THE FIRST AMENDED AND RESTATED PRE-DEVELOPMENT AND PROFESSIONAL SERVICES AGREEMENTS WITH BLOOMFIELD HOMES, L.P. AND ROYAL CREST PROPERTIES, LLC AND WITH ROCKHILL CAPITAL & INVESTMENTS, LLC FOR THE SHARING OF COSTS RELATED TO ENGINEERING SERVICES FOR AN ALIGNMENT STUDY FOR CONNECTION POINT WITH THE CITY OF JUSTIN AND PROVIDING A WATER MODEL FOR SIZING OF INFRASTRUCTURE FOR SUCH CONNECTION; AND PROVIDE AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Fairview, Texas is a Type A General Law Municipality located in Wise and Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, Bloomfield Homes, L.P. (the “Developer”), and Royal Crest Properties, LLC (the “Owner”) of Constellation Lake, an approved mixed-use development in the city, comprising of approximately 732 acres, and the City was also approached by Rockhill Capital & Investments, LLC, developer of Shoop Ranch, an approved mixed-use development in the city, comprising of approximately 1,806 acres; and

**WHEREAS**, the City was approached by both the Developer and owner of Constellation Lake as well as the developer of Shoop Ranch about the City’s capability of providing water and/or wastewater treatment services for these planned developments; and

**WHEREAS**, the City has had several discussions with the City of Justin and with the Upper Trinity Regional Water District (UTRWD), about purchasing drinking water from UTRWD and connecting to Justin’s water infrastructure to receive the water; and

**WHEREAS**, recently city staff met with City of Justin staff to discuss the next steps for continuing the water and wastewater connection project, and Justin requested a water line survey and water modeling from the connection point near B Judge Lane and FM 407 where our Extraterritorial Jurisdictions meet; and

**WHEREAS**, the City met separately with representatives from the Constellation Lake and the Shoop Ranch developments to discuss the items brought up by the City of Justin, and they agreed to pay their “fair share” for a contract with Westwood for the engineering services needed for the water line survey and water modeling; and

**WHEREAS**, in September 2020, the City entered into separate Pre-Development and Professional Services Agreements with Bloomfield Homes, L.P. and Royal Crest Properties, LLC, and also with Rockhill Capital & Investments, LLC, wherein they each agreed to pay the City for certain professional services; and

**WHEREAS**, the City Council, Bloomfield Homes, L.P. and Royal Crest Properties, LLC as well as Rockhill Capital & Investments, LLC are interested in amending the Pre-Development

and Professional Services Agreements so that Rockhill Capital & Investments, LLC as well as Bloomfield Homes, L.P. and Royal Crest Properties, LLC will each pay for their proportionate cost for engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure.

**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 the First Amended and Restated Pre-Development and Professional Services Agreements with both Bloomfield Homes, L.P. (the “Developer”), and Royal Crest Properties, LLC (Exhibit ‘A’) as well as Rockhill Capital & Investments, LLC (Exhibit ‘B’) for engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

**SECTION 3.** The City Council does authorize the City Administrator to prepare and execute all necessary documents.

**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 1st day of April, 2024, at a regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

\_\_\_\_\_  
BROOKE BOLLER, City Secretary



**Exhibit 'A'**

**Exhibit 'B'**

**FIRST AMENDED AND RESTATED PRE DEVELOPMENT AND PROFESSIONAL SERVICES AGREEMENT**

STATE OF TEXAS

§

COUNTY OF WISE

§

§

This First Amended and Restated Pre-Development and Professional Services Agreement ("First Amended Agreement"), is effective as of the date fully executed made and entered into by and between the CITY OF NEW FAIRVIEW, TEXAS, a Type A general law municipality (the "City"), and Bloomfield Homes, L.P. (the "Developer"), and Royal Crest Properties LLC (the "Owner"), owner of that certain tract of land comprising approximately 732 acres southeast of the City, as shown on Exhibit A and described in Exhibit B attached hereto (the "Development Area").

**WHEREAS**, the City and the Developer hereby recognize and agree that issues associated with and necessitated by developing the Development Area, including exploring and pursuing the establishment of a retail water and wastewater system by the City and the pursuit of transportation projects in the City, require the City to obtain professional services from independent, third- party consultants ("Professional Services"); and

**WHEREAS**, the Developer recognizes that the City has limited financial resources to expend for professional services and without the financial assistance from the Developer, the City may be unable to expeditiously respond to these issues affecting the Development Area; and

**WHEREAS**, as a result and in consideration of the foregoing, the Parties entered into that certain Pre-Development and Professional Services Agreement dated as of September 30, 2020, for the purposes (the "Original Agreement"); for the purpose of the Developer agreeing to reimburse the City the cost of contracted Professional Services rendered to the City in accordance with the terms of the Original Agreement; and

**WHEREAS**, the Parties desire to amend and restate the Original Agreement in its entirety, so as to build upon the successes of the preliminary Professional Services' reports and costs incurred to date; and

**WHEREAS**, the City Council of the City, by and through this First Amended and Restated Agreement, shall continue to maintain sufficient controls to ensure that the public purpose and best interests of the City are carried out.

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The representations, covenants, and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby adopted as findings of the City Council.
2. Exhibits. All Exhibits referenced in this Agreement, and listed below, are incorporated herein for all purposes; specifically:

Exhibit A- Depiction of Development Area; and

Exhibit B- Legal Description of Development Area.

3. Payment for Professional Services.

- (a) The Developer previously agreed to pay the City for contracted an independent third party Professional Services, in the amount of Twenty-One Thousand, Two Hundred Fifty and NO/100 Dollars (\$21,250.00), and has reimbursed the same for:
  - i. The SPI water/wastewater feasibility study to review options for surface water from Justin (UTRWD), TRWD, Bridgeport, Decatur, Walnut Creek, SUP, and Fort Worth, investigating the potential for a regional system with other cities in southeast Wise County; and
  - ii. The independent third party ITS transportation consulting services, to leverage federal, state and regional funding and navigating regulatory processes to address transportation issues and needs faced by the City related to supporting the requested development.
- (b) This First Amended Agreement contemplates additional pre-developmental work, not included in the Original Agreement, as the Professional Services previously provided the basis or the foundation for the costs herein, to include:
  - i. Professional Services, responsive to the City of Justin's request for a water line survey and modeling.
- (c) The City shall have the sole discretion to select and employ the number of third- party, independent consultants it deems necessary.
- (d) The Developer agrees to pay to the City upon execution of this First Amended Agreement, the additional amount of Ten Thousand and Five Hundred and Ninety and 80/100 Dollars (\$10,590.80) for completion of the additional work.
- (e) The City shall hold the money paid by Developer in escrow to pay for Professional Services related to the projects described in subsection (b)(i) above. The City shall direct payment in full to be made from the money paid by the Developer and held in escrow, within thirty (30) days after receipt from the City of invoices for Professional Services. The City shall provide Developer with copies of all invoices paid from the escrow funds.
- (f) The City shall have the sole discretion to select and employ the number of third- party, independent consultants it deems necessary
- (g) Upon receipt of invoicing for Professional Services described in subsection (c) above, the City will forward a copy of invoices received for such work to the Developer for reimbursement in accordance with this Agreement. The Developer agrees to reimburse the

City for the fees up to Ten Thousand and Five Hundred and Ninety and 80/100 Dollars (\$10,590.80); provided this amount may be increased with prior written approval by Developer. The Developer shall make payment to the City for invoiced amounts within fifteen (30) days of receipt of the invoice. The Developer shall have ten (10) days after the receipt of each invoice during which to object to any portion thereof (which objection shall be in writing and shall set forth in detail the basis for the objection). If the Developer fails to object within such 10-day period, the Developer shall be deemed to have approved the invoice. If the Developer objects to any portion of an invoice, the City, the Developer, and the service provider shall attempt to resolve the dispute within a reasonable period of time; however, if notwithstanding their collective good faith efforts the dispute cannot be timely resolved, then the Developer shall pay all or such portion of the disputed amount that the City certifies to the Developer, in writing, is due and payable or that it has paid to such service provider for such Professional Services.

- (h) If requested by the Developer, the City agrees to provide further information as reasonably necessary to explain and detail any invoice for Professional Services; however, the City shall not be required to provide any information that is privileged.
- (i) The City may utilize funds paid by the Developer and held in escrow to pay for any fees for Professional Services covered by this Agreement that have been incurred to date by the City for Dunaway & Associates or any other city-contracted Professional Service provider or any of the purposes stated in this First Amended Agreement.

4. City's Obligations. In utilizing Professional Services, the City shall act in good faith and shall not incur costs unnecessarily and arbitrarily. The parties agree that nothing in this Agreement obligates the City to file an application for a CCN, establish or operate a water or wastewater system, pursue any transportation related project or otherwise approve any particular project proposed by the Developer and that the City retains its authority to approve, deny, or approve in part, any project or other request in accordance with state law and the City's adopted regulations.

5. City's Right to Information. Promptly on request by the City or any of City's professional consultants providing Professional Services in accordance with this Agreement, the Developer agrees to provide such non-privileged information relating to development of the Development Area, including financial information, as the City or its consultants may in their discretion determine is necessary for their evaluation of the feasibility or advisability of the development, the pursuit of a transportation project or of the establishment of a water or wastewater system in furtherance of the Development Area. The City shall direct its City Attorney and other legal counsel retained not to release any data or information provided by the Developer to a third party, unless either the Developer provides written consent for such release, or the City is otherwise directed to release the information by the Office of the Texas Attorney General ("OAG"). In addition, absent the Developer's authorization for the release of the Developer's data and information, the City shall direct the City Attorney to diligently seek approval of the OAG to withhold proprietary and confidential information subject to a request for public information pursuant to Chapter 552 of the Texas Government Code.

6. City Attorney's Obligations. Notwithstanding anything to the contrary contained herein, the Developer acknowledges that the City Attorney shall exclusively represent the legal

interest of the City of New Fairview, Texas, and that no attorney-client privilege between the Developer and the offices of the City Attorney, or any of its attorneys, shall be established by virtue of this Agreement.

7. Termination.

- (a) Either party may, in its sole judgment, terminate this First Amended Agreement upon delivery of written notice to the other party.
- (b) Upon any termination of this First Amended Agreement pursuant to Section 7(a), the City shall direct payment of: (i) all remaining invoices for Professional Services that are outstanding and are unpaid as of the date notice of termination is delivered to the City, provided that such invoices were incurred and performed in accordance with the terms of this Agreement; and (ii) all invoices for Professional Services incurred and performed in accordance with this Agreement prior to the date the notice of termination is delivered but not yet billed to the City. Any remaining balance in escrow after all invoices have been paid in accordance with the terms of this Agreement shall be refunded to the Developer.

8. Amendment. This First Amended Agreement may only be amended or altered by written instrument signed by the Developer and the City.

9. Successors and Assigns. Neither the City nor the Developer may assign or transfer this First Amended Agreement or any interest in this Agreement without prior written consent of the other party. This First Amended Agreement is binding upon and inures to the benefit of the City and the Developer and their permitted assigns; however, this Agreement confers no rights or benefits on any third parties and, in particular, no rights or benefits on any provider of Professional Services other than for payment of services rendered.

10. Notice. Any notice required or contemplated by this First Amended Agreement shall be deemed given: (a) if mailed via U.S. Mail, Certified Mail Return Receipt Requested, on the earlier of the date actually received at the delivery address or five business days after mailed; (b) if deposited with a private delivery service (such as U.P.S. or FedEx), when delivered, as evidenced by a receipt signed by a person at the delivery address; and (c) if otherwise given (including by FAX or E-mail), when actually received at the delivery address. All notices shall be addressed as set forth below; however, any party may change its address for purposes of this First Amended Agreement by giving notice of such change as provided by this Section 11.

If to the City:

City of New Fairview  
999 Illinois Lane  
New Fairview, TX 76078

If to the Developer:

Bloomfield Homes, L.P.  
Att: Don Dyskstra  
1050 E. Hwy 114, Ste 210

Southlake, TX 76092

11. Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for nor against either party.
12. Applicable Law. This Agreement is made and shall be construed in accordance with the Laws of the State of Texas and venue for any dispute arising out of this Agreement shall lie in Wise County, Texas.
13. Severability. In the event any portion or provision of this First Amended Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this First Amended Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this First Amended Agreement which is legal, valid, and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.
14. Counterparts. This First Amended Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.
15. Sovereign Immunity. The parties agree that the City has not waived its sovereign immunity by entering into and performing its respective obligations under this First Amended Agreement.
16. Consideration. This First Amended Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
17. Authority to Execute. The individuals executing this First Amended Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
18. Binding Effect. This First Amended Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns, as allowed herein.
19. Attorney's Fees. In any legal proceeding brought to enforce the terms of this Agreement, the prevailing party may recover its reasonable and necessary attorney's fees from the non-prevailing party.
20. Entire Agreement. This First Amended and Restated Agreement shall govern the rights and obligations of the Parties; and shall remain in full force and effect as restated. In the case of any conflict between this First Amended and Restated Amendment and the Agreement, this First Amended Amendment will govern. This First Amended and Restated Amendment, along with the Original represents the complete agreement of the Parties.

**CITY OF NEW FAIRVIEW, TEXAS**

**BLOOMFIELD HOMES, L.P.**

\_\_\_\_\_  
John T. Taylor, Mayor

\_\_\_\_\_  
Donald J. Dykstra, President  
Bloomfield Properties, Inc.

ATTEST:

STATE OF TEXAS           §  
  §  
COUNTY OF WISE       §

\_\_\_\_\_  
Brooke Boller, City Secretary

(city seal)

This instrument was acknowledged before me on the  
\_\_\_\_ day of \_\_\_\_\_, 2024, by Donald  
J. Dykstra, President of Bloomfield Properties, Inc.,  
General Partner of Bloomfield Homes, L.P., on  
behalf of such limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas





**EXHIBIT A**  
**METES AND BOUNDS DESCRIPTION OF PROPERTY**

All that certain lot, tract, or parcel of land, situated in a portion of the William C. Brookfield Survey, Abstract No. 34, the Robert A. Walker Survey, Abstract No. 1392, Denton County, Texas, being all of those certain called 398 acre tract and 335.6 acre tract described in a deed to BCT Justin Property, LP recorded in Instrument No. 2014-84946 of the Deed Records of Denton County, Texas (DRDCT), and being more completely described as follows, to-wit:

BEGINNING at a railroad spike found for the Southwest corner of said 398 acre tract, the Northwest corner of a called 322.98 acre tract described in a deed to SEF Holdings, Ltd. recorded in Instrument No. 2015-100230 (DRDCT), being in the approximate centerline intersection of Dove Hollow Lane and South County Line Road, said point being the recognized Southwest corner of said Robert A. Walker Survey, the recognized Northwest corner of James C. Jack Survey, Abstract No. 679, and the recognized East line of the Green B. Buchanan Survey, Abstract No. 32;

THENCE North 00 deg. 10 min. 24 sec. West along the West line of said 398 acre tract and the recognized West line of said Robert A. Walker Survey and the recognized East line of said Green B. Buchanan Survey, and the recognized East line of the Smith County School Land Survey, Abstract No. 1137, a distance of 5636.68 feet to a railroad spike found for the Northwest corner of said 398 acre tract and being the Southwest corner of a remainder of called 70.75 acre tract described in a deed to Walter Stewart Miller, III recorded in Volume 4575, Page 2577 (DRDCT);

THENCE North 89 deg. 55 min. 08 sec. East departing said Survey lines and continue along the North line of said 398 acre tract and the South line of said 70.75 acre tract, a distance of 342.59 feet to a 1/2" iron rod found "bent" in the South right-of-way line of Farm-to-Market Highway No. 407 (90' right-of-way width), said point being a Point of Curvature of a non-tangent circular curve to the left, having a radius of 617.96 feet, a central angle of 22 deg. 00 min. 02 sec., and being subtended by a chord which bears South 79 deg. 04 min. 51 sec. East - 235.83 feet;

THENCE in an easterly direction along said curve to the left, departing said North and South lines, and continue along said South right-of-way line, a distance of 237.29 feet to a 1/2" iron rod found;

THENCE North 89 deg. 55 min. 08 sec. East tangent to said curve and continue along said South right-of-way line, a distance of 1797.59 feet to a 5/8" iron rod found;

THENCE North 89 deg. 56 min. 08 sec. East along said South right-of-way line, a distance of 3240.21 feet to a 5/8" iron rod found in the East line of said 335.6 acre tract and the West line of a called 191.8 acre tract described in a deed to Rosemarie Green Peterson and James Martin Green recorded in Volume 4172, Page 1024 (DRDCT);

THENCE South 00 deg. 24 min. 47 sec. East along said East and West lines, a distance of 5614.78 feet to a P.K. nail set with washer stamped "GOODWIN & MARSHALL" for the Southeast corner of said 335.6 acre tract and the Southwest corner of said 191.8 acre tract, same being the Southwest corner of a called 770.8 acre tract described in a deed to Nannie B. Andrews, et al recorded in

Volume 112, Page 57 (DRDCT), said 770.8 acre tract being a senior tract of said 191.8 acre tract, and being in the recognized South line of said William C. Brookfield Survey and the recognized North line of said James C. Jack Survey, from which a railroad spike found for the recognized Northeast corner of said James C. Jack Survey bears South 89 deg. 50 min. 15 sec. East - 6642.23 feet and from which a 5/8" iron rod found for the Southeast corner of said 770.8 acre tract bears South 89 deg. 50 min. 15 sec. East - 7151.49 feet;

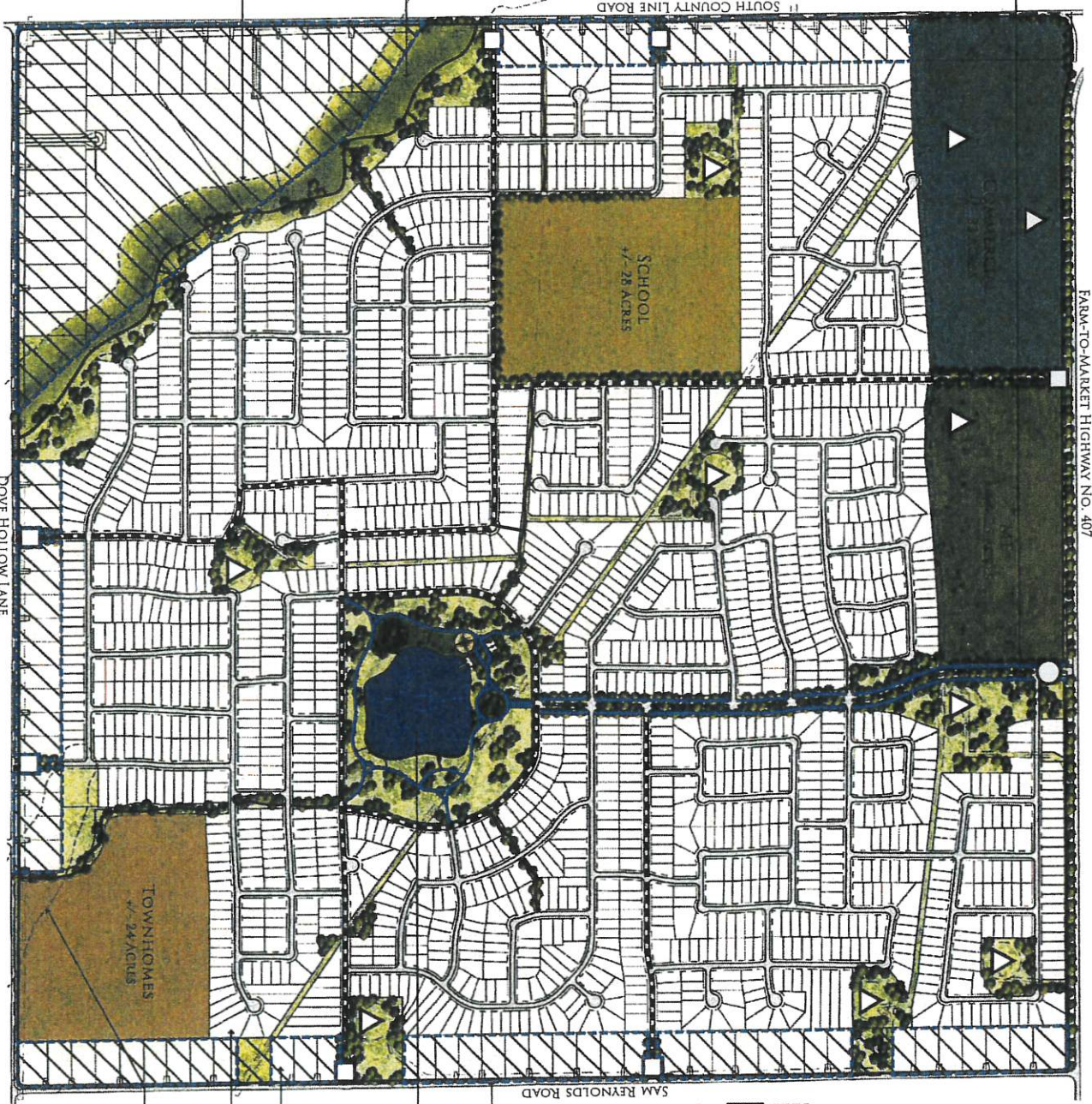
THENCE North 89 deg. 50 min. 15 sec. West along the South lines of said 335.6 acre tract and 398 acre tract, the recognized South line of said William C. Brookfield Survey, the recognized South line of said Robert A. Walker Survey, and the recognized North line of said James C. Jack Survey, a distance of 5635.41 feet to the POINT OF BEGINNING, containing 31,529,676 square feet or 723.822 acres of land, more or less.

**EXHIBIT B  
CONCEPT PLAN**

110' MAIN ENTRY STREET  
LANDSCAPE CORRIDOR

FARM-TO-MARKET HIGHWAY NO. 407

CONSTELLATION  
LAKE  
DENTON COUNTY, TEXAS



- MAIN ENTRY
- MINOR ENTRY
- △ GAS WELL SITE (TYPICAL)
- ▨ TYPE A (ONE ACRE LOTS)
- TYPE B (ALL OTHER RESIDENTIAL LOTS)
- MINOR COLLECTOR

ENHANCED FLOODPLAIN AND  
TRAIL CORRIDOR  
-5' WALKWAY  
-CONNECTED TRAIL SYSTEM  
COMMUNITY AND AMENITY  
CENTER  
-BENCHES  
-DOG STATIONS

APPROXIMATE LOCATION OF  
100 YEAR FLOODPLAIN



DOVE HOLLOW LANE

- 5' PERIMETER TRAIL
- CONSTELLATION LAKE
- 1 ACRE LOT (TYPE A)
- SINGLE FAMILY LOT (TYPE B)
- APPROXIMATE LOCATION OF  
100 YEAR FLOODPLAIN

CONCEPT PLAN  
MARCH 2020

GOODWIN  
MARSHALL  
ARCHITECTS  
1015 W. WILSON ST. SUITE 100  
DENTON, TEXAS 76205  
TEL: 817.382.1100  
WWW.GMARCHITECTS.COM





## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

April 1, 2024

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### **First Amended and Restated Pre-Development and Professional Services Agreement with Rockhill Capital & Investments, LLC**

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#### **DESCRIPTION:**

Receive, consider, and act on a Resolution for the First Amended and Restated Pre-Development and Professional Services Agreement with Rockhill Capital & Investments, LLC for the sharing of costs related to engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

#### **BACKGROUND INFORMATION:**

A few years back, the City was approached by the developers of Shoop Ranch and Constellation Lake, approved mixed-use developments in the city, and inquired about the City's capability of providing water and/or wastewater treatment services for these planned developments. The City does not own and operate any public water and public wastewater system, and in fact does not hold a Certificate of Convenience and Necessity (CCN) for either water or wastewater. On March 15, 2021, the City Council approved a Professional Services Agreement with Schaumburg & Polk, Inc to complete and submit an application for a CCN for water and wastewater services. On January 15, 2024, the City Council approved the First Amendment to this Professional Services Agreement to keep the application process moving forward.

The City has had several discussions with the City of Justin and with the Upper Trinity Regional Water District (UTRWD), about purchasing drinking water from UTRWD and connecting to Justin's water infrastructure to receive the water. In January, staff met with City of Justin staff to discuss the next steps for continuing the water and wastewater connection project. Justin staff shared good information about the location connection point for the water line and wastewater line. They also requested a water line survey and water modeling from the connection point near B Judge Lane and FM 407 where our Extraterritorial Jurisdictions meet.

Mayor Taylor, Mayor Pro Tem King, and staff also met with representatives from Shoop Ranch (now known as Oliver Creek Ranch) and Constellation Lake developments to discuss the items brought up by the City of Justin. It was agreed that the City will contract with Westwood for the engineering services needed for the water line survey and water modeling. The City will also enter into a funding agreement with both developers to help pay their proportional cost for this. The costs are broken down in the Financial Consideration section below, and Rockhill Capital & Investments, LLC will be responsible for 53.48% of the cost (\$15,509.20).

In September 2020, the City entered into a Pre-Development and Professional Services Agreement (attached) with Rockhill Capital & Investments, LLC for the Shoop Ranch development comprising of approximately 1,806 acres on the eastside of the city. Per the terms, Rockhill Capital & Investments, LLC, agreed to pay the city for certain professional services regarding a water/wastewater feasibility study, transportation consulting services, and Dunaway and Associates services related to Shoop Ranch. These projects have already been completed, so an amendment is needed to this agreement for Rockhill Capital & Investments, LLC to pay for their proportional cost for the engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

Staff recommend approval of the Resolution.

**FINANCIAL CONSIDERATION:**

Consulting fees by Westwood shall be a lump sum fee of **\$29,000.00** as summarized below.

**Basic & Special Services**

. Project Management & Coordination	\$5,000.00
. Water Model	\$12,000.00
. Alignment Study	<u>\$12,000.00</u>
<b>TOTAL</b>	<b>\$29,000.00</b>

The percentages of the costs are shown below and are based on the most recent projected water demand tables for each development. The City will also share in this cost so that we will be able to have access to water for future use.

**Based on estimated Equivalent Connections at Build Out**

Constellation Lake:	3,995	41.52%
Oliver Creek Ranch:	<u>5,627</u>	<u>58.48%</u>
<b>TOTAL:</b>	<b>9,622</b>	<b>100.00%</b>

**Estimate with City Participation**

<b>City of New Fairview</b>		<b>10.00%</b>	<b>\$2,900.00</b>
<b>Constellation Lake:</b>	<b>3,995</b>	<b>36.52%</b>	<b>\$10,590.80</b>
<b>Oliver Creek Ranch:</b>	<b><u>5,627</u></b>	<b><u>53.48%</u></b>	<b><u>\$15,509.20</u></b>
<b>TOTAL:</b>	<b>9,622</b>	<b>100.00%</b>	<b>\$29,000.00</b>

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny** a Resolution for the First Amended and Restated Pre-Development and Professional Services Agreement with Rockhill Capital & Investments, LLC for the sharing of costs related to engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

**ATTACHMENT(S):**

1. Pre-Development and Professional Services Agreement (Sept. 2020)
2. Resolution 202404-02-121
3. First Amendment to Agreement
4. Exhibits A & B



**PRE-DEVELOPMENT AND PROFESSIONAL SERVICES AGREEMENT**

**STATE OF TEXAS**                    §

**COUNTY OF WISE**                §

This Pre-Development and Professional Services Agreement (this "Agreement"), executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, is made and entered into by and between the CITY OF NEW FAIRVIEW, TEXAS, a Type A general law municipality (the "City"), and Rockhill Capital & Investments, LLC, a Texas limited liability company (the "Developer"), potential buyer of that certain tract of land comprising approximately 1,806 acres east of the City, as shown on **Exhibit A** and described in **Exhibit B** attached hereto (the "Development Area").

WHEREAS, the Developer seeks to develop the Development Area as a master planned community, subject to and conditioned on the execution of a development agreement between the City and the Developer and creation of a public improvement district;

WHEREAS, the City and the Developer hereby recognize and agree that issues associated with and necessitated by developing the Development Area, including exploring and pursuing the establishment of a retail water and wastewater system by the City and the pursuit of transportation projects in the City, will require the City to obtain professional services from independent, third-party consultants ("Professional Services");

WHEREAS, the Developer recognizes that the City has limited financial resources to expend for professional services and without the financial assistance from the Developer, the City may be unable to expeditiously respond to these issues affecting the Development Area;

WHEREAS, as a result and in consideration of the foregoing, the Developer desires and hereby agrees to pay for Professional Services rendered to the City in accordance with the terms of this Agreement; and

WHEREAS, the City Council of the City, by and through this Agreement, shall maintain sufficient controls to ensure that the public purpose and best interest of the City are carried out.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree as follows:

1.     Recitals. The representations, covenants, and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby adopted as findings of the City Council.
  
2.     Exhibits. All Exhibits referenced in this Agreement, and listed below, are incorporated herein for all purposes; specifically:

Exhibit A – Depiction of Development Area; and  
Exhibit B – Legal Description of Development Area.

3. Payment for Professional Services.

(a) The Developer agrees to pay for Professional Services rendered to the City in accordance with this Agreement. For Professional Services related to the projects described in subsections (c)(i) and (c)(ii) below, the Developer agrees to pay up to a total of Twenty-One Thousand Two Hundred Fifty and NO/100 Dollars (\$21,250.00). For Professional Services related to the project described in subsection (c)(iii) below, the Developer agrees to reimburse the City for the fees.

(b) The City shall have the sole discretion to select and employ the number of third-party, independent consultants it deems necessary.

(c) The Developer agrees to pay for Professional Services related to the Shoop Ranch project to the following:

- i. A water/wastewater feasibility study to review options for surface water from Justin (UTRWD), TRWD, Bridgeport, Decatur, Walnut Cree, SUP, and Fort Worth, and to investigate the potential for a regional system with other cities in southeast Wise County; and
- ii. Transportation consulting services to leverage federal, state and regional funding and navigating regulatory processes to address transportation issues and needs faced by the City; and
- iii. Services provided by Dunaway and Associates related to the Shoop Ranch project.

(d) The Developer agrees to pay to the City upon execution of this Agreement the amount of Twenty-One Thousand Two Hundred Fifty and NO/100 Dollars (\$21,250.00). The City shall hold the money paid by Developer in escrow to pay for Professional Services related to the projects described in subsections (c)(i) and (c)(ii) above. The City shall direct payment in full to be made from the money paid by the Developer and held in escrow, within thirty (30) days after receipt from the City of invoices for Professional Services. The City shall provide Developer with copies of all invoices paid from the escrow funds.

(e) After the City receives an invoice from Dunaway for services described in subsection (c)(iii) above, the City will forward a copy to the Developer for reimbursement in accordance with this Agreement. The Developer agrees to reimburse the City for the fees up to Fifteen Thousand and No/100 Dollars (\$15,000.00); provided this amount may be increased with prior written approval by Developer. The Developer shall make payment to the City for invoiced amounts within fifteen (15) days of receipt of the invoice. The Developer shall have ten (10) days after the receipt of each invoice during which to object to any portion thereof (which objection shall be in writing and shall set forth in detail the basis for the objection). If the Developer fails to object within such 10-day period, the Developer shall be deemed to have approved the invoice. If the Developer objects to any portion of an invoice, the City, the Developer, and the service provider shall attempt to resolve the dispute within a reasonable period of time; however, if notwithstanding their collective good faith efforts the dispute cannot be timely resolved, then the Developer shall pay all or such

portion of the disputed amount that the City certifies to the Developer, in writing, is due and payable or that it has paid to such service provider for such Professional Services.

(f) If requested by the Developer, the City agrees to provide further information as reasonably necessary to explain and detail any invoice for Professional Services; however, the City shall not be required to provide any information that is privileged.

(g) The City may utilize funds paid by the Developer and held in escrow to pay for any fees for Professional Services covered by this Agreement that have been incurred to date by the City for Dunaway & Associates attending an initial meeting.

4. City's Obligations. In utilizing Professional Services, the City shall act in good faith and shall not incur costs unnecessarily and arbitrarily. The parties agree that nothing in this Agreement obligates the City to file an application for a CCN, establish or operate a water or wastewater system, pursue any transportation related project or otherwise approve any particular project proposed by the Developer and that the City retains its authority to approve, deny, or approve in part, any project or other request in accordance with state law and the City's adopted regulations.

5. City's Right to Information. Promptly on request by the City or any of the City's professional consultants providing Professional Services in accordance with this Agreement, the Developer agrees to provide such non-privileged information relating to development of the Development Area, including financial information, as the City or its consultants may in their discretion reasonably determine is necessary for their evaluation of the feasibility or advisability of the development, the pursuit of a transportation project or of the establishment of a water or wastewater system in furtherance of the Development Area. The City shall direct its City Attorney and other legal counsel retained not to release any data or information provided by the Developer to a third party, unless either the Developer provides written consent for such release or the City is otherwise directed to release the information by the Office of the Texas Attorney General ("OAG"). In addition, absent the Developer's authorization for the release of the Developer's data and information, the City shall direct the City Attorney to diligently seek approval of the OAG to withhold proprietary and confidential information subject to a request for public information pursuant to Chapter 552 of the Texas Government Code.

6. City Attorney's Obligations. Notwithstanding anything to the contrary contained herein, the Developer acknowledges that the City Attorney shall exclusively represent the legal interest of the City of New Fairview, Texas, and that no attorney-client privilege between the Developer and the offices of the City Attorney, or any of its attorneys, shall be established by virtue of this Agreement.

7. Termination.

(a) Either party may, in its sole judgment, terminate this Agreement upon delivery of written notice to the other party.

(b) Upon any termination of this Agreement pursuant to Section 8(a), the City shall direct payment of: (i) all remaining invoices for Professional Services that are outstanding and are unpaid as of the date notice of termination is delivered to the City, provided that

such invoices were incurred and performed in accordance with the terms of this Agreement; and (ii) all invoices for Professional Services incurred and performed in accordance with this Agreement prior to the date notice of termination is delivered to the City but not yet billed to the City. Any remaining balance in escrow after all invoices have been paid in accordance with the terms of this Agreement shall be refunded to the Developer.

8. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the obligation of the Developer to pay for Professional Services incurred by the City.

9. Amendment. This Agreement may only be amended or altered by written instrument signed by the Developer and the City.

10. Successors and Assigns. Neither the City nor the Developer may assign or transfer this Agreement or any interest in this Agreement without prior written consent of the other party. This Agreement is binding upon, and inures to the benefit of the City and the Developer and their permitted assigns; however, this Agreement confers no rights or benefits on any third parties and, in particular, no rights or benefits on any provider of Professional Services other than for payment of services rendered.

11. Notice. Any notice required or contemplated by this Agreement shall be deemed given: (a) if mailed via U.S. Mail, Certified Mail Return Receipt Requested, on the earlier of the date actually received at the delivery address or five business days after mailed; (b) if deposited with a private delivery service (such as U.P.S. or FedEx), when delivered, as evidenced by a receipt signed by a person at the delivery address; and (c) if otherwise given (including by FAX or E-mail), when actually received at the delivery address. All notices shall be addressed as set forth below; however, any party may change its address for purposes of this Agreement by giving notice of such change as provided by this Section 11.

If to the City:

City of New Fairview  
999 Illinois Lane  
New Fairview, TX 76078

If to the Developer:

Rockhill Capital & Investments, LLC  
9550 John W. Elliott Drive, Suite 106  
Frisco, TX 75033

12. Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against either party.

13. Applicable Law. This Agreement is made, and shall be construed in accordance with the laws of the State of Texas and venue for any dispute arising out of this Agreement shall lie in Wise County, Texas.

14. Severability. In the event any portion or provision of this Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

16. Sovereign Immunity. The parties agree that the City has not waived its sovereign immunity by entering into and performing its respective obligations under this Agreement.

17. Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

18. Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed herein.

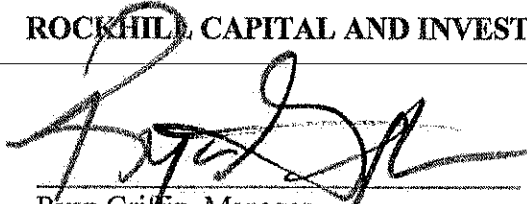
20. Attorney's Fees. In any legal proceeding brought to enforce the terms of this Agreement, the prevailing party may recover its reasonable and necessary attorneys fees from the non-prevailing party.

**[SIGNATURE PAGE TO FOLLOW]**

CITY OF NEW FAIRVIEW, TEXAS

ROCKHILL CAPITAL AND INVESTMENTS

\_\_\_\_\_  
Joe Max Wilson, Mayor

  
\_\_\_\_\_  
Ryan Griffin, Manager

Attest:

STATE OF TEXAS §  
COUNTY OF WISE §

\_\_\_\_\_  
Monica Rodriguez, City Secretary

This instrument was acknowledged before me on the  
30<sup>th</sup> day of September, 2020, by  
Ryan Griffin, Manager of Rockhill Capital and  
Investments on behalf of such company.

(city seal)

  
\_\_\_\_\_  
Notary Public, State of Texas

(seal)

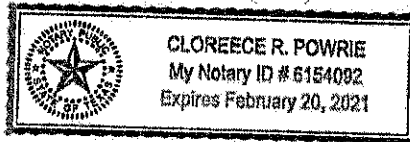


Exhibit "A"

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Depiction of Development Area

Exhibit "B"

Legal Description of Development Area

All that certain 1807.46 acre tract or parcel of land situated in the I Davis Survey, Abstract Number 247, the J. Beebe Survey, Abstract Number 56 and the J. C. Bateman Survey, Abstract Number 1154 in the County of Wise, State of Texas, the J. Brumley Survey, Abstract Number 1581, the M.E.P. & P. Railroad Survey, Abstract Number 914, the W. Chambers Survey, Abstract Number 1520, and the A. Pulen Survey, Abstract Number 10574 in the County of Denton, State of Texas, and the T. Samuel Survey, Abstract Number 757 in said Wise County, same being Abstract Number 1148 in said Denton County, and the Smith County School Land Survey, Abstract Number 744 in said Wise County, same being Abstract Number 1725 in said Denton County, said tract being all of Tract One and Tract Two a called 143 acre tract, as described in deed to Merilou Shoop Love, Trust, Glenn Paul Shoop, Trust, Nancy Shoop Caver Trust, filed 06 July 1993, and recorded in volume 502 page 904 of the Deed Records of said Wise County, and said tract being all of Tract No.1 a called 50 acre tract, all of Tract No.2 a called 88.39 acre tract, all of Tract No.3 a called 142 acre tract, Tract No.4 a called 150.3 acre tract and all of Tract No.5 a called 23.5 acre tract as described in deed to Glenn P. Shoop, Trustee of the Merilou Shoop Love Trust, the Glenn Paul Shoop Trust, and the Nancy Shoop Caver Trust, filed 21 February 1997, and recorded in volume 704 page 103 of the Real Records of said Wise County, and said tract being all of a called 73.187 acre tract as described in deed to Glenn P. Shoop et ux, Louise V. Shoop, filed 13 November 1996, and recorded in County Clerks Number 96-R00080985 of the Official Public Records of said Denton County, and said tract being all of Tract I, a called 37.434 acre tract, and all of Tract II, a called 58.138 acre tract as described in deed to Glen Paul Shoop Trust, Nancy Shoop Caver Trust and Merilou Shoop Love Trust, filed 14 February 2005, and recorded in volume 1520 page 530 of the Official Records of said Wise County, and said tract being all of a called 7.995 acre tract as described in deed to Glenn Paul Shoop Trust, Nancy Shoop Caver Trust and Merilou Shoop Love Trust, filed 19 October 2011, and recorded in volume 2295 page 213 of said official records of said Wise County, and said tract being all of Tract I a called 18.75 acre tract, all of Tract II a called 17.59 acre tract, all of Tract III a called 62.86 acre tract, and all of Tract IV a called 62.509 acre tract as described in deed to Glenn and Louise Shoop Family Partnership, Ltd., filed 14 February 2005, and recorded in volume 1520 page 523 of said official records of said Wise County, said tract also being all of a called 62.954 acre tract as described in deed to Glenn P. Shoop, Trustee of the Merilou Shoop Love Trust, the Glenn Paul Shoop Trust and the Nancy Shoop Caver Trust, filed 18 October 2002, and recorded in volume 1213 page 747 of said official records of said Wise County, and being more particularly described as follows;

BEGINNING for an angle point in the west line of the tract being described herein at set 1\2 inch rebar, said rebar having NAD83 NCTZ Grid Coordinates of N-7092306.12, E-2301891.86, and said rebar being the southwest corner of said Tract One, same being the northwest corner of said Tract Two, same being the southeast corner of Tract II as described in deed to Miller Valley Ltd, filed 07 December 2001, and recorded in volume 1112 page 599 of said official records of said Wise County, said rebar also being the northeast corner of Highland Meadows, a subdivision to said Wise County, according to plat of the same filed 26 August 1991, and recorded in Cabinet B Slide 402 of the Plat Records of said Wise County, Texas;

THENCE: North 00 degrees 34 minutes 13 seconds West, with the west line of said Tract One, same being the east line of said Miller Valley Tract II, and along and near a barbed wire fence, a



distance of 4314.10 feet to a fence corner post for a northwest corner of this tract, same being the south line of Tract III a called 290.39 acre tract as described in said Miller Valley deed;

THENCE: South 69 degrees 07 minutes 40 seconds East, with the north line of said Tract One, and with the south line of said Miller Valley Tract III, and along and near a barbed wire fence, a distance of 1664.03 feet to a Found "set stone" by a fence corner post for an ell corner of this tract, same being the southeast corner of said Miller Valley Tract III;

THENCE: North 21 degrees 11 minutes 40 seconds East, with the west line of said Tract One, and with the east line of said Miller Valley Tract III, and along and near a barbed wire fence, and passing at 2266.61 feet a found "Set Stone" on the south side of Oliver Creek, and continuing on said course a total distance of 2401.71 feet to a point in the center of said Creek for an ell corner of this tract, same being a corner of said Miller Valley Tract III

THENCE: With the center of said creek the following four (4) calls:

1. North 89 degrees 35 minutes 20 seconds West, a distance of 238.90 feet,
2. North 59 degrees 40 minutes 21 seconds West, a distance of 118.26 feet,
3. North 83 degrees 06 minutes 23 seconds West, a distance of 81.10 feet,
4. South 84 degrees 58 minutes 57 seconds West, a distance of 83.88 feet to a point for a corner of this tract, same being a corner of said Miller Valley Tract III;

THENCE: North 04 degrees 02 minutes 06 seconds East, with the west line of said Tract One, and with the east line of said Miller Valley Tract III, and passing at 93 feet a fence corner post on the north side of said creek and continuing on said course and along and near a barbed wire fence, a distance of 1791.57 feet to a fence corner post for a northwest corner of said Tract One, same being the most northerly northeast corner of said Miller Valley Tract III, and said post being on the south line of Tract I, a called 101 acre tract as described in deed to Whatzit Land Co. Ltd, filed 24 September 2009, and recorded in volume 2088 page 216 of said official records of said Wise County;

THENCE: South 69 degrees 12 minutes 33 seconds East, with the north line of said Tract One, and with the south line of said Whatzit Tract I, and along and near a barbed wire fence, a distance of 2420.10 feet to a 3 inch pipe fence corner post for the northeast corner of said Tract One, same being the southeast corner of said Whatzit Tract I, said post also being on the west line of said Shoop Trustee Tract No.1 (50 acres);

THENCE: North 00 degrees 10 minutes 02 seconds East, with the west line of said Tract No.1, and with the east line of said Whatzit Tract I, and along and near a barbed wire fence, and passing at 1359.26 feet a fence corner post on the south side of AA Bumgarner Road, and continuing on said course leaving said fence, a total distance of 1427.96 feet to a set 1\2 inch rebar on the north side of said road for the northwest corner of said Tract No.1, said rebar being on the south line of Lot 40 of High Mesa Estates, according to plat of the same filed 19 November 1984, and recorded in Cabinet D Slide 308 of the Plat Records of said Denton County;

THENCE: North 89 degrees 39 minutes 43 seconds East, with the south line of said High Mesa Estates, along the north side of said road, a distance of 829.04 feet to a set 1\2 inch rebar for the northeast corner of said Shoop Trustee Tract No.5 (23 acres), same being the northwest corner of a called 68 acre tract as described in deed to Don Astor Neely et ux, Shirley Neely, filed 27

February 1975, and recorded in volume 736 page 818 of the Deed Records of said Denton County;

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THENCE: South 00 degrees 50 minutes 36 seconds West, with the east line of said Tract No.5 and the west line of said Neely tract, and passing at 55.8 feet a fence corner post on the south side of said road, and continuing on said course along and near a barbed wire fence, a total distance of 1782.41 feet to a found 1\2 inch rebar for an ell corner of this tract, same being the southeast corner of said said Tract No.5, same being the southwest corner of said Neely tract, and said rebar being the most easterly northeast corner of said Shoop Trustee Tract No.1 (50 acres), said rebar also being the northwest corner of said Shoop Trustee Tract No.4 (150.3 acres);

THENCE: North 89 degrees 59 minutes 01 seconds East, with the north line of said Tract No.4 and with south line of said Neely tract, and along and near a barbed wire fence, a distance of 1278.67 feet to a fence corner post for the most northerly northeast corner of said Tract No.4, same being the northwest corner of the First Tract a called 49.55 acre tract as described in deed to Kenneth D. Sorg et ux, Joan Sorg, filed 20 August 1969, and recorded in volume 590 page 135 of said Denton County deed records;

THENCE: South 00 degrees 58 minutes 16 seconds West, with the east line of said Tract No.4, and with the west line of said Sorg tract and along and near a barbed wire fence, a distance of 1421.12 feet to a found 3\8 inch rebar for an ell corner of said Tract No.4, same being the most westerly southwest corner of said Sorg tract;

THENCE: South 83 degrees 17 minutes 14 seconds East, with the north line of said Tract No.4, and with the south line of said Sorg tract, and along and near a barbed wire fence, a distance of 47.54 feet to a found 3\8 inch rebar for the most easterly northeast corner of said Tract No.4, same being an ell corner of said Sorg tract;

THENCE: South 01 degrees 44 minutes 40 seconds West, with the east line of said Tract No.4 and with the west line of said Sorg tract, and along and near a barbed wire fence, a distance of 152.00 feet to a set 1\2 inch rebar for the southernmost southwest corner of said Sorg tract, same being the western most northwest corner of Scenic Ridge Addition, a subdivision to the County of Denton, according to plat of the same filed 20 August 2003, and recorded in Cabinet V Slide 188 of said Denton County Plat records;

THENCE: South 02 degrees 05 minutes 20 seconds West, with the west line of said Scenic Ridge Addition and along and near a barbed wire fence, a distance of 2750.68 feet to a set 1\2 inch rebar for the southwest corner of Lot 4 of said addition, said rebar being an ell corner of this tract, and said rebar being the northwest corner of said Shoop 73.187 acre tract;

THENCE: South 88 degrees 09 minutes 17 seconds West, with the south line of said Scenic Ridge Addition, and passing at 99.55 feet the southeast corner of said Lot 4, same being the southwest corner of Lot 3, and continuing on said course and passing at 2346.31 feet a fence corner post being the southeast corner of said Lot 3, same being the southwest corner of Lot 2, and continuing on said course a total distance of 2607.64 feet to a set 1\2 inch rebar for the southeast corner of said Lot 2, same being the southeast corner of said Scenic Ridge Addition,

same being the northeast corner of said Shoop 73.187 acre tract;

THENCE: South 01 degrees 55 minutes 33 seconds West, with the east line of said Shoop 73.187 acre tract, and along and near a barbed wire fence, a distance of 1234.73 feet to a found 1/2 inch rebar by a fence corner post for the southeast corner of said Shoop 73.187 acre tract, same being a corner of the Second Tract a called 252 2\3 acre tract as described in deed to Elizabeth Graham McNicholas and James D. McNicholas, filed 31 July 1998, and recorded in volume 4144 page 2266 of the Official Public records of said Denton County;

THENCE: North 88 degrees 01 minutes 42 seconds West, with the south line of said Shoop 73.187 acre tract, and with the north line of said McNicholas Second Tract, and along and near a barbed wire fence, a distance of 2611.98 feet to a fence corner post for the southwest corner of said Shoop 73.187 acre tract, same being the southeast corner of said Tract No.4 called 150.3 acre tract;

THENCE: North 86 degrees 34 minutes 54 seconds West, with the south line of said Tract No.4, and with a barbed wire fence, a distance of 146.75 feet to a fence corner post for the southwest corner of said Tract No.4, same being the northwest corner of said McNicholas Second Tract, said post being on the east line of said Tract No.2 called 88.39 acre tract;

THENCE: South 00 degrees 19 minutes 01 seconds West, with the east line of said Tract No.2, and the west line of said McNicholas Second Tract, and along and near a barbed wire fence, a distance of 1259.90 feet to a fence corner post for the southeast corner of said Tract No.2, same being a northeast corner of said Tract One;

THENCE: South 00 degrees 26 minutes 46 seconds East, with the east line of said Tract One, and the west line of said McNicholas Second Tract, and along and near a barbed wire fence, a distance of 1027.13 feet to a fence corner post for an ell corner of said Tract One, same being the southwest corner of said McNicholas Second Tract;

THENCE: South 89 degrees 17 minutes 49 seconds East, with the north line of said Tract One, and with the south line of said McNicholas Second tract, and along and near a barbed wire fence, a distance of 984.60 feet to a fence corner post for a northeast corner of said Tract One, same being the northwest corner of the First Tract a called 210.92 acre tract of said McNicholas deed;

THENCE: South 09 degrees 32 minutes 03 seconds West, with the east line of said Tract One and with the west line of said McNicholas First Tract, and along and near a barbed wire fence, a distance of 2361.24 feet to a fence corner post for an ell corner of said Tract One, same being the southwest corner of said McNicholas First Tract;

THENCE: South 88 degrees 45 minutes 45 seconds East, with the north line of said Tract One, and with the south line of said McNicholas First Tract, and along and near a barbed wire fence, a distance of 422.62 feet to a fence corner post for a northeast corner of said Tract One, same being the northwest corner of the Third Tract of said McNicholas deed;

THENCE: South 00 degrees 36 minutes 14 seconds East, with the east line of said Tract One, and with the west line of said McNicholas Third Tract, and along and near a barbed wire fence,

and passing at 3052.79 feet a fence corner post on the north side of B. Judge Lane, and continuing on said course a total distance of 3084.19 feet to a set 1½ inch rebar in the center of said road for the for the most southerly southeast corner of said Tract One, same being the southwest corner of said McNicholas Third Tract, and said rebar being on the south line of said Pulen Survey;

THENCE: South 89 degrees 54 minutes 46 seconds West, with the south line of said Tract One, and with the center of said road, a distance of 1019.69 feet to a set 1½ inch rebar at the intersection of said B. Judge Lane and S. County Line Road for the southern most southwest corner of said Tract One, same being the southwest corner of said Pulen Survey, said rebar also being on the east line of said Smith County School Land Survey;

THENCE: North 00 degrees 13 minutes 16 seconds West, with the west line of said Tract One, and with the east line of said Smith County School Land Survey, and with said County Line Road, a distance of 3795.80 feet to a set 1½ inch rebar for an ell corner of said Tract One

THENCE: North 88 degrees 56 minutes 42 seconds West, with the south line of said Tract One, and passing at 20.6 feet a fence corner post being the northeast corner of a called 50.481 acre tract as described in deed to Kim Van Buskirk and Linda Shipp, filed 12 February 1998, and recorded in volume 4029 page 961 of said official public records of said Denton County, and continuing on said course along and near a barbed wire fence, a total distance of 1882.80 feet to a concrete monument for an ell corner of this tract, said monument being the northwest corner of said Buskirk tract, same being the northeast corner of said Shoop Trust Tract I called 37.434 acre tract;

THENCE: South 00 degrees 35 minutes 08 seconds East, with the east line of said Shoop Trust Tract I, and with the west line of said Buskirk tract, and along and near a barbed wire fence, a distance of 1024.17 feet to a found 1½ inch rebar on the south side of Judge Lane for the southeast corner of said Shoop Trust Tract I, same being the most westerly southwest corner of said Buskirk tract, said rebar also being on the north line of a called 16.000 acre tract as described in Contract for Deed to Curtis W. Aydelotte et ux, Kandy L. Aydelotte, filed 22 July 1985, and recorded in volume 129 page 854 of the Real Records of said Wise County;

THENCE: North 86 degrees 54 minutes 59 seconds West, with the south line of said Shoop Trust Tract I, and with the south side of said Judge Lane, and along and near a barbed wire fence, a distance of 500.29 feet to a found 1½ inch rebar for an ell corner of this tract, same being the northeast corner of said Shoop 7.995 acre tract, same being the north west corner of a called 7.995 acre tract as described in deed to Erich E. Graben and Micah Graben, filed 30 May 2001, and recorded in volume 1051 page 150 of the official public records of said Wise County;

THENCE: South 00 degrees 04 minutes 16 seconds East, with the east line of said Shoop 7.995 acre tract, and with the west line of said Graben tract, and along and near a barbed wire fence, and passing at 980.72 feet a fence corner post on the north side of Brock Lane, and continuing on said course a total distance of 1013.22 feet to a set 1½ inch rebar in the center of said road for the for an ell corner of this tract, said rebar being the southeast corner of said Shoop 7.995 acre tract, same being the southwest corner of said Graben tract, and said rebar being on the north line of said Shoop Trust Tract II called 58.138 acre tract;

THENCE: South 89 degrees 48 minutes 06 seconds East, with the north line of said Shoop Trust Tract II, and with the south line of said Graben tract, and with the center of said Brock Lane, a distance of 347.85 feet to a set 1\2 inch rebar for the most easterly northeast corner of said Shoop Trust Tract II, same being the northwest corner of a called 2.50 acre tract as described in deed to Raymond J. Taylor, filed 16 August 1993, and recorded in volume 508 page 1 of the said deed records of said Wise County;

THENCE: South 00 degrees 02 minutes 27 seconds West, with the east line of said Shoop Trust Tract II, and with the west line of said Taylor tract, a distance of 656.10 feet to a fence corner post for the southeast corner of said Shoop Trust Tract II, same being the southwest corner of said Taylor tract, said post also being on the north line of Parcel A, a called 4.201 acre tract as described in deed to Rickey Benningfield, filed 03 March 1999, and recorded in volume 851 page 723 of said official public records of said Wise County;

THENCE: North 89 degrees 51 minutes 58 seconds West, with the south line of said Shoop Trust Tract II, and with the north line of said Benningfield tract, and along and near a barbed wire fence, a distance of 53.86 feet to a fence corner post for an ell corner of this tract, same being the northwest corner of said Benningfield tract, same being the northeast corner of said Shoop 62.954 acre tract;

THENCE: South 00 degrees 38 minutes 50 seconds East, with the east line of said Shoop 62.954 acre tract, and along and near a barbed wire fence, a distance of 2660.39 feet to a found 60d nail in a tree root on the north line of Farm to Market Road Number 407 for the southeast corner of said Shoop 62.954 acre tract, same being the southwest corner of a called 3.578 acre tract as described in deed to Antonio Garcia et ux, Maria Ernestina Garcia, filed 05 November 2008, and recorded in volume 1998 page 364 of said official records of said Wise County;

THENCE: North 00 degrees 37 minutes 27 seconds West, with the west line of said Shoop Family Tract II, and with the east line of said Barrow tract, and along and near a barbed wire fence, a distance of 1862.41 feet to a found 1\2 inch rebar for an ell corner of said Shoop Family Tract II, same being the northeast corner of said Barrow Tract;

THENCE: South 89 degrees 48 minutes 24 seconds West, with the north line of said FM 407, a distance of 1026.60 feet to a found 1\2 inch rebar by a 2 inch pipe fence corner post for the southwest corner of said Shoop 62.954 acre tract, same being the southeast corner of a called 29.002 acre tract as described in deed to Deanna Paulette Layfield, Trustee, filed 30 March 2012, and recorded in volume 2344 page 686 of the official records of said Wise County;

THENCE: North 00 degrees 42 minutes 02 seconds West, with the west line of said Shoop 62.954 acre tract, and with the east line of said Layfield tract, and along and near a barbed wire fence, a distance of 2672.82 feet to a found 1 1\4 inch pipe by a fence corner post for an ell corner of this tract, said pipe being the northwest corner of said Shoop 62.954 acre tract, same being the northeast corner of said Layfield tract, said pipe also being on the south line of said Shoop Trust Tract II called 58.138 acre tract;

THENCE: North 89 degrees 32 minutes 06 seconds West, with the south line of said Shoop Trust Tract II, and along and near a barbed wire fence, a distance of 1023.76 feet to a found 1\2

inch rebar by a fence corner post for an ell corner of this tract, said rebar being the northeast corner of said Shoop Family Partnership Tract III called 62.86 acre tract, same being the northwest corner of a tract as described in deed to John W. Layfield et ux, Sibyl Layfield, and recorded in volume 247 page 525 of the official records of said Wise County;

THENCE: South 00 degrees 43 minutes 04 seconds East, with the east line of said Shoop Family Tract III, and with the west line of said John Layfield tract, and along and near a barbed wire fence, a distance of 2682.23 feet to a 10 inch tree on the north line of said Farm to Market Road Number 407 for the southeast corner of said Shoop Family Tract III, same being the southwest corner of said John Layfield tract;

THENCE: South 89 degrees 56 minutes 19 seconds West, with the north line of said FM 407, a distance of 1423.58 feet to a found 1\2 inch rebar for the most southerly southwest corner of said Shoop Family Tract II called 17.59 acres, same being the southeast corner of a called 11.30 acre tract as described in deed to Terry W. Barrow Jr. et ux, Lisa M. Barrow, filed 22 October 1998, and recorded in volume 822 page 668 of the official records of said Wise County;

THENCE: North 00 degrees 37 minutes 27 seconds West, with the west line of said Shoop Family Tract II, and with the east line of said Barrow tract, and along and near a barbed wire fence, a distance of 1862.41 feet to a found 1\2 inch rebar for an ell corner of said Shoop Family Tract II, same being the northeast corner of said Barrow Tract;

THENCE: South 89 degrees 00 minutes 01 seconds West, with the north line of said Barrow tract, and along and near a barbed wire fence, a distance of 264.48 feet to a found 1\2 inch rebar for the northwest corner of said Barrow tract, same being the northeast corner of a called 11.91 acre tract as described in deed to Raul A. Vargas et ux, D. Paulette Layfield, filed 21 March 2002, and recorded in volume 1146 page 831 of the official records of said Wise County;

THENCE: South 89 degrees 09 minutes 37 seconds West, with the north line of said Vargas tract, and along and near a barbed wire fence, a distance of 357.31 feet to a 2 inch pipe fence corner post for the northwest corner of said Vargas tract, same being the southwest corner of said Shoop Family Tract II;

THENCE: North 00 degrees 27 minutes 27 seconds East, with the west line of said Shoop Family Tract II, and along and near a barbed wire fence, a distance of 830.21 feet to a fence corner post for the northwest corner of said Shoop Family Tract II, same being the southwest corner of said Shoop Family Tract IV called 62.509 acres, said post also being the southeast corner of Lot 1 of said Highland Meadow Subdivision;

THENCE: North 00 degrees 03 minutes 51 seconds East, with the west line of said Shoop Family Tract IV, and with the east line of said Highland Meadows Subdivision, and along and near a barbed wire fence, a distance of 1294.30 feet to a fence corner post for the northwest corner of said Shoop Family Tract IV, same being the southwest corner of a called 100 acre tract as described in deed to John Edward Judge, filed 28 October 2002, and recorded in volume 1216 page 415 of said official records of said Wise County;

THENCE: North 89 degrees 26 minutes 03 seconds East, with the north line of said Shoop Family Tract IV, and with the south line of said Judge tract and along and near a barbed wire

fence, a distance of 2641.77 feet to a fence corner post for the northeast corner of said Shoop Family Tract IV, same being the southeast corner of said Judge tract, and said post being on the west line of said Shoop Trust Tract II called 58.138 acre tract;

THENCE: North 00 degrees 24 minutes 25 seconds East, with the west line of said Shoop Trust Tract II, and with the east line of said Judge tract and along and near a barbed wire fence, a distance of 385.22 feet to a fence corner post for the northwest corner of said Shoop Trust Tract II, same being the southwest corner of said Shoop Trust Tract I called 37.34 acre tract;

THENCE: North 00 degrees 01 minutes 52 seconds West, with the west line of said Shoop Trust Tract I, and with the east line of said Judge tract and along and near a barbed wire fence, a distance of 975.90 feet to a fence corner post for the northwest corner of said Shoop Trust Tract I, same being a southwest corner of said Tract One;

THENCE: North 00 degrees 23 minutes 03 seconds East, with the west line of said Tract One, and with the east line of said Judge Tract, and along and near a barbed wire fence, a distance of 290.95 feet to a fence corner post for an ell corner of this tract, said post being the northeast corner of said Judge tract and the southeast corner of said Tract Two per Boundary Line Agreement and Conveyance, filed 26 June 1996, and recorded in volume 662 page 552 of the Real Records of said Wise County;

THENCE: North 89 degrees 44 minutes 51 seconds West, with the common line between said Tract Two and said Judge tract per said agreement and along and near a barbed wire fence, a distance of 2642.31 feet to a set 1/2 inch rebar for the southwest corner of said Tract Two and the northwest corner of said Judge tract per said agreement, said rebar being on the east line of said Highland Meadows Subdivision;

THENCE: North 00 degrees 35 minutes 26 seconds West, with the west line of said Tract Two, and with the east line of said Subdivision, and passing at 582.31 feet a found 1/2 inch rebar with a plastic cap marked Steadham 4251 being the northeast corner of Lot 9B-R, same being the southeast corner of Lot 9A-R of the Replat of Lot 9 of Highland Meadows, filed 08 December 2000, and recorded in Cabinet B Slide 188 of said plat records, and continuing on said course and passing at 1159.96 feet a found 1/2 rebar being the northeast corner of Lot 10 same being the southeast corner of Lot 11 of said Highland Meadows Subdivision, and continuing on said course a total distance of 2322.98 feet to the POINT OF BEGINNING and containing 1807.46 acres of land.





**CITY OF NEW FAIRVIEW, TEXAS  
RESOLUTION No. 202404-02-121**

**A RESOLUTION AUTHORIZING THE FIRST AMENDED AND RESTATED PRE-DEVELOPMENT AND PROFESSIONAL SERVICES AGREEMENTS WITH BLOOMFIELD HOMES, L.P. AND ROYAL CREST PROPERTIES, LLC AND WITH ROCKHILL CAPITAL & INVESTMENTS, LLC FOR THE SHARING OF COSTS RELATED TO ENGINEERING SERVICES FOR AN ALIGNMENT STUDY FOR CONNECTION POINT WITH THE CITY OF JUSTIN AND PROVIDING A WATER MODEL FOR SIZING OF INFRASTRUCTURE FOR SUCH CONNECTION; AND PROVIDE AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Fairview, Texas is a Type A General Law Municipality located in Wise and Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, Bloomfield Homes, L.P. (the “Developer”), and Royal Crest Properties, LLC (the “Owner”) of Constellation Lake, an approved mixed-use development in the city, comprising of approximately 732 acres, and the City was also approached by Rockhill Capital & Investments, LLC, developer of Shoop Ranch, an approved mixed-use development in the city, comprising of approximately 1,806 acres; and

**WHEREAS**, the City was approached by both the Developer and owner of Constellation Lake as well as the developer of Shoop Ranch about the City’s capability of providing water and/or wastewater treatment services for these planned developments; and

**WHEREAS**, the City has had several discussions with the City of Justin and with the Upper Trinity Regional Water District (UTRWD), about purchasing drinking water from UTRWD and connecting to Justin’s water infrastructure to receive the water; and

**WHEREAS**, recently city staff met with City of Justin staff to discuss the next steps for continuing the water and wastewater connection project, and Justin requested a water line survey and water modeling from the connection point near B Judge Lane and FM 407 where our Extraterritorial Jurisdictions meet; and

**WHEREAS**, the City met separately with representatives from the Constellation Lake and the Shoop Ranch developments to discuss the items brought up by the City of Justin, and they agreed to pay their “fair share” for a contract with Westwood for the engineering services needed for the water line survey and water modeling; and

**WHEREAS**, in September 2020, the City entered into separate Pre-Development and Professional Services Agreements with Bloomfield Homes, L.P. and Royal Crest Properties, LLC, and also with Rockhill Capital & Investments, LLC, wherein they each agreed to pay the City for certain professional services; and

**WHEREAS**, the City Council, Bloomfield Homes, L.P. and Royal Crest Properties, LLC as well as Rockhill Capital & Investments, LLC are interested in amending the Pre-Development

and Professional Services Agreements so that Rockhill Capital & Investments, LLC as well as Bloomfield Homes, L.P. and Royal Crest Properties, LLC will each pay for their proportionate cost for engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure.

**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 the First Amended and Restated Pre-Development and Professional Services Agreements with both Bloomfield Homes, L.P. (the “Developer”), and Royal Crest Properties, LLC (Exhibit ‘A’) as well as Rockhill Capital & Investments, LLC (Exhibit ‘B’) for engineering services for an alignment study for a connection point with the City of Justin and providing a water model for sizing of infrastructure for this connection.

**SECTION 3.** The City Council does authorize the City Administrator to prepare and execute all necessary documents.

**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 1st day of April, 2024, at a regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

\_\_\_\_\_  
BROOKE BOLLER, City Secretary

**Exhibit 'A'**

**Exhibit 'B'**

**FIRST AMENDED AND RESTATED PRE-DEVELOPMENT AND PROFESSIONAL SERVICES AGREEMENT**

STATE OF TEXAS

§

COUNTY OF WISE

§

§

This First Amended and Restated Pre-Development and Professional Services Agreement (this "First Amended Agreement"), effective on the date fully executed herein, is made and entered into by and between the CITY OF NEW FAIRVIEW, TEXAS, a Type A General Law municipality (the "City"), and Rockhill Capital & Investments, LLC, a Texas limited liability company (the "Developer"), owner of that certain tract of land comprising approximately 1,806 acres east of the City, as shown on **Exhibit A** and described in **Exhibit B** attached hereto (the "Development Area").

**WHEREAS**, the Developer seeks to develop the Development Area as a master planned community, subject to and conditioned on the provisions within a Development Agreement between the City and the Developer and creation of a public improvement district; and

**WHEREAS**, the City and the Developer hereby recognize and agree that issues associated with and necessitated by developing the Development Area, including exploring, and pursuing the establishment of a retail water and wastewater system by the City and the pursuit of transportation projects in the City, require the City to obtain professional services from independent, third-party consultants ("Professional Services"); and

**WHEREAS**, the Developer recognizes that the City has limited financial resources to expend for professional services and without the financial assistance from the Developer, the City may be unable to expeditiously respond to these issues affecting the Development Area; and

**WHEREAS**, as a result and in consideration of the foregoing, the Parties entered into that certain Pre-Development and Professional Services Agreement, dated as of September 30, 2020 (the "Original Agreement"); for the purpose of the Developer agreeing to reimburse the City the cost of contracted Professional Services rendered to the City in accordance with the terms of the Original Agreement; and

**WHEREAS**, the Parties desire to amend and restate the Original Agreement in its entirety, so as to build upon the successes of the preliminary Professional Services' reports and costs incurred to date; and

**WHEREAS**, the City Council of the City, by and through this First Amended and Restated Agreement, shall continue to maintain sufficient controls to ensure that the public purpose and best interest of the City are carried out.

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The representations, covenants, and recitations set forth in the foregoing recitals of this First Amended Agreement are true and correct and are hereby adopted as findings of the City Council.
2. **Exhibits.** All Exhibits referenced in this First Amended Agreement, and listed below, are incorporated herein for all purposes; specifically:

Exhibit A - Depiction of Development Area; and  
Exhibit B - Legal Description of Development Area.

3. Payment for Professional Services.

(a) The Developer previously agreed to pay the City for contracted an independent third-party Professional Services, in the amount of Twenty-One Thousand, Two Hundred Fifty and NO/100 Dollars (\$21,250.00), and has reimbursed the same for:

i. The SPI water/wastewater feasibility study to review options for surface water from Justin (UTRWD), TRWD, Bridgeport, Decatur, Walnut Creek, SUP, and Fort Worth, investigating the potential for a regional system with other cities in southeast Wise County; and

ii. The independent third party ITS transportation consulting services, to leverage federal, state, and regional funding and navigating regulatory processes to address transportation issues and needs faced by the City related to supporting the requested development.

iii. The Developer also agrees to pay for Professional Services related to the Shoop Ranch project to the following.

(b) This First Amended Agreement contemplates additional pre-developmental work, to not included in the Original Agreement, as the Professional Services previously provided occasioned the basis or provided the foundation for the costs herein, to include:

i. Professional Services, responsive to the City of Justin's request for a water line survey and modeling.

ii. The Parties City shall have the sole discretion to select and employ the number of third-party, independent consultants it deems necessary.

(c) The Developer agrees to pay to the City upon execution of this First Amended Agreement, the additional amount of Fifteen Thousand, Five Hundred and Nine and 20/100 Dollars (\$15,509.20) for completion of the additional work.

(d) The City shall hold the money paid by Developer in escrow to pay for Professional Services related to the projects described in subsections (b)(i) - (ii) above. The City shall direct payment in full to be made from the money paid by the Developer and held in escrow, within thirty (30) days after receipt from the City of invoices for Professional Services. The City shall provide Developer with copies of all invoices paid from the escrow funds.

(e) The City shall have the sole discretion to select and employ the number of third-party, independent consultants it deems necessary.

(f) Upon receipt of invoicing for Professional Services described in subsection (c) above, the City will forward a copy of invoices received for such work to the Developer for reimbursement in accordance with this Agreement. The Developer agrees to reimburse the City for the fees up to Fifteen Thousand, Five Hundred and Nine and 20/100 Dollars (\$15,509.20); provided this amount may be increased with prior written approval by Developer. The Developer shall make payment to

the City for invoiced amounts within fifteen (30) days of receipt of the invoice. The Developer shall have ten (10) days after the receipt of each invoice during which to object to any portion thereof (which objection shall be in writing and shall set forth in detail the basis for the objection). If the Developer fails to object within such 10-day period, the Developer shall be deemed to have approved the invoice. If the Developer objects to any portion of an invoice, the City, the Developer, and the service provider shall attempt to resolve the dispute within a reasonable period of time; however, if notwithstanding their collective good faith efforts the dispute cannot be timely resolved, then the Developer shall pay all or such portion of the disputed amount that the City certifies to the Developer, in writing, is due and payable or that it has paid to such service provider for such Professional Services.

(g) If requested by the Developer, the City agrees to provide further information as reasonably necessary to explain and detail any invoice for Professional Services; however, the City shall not be required to provide any information that is privileged.

(h) The City may utilize funds paid by the Developer and held in escrow to pay for any fees for Professional Services covered by this Agreement that have been incurred to date by the City for Dunaway & Associates or any other city-contracted Professional Service provider or any of the purposes stated in this First Amended Agreement.

4. City's Obligations. In utilizing Professional Services, the City shall act in good faith and shall not incur costs unnecessarily and arbitrarily. The parties agree that nothing in this Agreement obligates the City to file an application for a CCN, establish or operate a water or wastewater system, pursue any transportation related project or otherwise approve any particular project proposed by the Developer and that the City retains its authority to approve, deny, or approve in part, any project or other request in accordance with state law and the City's adopted regulations.

5. City's Right to Information. Promptly on request by the City or any of the City's professional consultants providing Professional Services in accordance with this First Amended Agreement, the Developer agrees to provide such non-privileged information relating to development of the Development Area, including financial information, as the City or its consultants may in their discretion reasonably determine is necessary for their evaluation of the feasibility or advisability of the development, the pursuit of a transportation project or of the establishment of a water or wastewater system in furtherance of the Development Area. The City shall direct its City Attorney and other legal counsel retained not to release any data or information provided by the Developer to a third party, unless either the Developer provides written consent for such release, or the City is otherwise directed to release the information by the Office of the Texas Attorney General ("OAG"). In addition, absent the Developer's authorization for the release of the Developer's data and information, the City shall direct the City Attorney to diligently seek approval of the OAG to withhold proprietary and confidential information subject to a request for public information pursuant to Chapter 552 of the Texas Government Code.

6. City Attorney's Obligations. Notwithstanding anything to the contrary contained herein, the Developer acknowledges that the City Attorney shall exclusively represent the legal interest of the City of New Fairview, Texas, and that no attorney-client privilege between the Developer and the offices of the City Attorney, or any of its attorneys, shall be established by virtue of this Agreement.

7. Termination.

(a) Either party may, in its sole judgment, terminate this Agreement upon delivery of written notice to the other party.

(b) Upon any termination of this Agreement pursuant to Section 8(a), the City shall direct payment of: (i) all remaining invoices for Professional Services that are outstanding and are unpaid as of the date notice of termination is delivered to the City, provided that such invoices were incurred and performed in accordance with the terms of this Agreement; and (ii) all invoices for Professional Services incurred and performed in accordance with this First Amended Agreement prior to the date notice of termination is delivered to the City but not yet billed to the City. Any remaining balance in escrow after all invoices have been paid in accordance with the terms of this First Amended Agreement shall be refunded to the Developer.

8. Entire Agreement. This First Amended Agreement contains the entire agreement between the parties with respect to the obligation of the Developer to pay for Professional Services incurred by the City.

9. Amendment. This First Amended and Restated Agreement may only be amended or altered by written instrument signed by the Developer and the City.

10. Successors and Assigns. Neither the City nor the Developer may assign or transfer this Agreement or any interest in this Agreement without prior written consent of the other party. This Agreement is binding upon and inures to the benefit of the City and the Developer and their permitted assigns; however, this Agreement confers no rights or benefits on any third parties and, in particular, no rights or benefits on any provider of Professional Services other than for payment of services rendered.

11. Notice. Any notice required or contemplated by this Agreement shall be deemed given: (a) if mailed via U.S. Mail, Certified Mail Return Receipt Requested, on the earlier of the date actually received at the delivery address or five business days after mailed; (b) if deposited with a private delivery service (such as U.P.S. or FedEx), when delivered, as evidenced by a receipt signed by a person at the delivery address; and (c) if otherwise given (including by FAX or E-mail), when actually received at the delivery address. All notices shall be addressed as set forth below; however, any party may change its address for purposes of this Agreement by giving notice of such change as provided by this Section 11.

If to the City:

City of New Fairview  
ATTN: City Administrator  
999 Illinois Lane  
New Fairview, TX 76078

If to the Developer:

Rockhill Capital & Investments, LLC  
9550 John W. Elliott Drive, Suite 106  
Frisco, TX 75033

12. Interpretation. Regardless of the actual drafter of this First Amended Agreement, this First Amended Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for nor against either party.

13. Applicable Law. This Agreement is made and shall be construed in accordance with the laws of the State of Texas and venue for any dispute arising out of this Agreement shall lie in Wise County, Texas.



14. Severability. In the event any portion or provision of this First Amended Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this First Amended Agreement that in lieu of each clause or provision that is found to be illegal, invalid or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.
15. Counterparts. This First Amended Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.
16. Sovereign Immunity. The parties agree that the City has not waived its sovereign immunity by entering into and performing its respective obligations under this First Amended Agreement.
17. Consideration. This First Amended Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
18. Authority to Execute. The individuals executing this First Amended Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this First Amended Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
19. Binding Effect. This First Amended Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns, as allowed herein.
20. Attorney's Fees. In any legal proceeding brought to enforce the terms of this First Amended Agreement, the prevailing party may recover its reasonable and necessary attorneys' fees from the non-prevailing party.
21. Entire Agreement. This First Amended and Restated Agreement shall govern the rights and obligations of the Parties; and shall remain in full force and effect as restated. In the case of any conflict between this First Amended and Restated Amendment and the Agreement, this First Amended Amendment will govern. This First Amended and Restated Amendment, along with the Original represents the complete agreement of the Parties.

(Signatures on the next page)

**CITY OF NEW FAIRVIEW, TEXAS**

\_\_\_\_\_  
John T. Taylor

ATTEST:

\_\_\_\_\_  
Brooke Boller, City Secretary  
by

**ROCKHILL CAPITAL INVESTMENTS**

\_\_\_\_\_  
Ryan Griffin, Manager

STATE OF TEXAS §  
  §  
COUNTY OF WISE §

This instrument was acknowledged before me  
on the \_\_\_\_ day of \_\_\_\_\_, 2024,

Ryan Griffin, Manager of Rockhill Capital and  
Investments on behalf of such company.

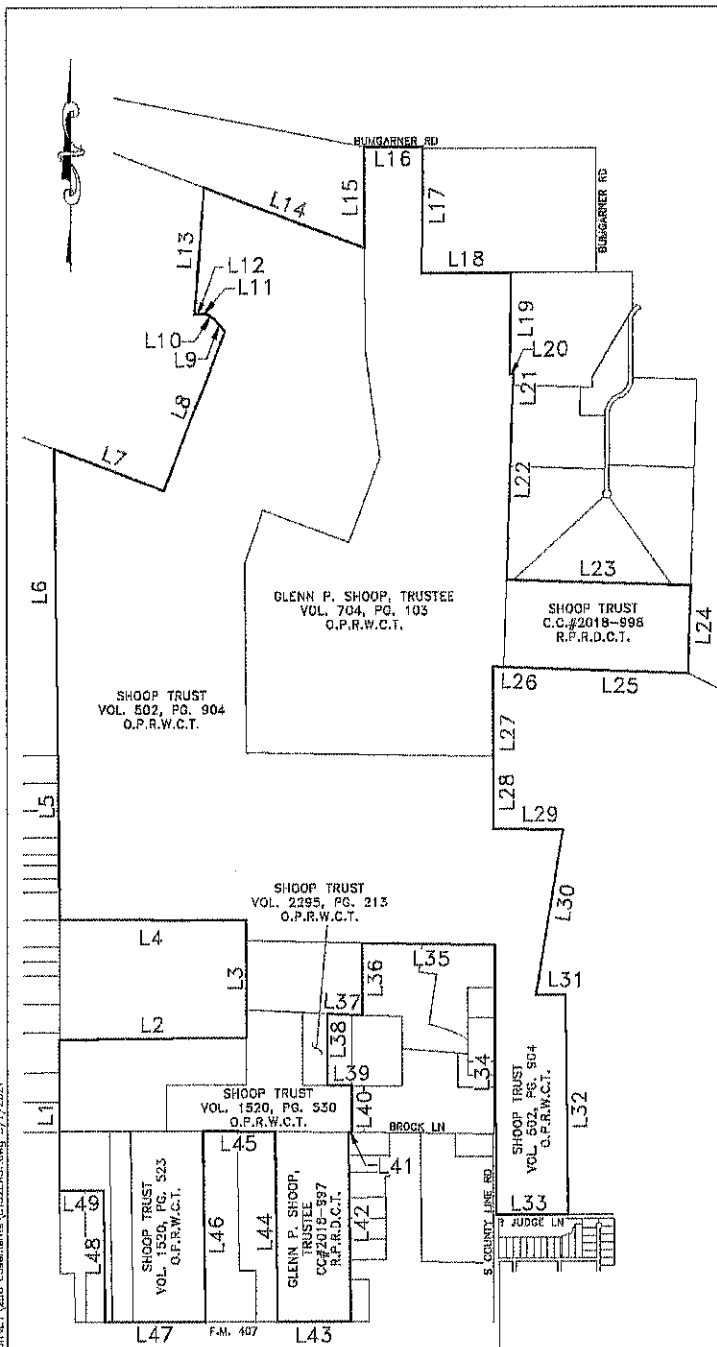
\_\_\_\_\_  
Notary Public, State of Texas

(seal)

Exhibit "A"

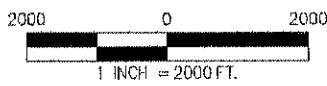
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Depiction of Development Area



LINE	BEARING	DISTANCE
L1	N00°08'55"E	2124.09'
L2	N89°27'04"E	2645.43'
L3	N00°00'20"W	1654.28'
L4	N89°46'58"W	2640.79'
L5	N00°35'10"W	2323.17'
L6	N00°35'14"W	4314.65'
L7	S89°06'23"E	1665.58'
L8	N21°11'17"E	2401.44'
L9	N40°32'53"W	240.45'
L10	N59°40'21"W	118.26'
L11	N83°06'23"W	81.10'
L12	S84°58'57"W	82.73'
L13	N04°01'08"E	1791.46'
L14	S89°12'04"E	2420.84'
L15	N00°11'14"E	1427.36'
L16	N89°39'43"E	828.76'
L17	S00°51'18"W	1781.62'
L18	N89°53'03"E	1277.27'
L19	S00°54'20"W	1423.60'
L20	S83°27'58"E	47.61'
L21	S01°57'03"W	151.93'
L22	S02°05'11"W	2750.79'
L23	S88°09'28"E	2607.68'
L24	S02°05'20"W	1239.69'
L25	N87°55'48"W	2607.02'
L26	N86°29'00"W	146.47'
L27	S00°14'41"W	1262.59'
L28	S00°03'27"E	1026.40'
L29	S89°28'32"E	990.21'
L30	S09°34'28"W	2364.53'
L31	S89°01'10"E	423.02'
L32	S00°36'25"E	3083.82'
L33	S89°54'59"W	1019.80'
L34	N00°13'30"W	3795.83'
L35	N88°59'01"W	1891.59'
L36	S00°32'27"E	1023.70'
L37	N87°07'08"W	498.85'
L38	S00°00'56"W	1010.72'
L39	S89°47'36"E	347.85'
L40	S00°02'52"W	656.00'
L41	S89°48'21"W	55.44'
L42	S00°41'20"E	2659.86'
L43	S89°47'35"W	1026.82'
L44	N00°41'56"W	2672.91'
L45	N89°31'32"W	1024.14'
L46	S00°43'37"E	2682.56'
L47	N89°56'34"W	1423.86'
L48	N00°37'26"W	1859.32'
L49	S89°08'33"W	620.07'

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT



S:\MYS-LAND\0162\260 SURVEY\260 ESTABLISH\DISSEMIN\DWG 3/7/2021

PAGE 1  OF 1	DATE:	02/18/2021
	DRWN BY:	SAT
	CHKD BY:	ACB
	PROJ NO.	0162

**EXHIBIT "A"**  
BOUNDARY EXHIBIT  
1807.64 ACRE BOUNDARY OF PROPERTIES OWNED BY SHOOP TRUST,  
DENTON AND WISE COUNTIES, TEXAS.

**LJA Surveying, Inc.**

3017 West 7th Street Phone: 862.747.0600  
 Suite 300  
 Fort Worth, Texas 76107 T 8 P.E.L.S. Firm No. 10194640

Exhibit "B"

Legal Description of Development Area

All that certain 1807.46 acre tract or parcel of land situated in the I Davis Survey, Abstract Number 247, the J. Beebe Survey, Abstract Number 56 and the J. C. Bateman Survey, Abstract Number 1154 in the County of Wise, State of Texas, the J. Brumley Survey, Abstract Number 1581, the M.E.P. & P. Railroad Survey, Abstract Number 914, the W. Chambers Survey, Abstract Number 1520, and the A. Pulen Survey, Abstract Number 10574 in the County of Denton, State of Texas, and the T. Samuel Survey, Abstract Number 757 in said Wise County, same being Abstract Number 1148 in said Denton County, and the Smith County School Land Survey, Abstract Number 744 in said Wise County, same being Abstract Number 1725 in said Denton County, said tract being all of Tract One and Tract Two a called 143 acre tract, as described in deed to Merilou Shoop Love, Trust, Glenn Paul Shoop, Trust, Nancy Shoop Caver Trust, filed 06 July 1993, and recorded in volume 502 page 904 of the Deed Records of said Wise County, and said tract being all of Tract No.1 a called 50 acre tract, all of Tract No.2 a called 88.39 acre tract, all of Tract No.3 a called 142 acre tract, Tract No.4 a called 150.3 acre tract and all of Tract No.5 a called 23.5 acre tract as described in deed to Glenn P. Shoop, Trustee of the Merilou Shoop Love Trust, the Glenn Paul Shoop Trust, and the Nancy Shoop Caver Trust, filed 21 February 1997, and recorded in volume 704 page 103 of the Real Records of said Wise County, and said tract being all of a called 73.187 acre tract as described in deed to Glenn P. Shoop et ux, Louise V. Shoop, filed 13 November 1996, and recorded in County Clerks Number 96-R00080985 of the Official Public Records of said Denton County, and said tract being all of Tract I, a called 37.434 acre tract, and all of Tract II, a called 58.138 acre tract as described in deed to Glen Paul Shoop Trust, Nancy Shoop Caver Trust and Merilou Shoop Love Trust, filed 14 February 2005, and recorded in volume 1520 page 530 of the Official Records of said Wise County, and said tract being all of a called 7.995 acre tract as described in deed to Glenn Paul Shoop Trust, Nancy Shoop Caver Trust and Merilou Shoop Love Trust, filed 19 October 2011, and recorded in volume 2295 page 213 of said official records of said Wise County, and said tract being all of Tract I a called 18.75 acre tract, all of Tract II a called 17.59 acre tract, all of Tract III a called 62.86 acre tract, and all of Tract IV a called 62.509 acre tract as described in deed to Glenn and Louise Shoop Family Partnership, Ltd., filed 14 February 2005, and recorded in volume 1520 page 523 of said official records of said Wise County, said tract also being all of a called 62.954 acre tract as described in deed to Glenn P. Shoop, Trustee of the Merilou Shoop Love Trust, the Glenn Paul Shoop Trust and the Nancy Shoop Caver Trust, filed 18 October 2002, and recorded in volume 1213 page 747 of said official records of said Wise County, and being more particularly described as follows;

BEGINNING for an angle point in the west line of the tract being described herein at set 1/2 inch rebar, said rebar having NAD83 NCTZ Grid Coordinates of N-7092306.12, E-2301891.86, and said rebar being the southwest corner of said Tract One, same being the northwest corner of said Tract Two, same being the southeast corner of Tract II as described in deed to Miller Valley Ltd, filed 07 December 2001, and recorded in volume 1112 page 599 of said official records of said Wise County, said rebar also being the northeast corner of Highland Meadows, a subdivision to said Wise County, according to plat of the same filed 26 August 1991, and recorded in Cabinet B Slide 402 of the Plat Records of said Wise County, Texas;

THENCE: North 00 degrees 34 minutes 13 seconds West, with the west line of said Tract One, same being the east line of said Miller Valley Tract II, and along and near a barbed wire fence, a

distance of 4314.10 feet to a fence corner post for a northwest corner of this tract, same being the south line of Tract III a called 290.39 acre tract as described in said Miller Valley deed;

THENCE: South 69 degrees 07 minutes 40 seconds East, with the north line of said Tract One, and with the south line of said Miller Valley Tract III, and along and near a barbed wire fence, a distance of 1664.03 feet to a Found "set stone" by a fence corner post for an ell corner of this tract, same being the southeast corner of said Miller Valley Tract III;

THENCE: North 21 degrees 11 minutes 40 seconds East, with the west line of said Tract One, and with the east line of said Miller Valley Tract III, and along and near a barbed wire fence, and passing at 2266.61 feet a found "Set Stone" on the south side of Oliver Creek, and continuing on said course a total distance of 2401.71 feet to a point in the center of said Creek for an ell corner of this tract, same being a corner of said Miller Valley Tract III

THENCE: With the center of said creek the following four (4) calls:

1. North 89 degrees 35 minutes 20 seconds West, a distance of 238.90 feet,
2. North 59 degrees 40 minutes 21 seconds West, a distance of 118.26 feet,
3. North 83 degrees 06 minutes 23 seconds West, a distance of 81.10 feet,
4. South 84 degrees 58 minutes 57 seconds West, a distance of 83.88 feet to a point for a corner of this tract, same being a corner of said Miller Valley Tract III;

THENCE: North 04 degrees 02 minutes 06 seconds East, with the west line of said Tract One, and with the east line of said Miller Valley Tract III, and passing at 93 feet a fence corner post on the north side of said creek and continuing on said course and along and near a barbed wire fence, a distance of 1791.57 feet to a fence corner post for a northwest corner of said Tract One, same being the most northerly northeast corner of said Miller Valley Tract III, and said post being on the south line of Tract I, a called 101 acre tract as described in deed to Whatzit Land Co. Ltd, filed 24 September 2009, and recorded in volume 2088 page 216 of said official records of said Wise County;

THENCE: South 69 degrees 12 minutes 33 seconds East, with the north line of said Tract One, and with the south line of said Whatzit Tract I, and along and near a barbed wire fence, a distance of 2420.10 feet to a 3 inch pipe fence corner post for the northeast corner of said Tract One, same being the southeast corner of said Whatzit Tract I, said post also being on the west line of said Shoop Trustee Tract No.1 (50 acres);

THENCE: North 00 degrees 10 minutes 02 seconds East, with the west line of said Tract No.1, and with the east line of said Whatzit Tract I, and along and near a barbed wire fence, and passing at 1359.26 feet a fence corner post on the south side of AA Bumgarner Road, and continuing on said course leaving said fence, a total distance of 1427.96 feet to a set 1/2 inch rebar on the north side of said road for the northwest corner of said Tract No.1, said rebar being on the south line of Lot 40 of High Mesa Estates, according to plat of the same filed 19 November 1984, and recorded in Cabinet D Slide 308 of the Plat Records of said Denton County;

THENCE: North 89 degrees 39 minutes 43 seconds East, with the south line of said High Mesa Estates, along the north side of said road, a distance of 829.04 feet to a set 1/2 inch rebar for the northeast corner of said Shoop Trustee Tract No.5 (23 acres), same being the northwest corner of a called 68 acre tract as described in deed to Don Astor Neely et ux, Shirley Neely, filed 27

February 1975, and recorded in volume 736 page 818 of the Deed Records of said Denton County;

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THENCE: South 00 degrees 50 minutes 36 seconds West, with the east line of said Tract No.5 and the west line of said Neely tract, and passing at 55.8 feet a fence corner post on the south side of said road, and continuing on said course along and near a barbed wire fence, a total distance of 1782.41 feet to a found 1½ inch rebar for an ell corner of this tract, same being the southeast corner of said said Tract No.5, same being the southwest corner of said Neely tract, and said rebar being the most easterly northeast corner of said Shoop Trustee Tract No.1 (50 acres), said rebar also being the northwest corner of said Shoop Trustee Tract No.4 (150.3 acres);

THENCE: North 89 degrees 59 minutes 01 seconds East, with the north line of said Tract No.4 and with south line of said Neely tract, and along and near a barbed wire fence, a distance of 1278.67 feet to a fence corner post for the most northerly northeast corner of said Tract No.4, same being the northwest corner of the First Tract a called 49.55 acre tract as described in deed to Kenneth D. Sorg et ux, Joan Sorg, filed 20 August 1969, and recorded in volume 590 page 135 of said Denton County deed records;

THENCE: South 00 degrees 58 minutes 16 seconds West, with the east line of said Tract No.4, and with the west line of said Sorg tract and along and near a barbed wire fence, a distance of 1421.12 feet to a found 3⁄8 inch rebar for an ell corner of said Tract No.4, same being the most westerly southwest corner of said Sorg tract;

THENCE: South 83 degrees 17 minutes 14 seconds East, with the north line of said Tract No.4, and with the south line of said Sorg tract, and along and near a barbed wire fence, a distance of 47.54 feet to a found 3⁄8 inch rebar for the most easterly northeast corner of said Tract No.4, same being an ell corner of said Sorg tract;

THENCE: South 01 degrees 44 minutes 40 seconds West, with the east line of said Tract No.4 and with the west line of said Sorg tract, and along and near a barbed wire fence, a distance of 152.00 feet to a set 1½ inch rebar for the southernmost southwest corner of said Sorg tract, same being the western most northwest corner of Scenic Ridge Addition, a subdivision to the County of Denton, according to plat of the same filed 20 August 2003, and recorded in Cabinet V Slide 188 of said Denton County Plat records;

THENCE: South 02 degrees 05 minutes 20 seconds West, with the west line of said Scenic Ridge Addition and along and near a barbed wire fence, a distance of 2750.68 feet to a set 1½ inch rebar for the southwest corner of Lot 4 of said addition, said rebar being an ell corner of this tract, and said rebar being the northwest corner of said Shoop 73.187 acre tract;

THENCE: South 88 degrees 09 minutes 17 seconds West, with the south line of said Scenic Ridge Addition, and passing at 99.55 feet the southeast corner of said Lot 4, same being the southwest corner of Lot 3, and continuing on said course and passing at 2346.31 feet a fence corner post being the southeast corner of said Lot 3, same being the southwest corner of Lot 2, and continuing on said course a total distance of 2607.64 feet to a set 1½ inch rebar for the southeast corner of said Lot 2, same being the southeast corner of said Scenic Ridge Addition,

same being the northeast corner of said Shoop 73.187 acre tract;

THENCE: South 01 degrees 55 minutes 33 seconds West, with the east line of said Shoop 73.187 acre tract, and along and near a barbed wire fence, a distance of 1234.73 feet to a found 1/2 inch rebar by a fence corner post for the southeast corner of said Shoop 73.187 acre tract, same being a corner of the Second Tract a called 252 2/3 acre tract as described in deed to Elizabeth Graham McNicholas and James D. McNicholas, filed 31 July 1998, and recorded in volume 4144 page 2266 of the Official Public records of said Denton County;

THENCE: North 88 degrees 01 minutes 42 seconds West, with the south line of said Shoop 73.187 acre tract, and with the north line of said McNicholas Second Tract, and along and near a barbed wire fence, a distance of 2611.98 feet to a fence corner post for the southwest corner of said Shoop 73.187 acre tract, same being the southeast corner of said Tract No.4 called 150.3 acre tract;

THENCE: North 86 degrees 34 minutes 54 seconds West, with the south line of said Tract No.4, and with a barbed wire fence, a distance of 146.75 feet to a fence corner post for the southwest corner of said Tract No.4, same being the northwest corner of said McNicholas Second Tract, said post being on the east line of said Tract No.2 called 88.39 acre tract;

THENCE: South 00 degrees 19 minutes 01 seconds West, with the east line of said Tract No.2, and the west line of said McNicholas Second Tract, and along and near a barbed wire fence, a distance of 1259.90 feet to a fence corner post for the southeast corner of said Tract No.2, same being a northeast corner of said Tract One;

THENCE: South 00 degrees 26 minutes 46 seconds East, with the east line of said Tract One, and the west line of said McNicholas Second Tract, and along and near a barbed wire fence, a distance of 1027.13 feet to a fence corner post for an ell corner of said Tract One, same being the southwest corner of said McNicholas Second Tract;

THENCE: South 89 degrees 17 minutes 49 seconds East, with the north line of said Tract One, and with the south line of said McNicholas Second tract, and along and near a barbed wire fence, a distance of 984.60 feet to a fence corner post for a northeast corner of said Tract One, same being the northwest corner of the First Tract a called 210.92 acre tract of said McNicholas deed;

THENCE: South 09 degrees 32 minutes 03 seconds West, with the east line of said Tract One and with the west line of said McNicholas First Tract, and along and near a barbed wire fence, a distance of 2361.24 feet to a fence corner post for an ell corner of said Tract One, same being the southwest corner of said McNicholas First Tract;

THENCE: South 88 degrees 45 minutes 45 seconds East, with the north line of said Tract One, and with the south line of said McNicholas First Tract, and along and near a barbed wire fence, a distance of 422.62 feet to a fence corner post for a northeast corner of said Tract One, same being the northwest corner of the Third Tract of said McNicholas deed;

THENCE: South 00 degrees 36 minutes 14 seconds East, with the east line of said Tract One, and with the west line of said McNicholas Third Tract, and along and near a barbed wire fence,



and passing at 3052.79 feet a fence corner post on the north side of B. Judge Lane, and continuing on said course a total distance of 3084.19 feet to a set 1/2 inch rebar in the center of said road for the for the most southerly southeast corner of said Tract One, same being the southwest corner of said McNicholas Third Tract, and said rebar being on the south line of said Pulen Survey;

THENCE: South 89 degrees 54 minutes 46 seconds West, with the south line of said Tract One, and with the center of said road, a distance of 1019.69 feet to a set 1/2 inch rebar at the intersection of said B. Judge Lane and S. County Line Road for the southern most southwest corner of said Tract One, same being the southwest corner of said Pulen Survey, said rebar also being on the east line of said Smith County School Land Survey;

THENCE: North 00 degrees 13 minutes 16 seconds West, with the west line of said Tract One, and with the east line of said Smith County School Land Survey, and with said County Line Road, a distance of 3795.80 feet to a set 1/2 inch rebar for an ell corner of said Tract One

THENCE: North 88 degrees 56 minutes 42 seconds West, with the south line of said Tract One, and passing at 20.6 feet a fence corner post being the northeast corner of a called 50.481 acre tract as described in deed to Kim Van Buskirk and Linda Shipp, filed 12 February 1998, and recorded in volume 4029 page 961 of said official public records of said Denton County, and continuing on said course along and near a barbed wire fence, a total distance of 1882.80 feet to a concrete monument for an ell corner of this tract, said monument being the northwest corner of said Buskirk tract, same being the northeast corner of said Shoop Trust Tract I called 37.434 acre tract;

THENCE: South 00 degrees 35 minutes 08 seconds East, with the east line of said Shoop Trust Tract I, and with the west line of said Buskirk tract, and along and near a barbed wire fence, a distance of 1024.17 feet to a found 1/2 inch rebar on the south side of Judge Lane for the southeast corner of said Shoop Trust Tract I, same being the most westerly southwest corner of said Buskirk tract, said rebar also being on the north line of a called 16.000 acre tract as described in Contract for Deed to Curtis W. Aydelotte et ux, Kandy L. Aydelotte, filed 22 July 1985, and recorded in volume 129 page 854 of the Real Records of said Wise County;

THENCE: North 86 degrees 54 minutes 59 seconds West, with the south line of said Shoop Trust Tract I, and with the south side of said Judge Lane, and along and near a barbed wire fence, a distance of 500.29 feet to a found 1/2 inch rebar for an ell corner of this tract, same being the northeast corner of said Shoop 7.995 acre tract, same being the north west corner of a called 7.995 acre tract as described in deed to Erich E. Graben and Micah Graben, filed 30 May 2001, and recorded in volume 1051 page 150 of the official public records of said Wise County;

THENCE: South 00 degrees 04 minutes 16 seconds East, with the east line of said Shoop 7.995 acre tract, and with the west line of said Graben tract, and along and near a barbed wire fence, and passing at 980.72 feet a fence corner post on the north side of Brock Lane, and continuing on said course a total distance of 1013.22 feet to a set 1/2 inch rebar in the center of said road for the for an ell corner of this tract, said rebar being the southeast corner of said Shoop 7.995 acre tract, same being the southwest corner of said Graben tract, and said rebar being on the north line of said Shoop Trust Tract II called 58.138 acre tract;

THENCE: South 89 degrees 48 minutes 06 seconds East, with the north line of said Shoop Trust Tract II, and with the south line of said Graben tract, and with the center of said Brock Lane, a distance of 347.85 feet to a set 1½ inch rebar for the most easterly northeast corner of said Shoop Trust Tract II, same being the northwest corner of a called 2.50 acre tract as described in deed to Raymond J. Taylor, filed 16 August 1993, and recorded in volume 508 page 1 of the said deed records of said Wise County;

THENCE: South 00 degrees 02 minutes 27 seconds West, with the east line of said Shoop Trust Tract II, and with the west line of said Taylor tract, a distance of 656.10 feet to a fence corner post for the southeast corner of said Shoop Trust Tract II, same being the southwest corner of said Taylor tract, said post also being on the north line of Parcel A, a called 4.201 acre tract as described in deed to Rickey Benningfield, filed 03 March 1999, and recorded in volume 851 page 723 of said official public records of said Wise County;

THENCE: North 89 degrees 51 minutes 58 seconds West, with the south line of said Shoop Trust Tract II, and with the north line of said Benningfield tract, and along and near a barbed wire fence, a distance of 53.86 feet to a fence corner post for an ell corner of this tract, same being the northwest corner of said Benningfield tract, same being the northeast corner of said Shoop 62.954 acre tract;

THENCE: South 00 degrees 38 minutes 50 seconds East, with the east line of said Shoop 62.954 acre tract, and along and near a barbed wire fence, a distance of 2660.39 feet to a found 60d nail in a tree root on the north line of Farm to Market Road Number 407 for the southeast corner of said Shoop 62.954 acre tract, same being the southwest corner of a called 3.578 acre tract as described in deed to Antonio Garcia et ux, Maria Ernestina Garcia, filed 05 November 2008, and recorded in volume 1998 page 364 of said official records of said Wise County;

THENCE: North 00 degrees 37 minutes 27 seconds West, with the west line of said Shoop Family Tract II, and with the east line of said Barrow tract, and along and near a barbed wire fence, a distance of 1862.41 feet to a found 1½ inch rebar for an ell corner of said Shoop Family Tract II, same being the northeast corner of said Barrow Tract;

THENCE: South 89 degrees 48 minutes 24 seconds West, with the north line of said FM 407, a distance of 1026.60 feet to a found 1½ inch rebar by a 2 inch pipe fence corner post for the southwest corner of said Shoop 62.954 acre tract, same being the southeast corner of a called 29.002 acre tract as described in deed to Deanna Paulette Layfield, Trustee, filed 30 March 2012, and recorded in volume 2344 page 686 of the official records of said Wise County;

THENCE: North 00 degrees 42 minutes 02 seconds West, with the west line of said Shoop 62.954 acre tract, and with the east line of said Layfield tract, and along and near a barbed wire fence, a distance of 2672.82 feet to a found 1 ¼ inch pipe by a fence corner post for an ell corner of this tract, said pipe being the northwest corner of said Shoop 62.954 acre tract, same being the northeast corner of said Layfield tract, said pipe also being on the south line of said Shoop Trust Tract II called 58.138 acre tract;

THENCE: North 89 degrees 32 minutes 06 seconds West, with the south line of said Shoop Trust Tract II, and along and near a barbed wire fence, a distance of 1023.76 feet to a found 1½

inch rebar by a fence corner post for an ell corner of this tract, said rebar being the northeast corner of said Shoop Family Partnership Tract III called 62.86 acre tract, same being the northwest corner of a tract as described in deed to John W. Layfield et ux, Sibyl Layfield, and recorded in volume 247 page 525 of the official records of said Wise County;

THENCE: South 00 degrees 43 minutes 04 seconds East, with the east line of said Shoop Family Tract III, and with the west line of said John Layfield tract, and along and near a barbed wire fence, a distance of 2682.23 feet to a 10 inch tree on the north line of said Farm to Market Road Number 407 for the southeast corner of said Shoop Family Tract III, same being the southwest corner of said John Layfield tract;

THENCE: South 89 degrees 56 minutes 19 seconds West, with the north line of said FM 407, a distance of 1423.58 feet to a found 1/2 inch rebar for the most southerly southwest corner of said Shoop Family Tract II called 17.59 acres, same being the southeast corner of a called 11.30 acre tract as described in deed to Terry W. Barrow Jr. et ux, Lisa M. Barrow, filed 22 October 1998, and recorded in volume 822 page 668 of the official records of said Wise County;

THENCE: North 00 degrees 37 minutes 27 seconds West, with the west line of said Shoop Family Tract II, and with the east line of said Barrow tract, and along and near a barbed wire fence, a distance of 1862.41 feet to a found 1/2 inch rebar for an ell corner of said Shoop Family Tract II, same being the northeast corner of said Barrow Tract;

THENCE: South 89 degrees 00 minutes 01 seconds West, with the north line of said Barrow tract, and along and near a barbed wire fence, a distance of 264.48 feet to a found 1/2 inch rebar for the northwest corner of said Barrow tract, same being the northeast corner of a called 11.91 acre tract as described in deed to Raul A. Vargas et ux, D. Paulette Layfield, filed 21 March 2002, and recorded in volume 1146 page 831 of the official records of said Wise County;

THENCE: South 89 degrees 09 minutes 37 seconds West, with the north line of said Vargas tract, and along and near a barbed wire fence, a distance of 357.31 feet to a 2 inch pipe fence corner post for the northwest corner of said Vargas tract, same being the southwest corner of said Shoop Family Tract II;

THENCE: North 00 degrees 27 minutes 27 seconds East, with the west line of said Shoop Family Tract II, and along and near a barbed wire fence, a distance of 830.21 feet to a fence corner post for the northwest corner of said Shoop Family Tract II, same being the southwest corner of said Shoop Family Tract IV called 62.509 acres, said post also being the southeast corner of Lot 1 of said Highland Meadow Subdivision;

THENCE: North 00 degrees 03 minutes 51 seconds East, with the west line of said Shoop Family Tract IV, and with the east line of said Highland Meadows Subdivision, and along and near a barbed wire fence, a distance of 1294.30 feet to a fence corner post for the northwest corner of said Shoop Family Tract IV, same being the southwest corner of a called 100 acre tract as described in deed to John Edward Judge, filed 28 October 2002, and recorded in volume 1216 page 415 of said official records of said Wise County;

THENCE: North 89 degrees 26 minutes 03 seconds East, with the north line of said Shoop Family Tract IV, and with the south line of said Judge tract and along and near a barbed wire

fence, a distance of 2641.77 feet to a fence corner post for the northeast corner of said Shoop Family Tract IV, same being the southeast corner of said Judge tract, and said post being on the west line of said Shoop Trust Tract II called 58.138 acre tract;

THENCE: North 00 degrees 24 minutes 25 seconds East, with the west line of said Shoop Trust Tract II, and with the east line of said Judge tract and along and near a barbed wire fence, a distance of 385.22 feet to a fence corner post for the northwest corner of said Shoop Trust Tract II, same being the southwest corner of said Shoop Trust Tract I called 37.34 acre tract;

THENCE: North 00 degrees 01 minutes 52 seconds West, with the west line of said Shoop Trust Tract I, and with the east line of said Judge tract and along and near a barbed wire fence, a distance of 975.90 feet to a fence corner post for the northwest corner of said Shoop Trust Tract I, same being a southwest corner of said Tract One;

THENCE: North 00 degrees 23 minutes 03 seconds East, with the west line of said Tract One, and with the east line of said Judge Tract, and along and near a barbed wire fence, a distance of 290.95 feet to a fence corner post for an ell corner of this tract, said post being the northeast corner of said Judge tract and the southeast corner of said Tract Two per Boundary Line Agreement and Conveyance, filed 26 June 1996, and recorded in volume 662 page 552 of the Real Records of said Wise County;

THENCE: North 89 degrees 44 minutes 51 seconds West, with the common line between said Tract Two and said Judge tract per said agreement and along and near a barbed wire fence, a distance of 2642.31 feet to a set 1/2 inch rebar for the southwest corner of said Tract Two and the northwest corner of said Judge tract per said agreement, said rebar being on the east line of said Highland Meadows Subdivision;

THENCE: North 00 degrees 35 minutes 26 seconds West, with the west line of said Tract Two, and with the east line of said Subdivision, and passing at 582.31 feet a found 1/2 inch rebar with a plastic cap marked Steadham 4251 being the northeast corner of Lot 9B-R, same being the southeast corner of Lot 9A-R of the Replat of Lot 9 of Highland Meadows, filed 08 December 2000, and recorded in Cabinet B Slide 188 of said plat records, and continuing on said course and passing at 1159.96 feet a found 1/2 rebar being the northeast corner of Lot 10 same being the southeast corner of Lot 11 of said Highland Meadows Subdivision, and continuing on said course a total distance of 2322.98 feet to the POINT OF BEGINNING and containing 1807.46 acres of land.



**AGENDA ITEM: 7E**

## **CITY COUNCIL AGENDA MEMO**

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**Prepared By: John Cabrales Jr, City Administrator**

**April 1, 2024**

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### **Contract Award for Street Improvements in Sky View Ranch Subdivision**

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#### **DESCRIPTION:**

Receive, consider, and act on a Resolution awarding the roadway reconstruction project for Sky Way and Skyview Court, to Peachtree Construction, LTD for a total of \$48,713.50, and pursuant to Tex. Loc. Gov't. Code §271.060(d) and authorize the City Administrator a not-to-exceed project contingency of \$5,286.50, for a budget total of \$54,000.

#### **BACKGROUND INFORMATION:**

The City Council has directed staff to focus on maintenance and reconstruction of our public infrastructure including our roads. On May 15, 2023, the City Council had a work session to discuss options for funding the needed reconstruction and drainage improvement of several city roads. Staff was directed to proceed with the issuance of \$3.5 million in Certificates of Obligation for the use of reconstructing all the roads listed in Priority 1, 2, and 3 from staff's recommendation for a total of \$2,334,350, and for the reconstruction of Graham Road at approximately \$792,600.

Within Priority 1 of the approved road projects, \$75,000 was earmarked for miscellaneous street pavement maintenance. The Sky Way and Skyview Court roads are located in the Sky View Ranch Subdivision and consist of chip seal. The Pavement Condition Index (PCI) for both of these roads was 71 as per the 2023 Pavement Management Plan. This means that these roads do not require a full reconstruction, but instead can have a chip seal overlay done to them to extend the useful life of the road. Staff reached out to several contractors to get quotes for a coated and uncoated aggregate chip seal overlay for these roads. The City received quotes from two (2) contractors and a third contractor replied back that they could not give us a quote because they do not do chip seal work. There were no quotes sought from Historically Underutilized Businesses or "HUB's," pursuant to Tex. Loc. Gov't. Code Section 252.0215, as the Texas Comptroller had no HUB's listed for this type of work.

Staff recommend the coated aggregate option because it helps to better bind the overlay layer to the existing road. It also provides a better sealant for the road, thus preventing rainwater from

seeping into the road base. The cost difference between the coated and uncoated was minimal. Staff recommend awarding the contract to Peachtree Construction, LTD for \$48,713.50, and pursuant to Tex. Loc. Gov't Code, §271.060(d), authorizes the City Administrator a contingency of \$5,286.50, for a not to exceed budget total of \$54,000. The contractor has informed the City that they should be able to do this project in May and will be quick because it only involves two streets and no drainage work.

Staff recommend approval of the Resolution.

### **FINANCIAL CONSIDERATION:**

The City obtained three responses, of which the following quotes were responsive:

- |  |             |
|--|-------------|
| ● Peachtree Construction, LTD (Uncoated) | \$47,217.50 |
| ● Peachtree Construction, LTD (Coated)   | \$48,713.50 |
| ● 3H Concrete Inc. (Uncoated)            | \$45,475.75 |
| ● 3H Concrete Inc. (Coated)              | \$48,975.75 |

On August 7, 2023, the City Council approved an Ordinance related to the issuance and sale of “City of New Fairview, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2023,” including the adoption of an ordinance authorizing the issuance of such certificates of obligation for \$3.5 million. The funds from this 2023 CO issuance will be used to pay for the expense of this contract.

### **RECOMMENDED MOTIONS:**

I move to **Approve/Deny** a Resolution awarding the roadway reconstruction project for Sky Way and Skyview Court, to Peachtree Construction, LTD for a total of \$48,713.50, and pursuant to Tex. Loc. Gov't Code §271.060(d) and authorize the City Administrator a contingency of \$5,286.50, for a not-to-exceed project budget total of \$54,000.

### **ATTACHMENT(S):**

1. Resolution 202404-01-120
2. Quotes



**CITY OF NEW FAIRVIEW, TEXAS  
RESOLUTION No. 202404-01-120**

**A RESOLUTION AWARDING A ROADWAY RECONSTRUCTION CONTRACT FOR SKY WAY AND SKYVIEW COURT, TO PEACHTREE CONSTRUCTION, LTD FOR A TOTAL OF \$48,713.50, AND PURSUANT TO TEX. LOC. GOV'T. CODE SECTION 271.060(D), AUTHORIZE THE CITY ADMINISTRATOR TO EXPEND A NOT-TO-EXCEED PROJECT CONTINGENCY OF \$5,286.50 FOR A BUDGET TOTAL OF \$54,000.00, AND FURTHER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE THE NECESSARY CONTRACT DOCUMENTS FOR THE SAME.**

**WHEREAS**, the City Council on May 15, 2023 had a work session to discuss options for funding the needed reconstruction and drainage improvement of several city roads in the Chisholm Hills subdivision; and

**WHEREAS**, the City Council on August 7, 2023 approved an Ordinance related to the issuance and sale of “City of New Fairview, Texas, Combination Tax and Revenue Certificates of Obligation (CO), Series 2023”, including the issuance of such certificates of obligation for \$3.5 million, and the funds from this 2023 CO issuance will be used to pay for the expense of the reconstruction and drainage improvement of certain roads, including \$75,000 that was earmarked for miscellaneous street pavement maintenance; and

**WHEREAS**, the Sky Way and Skyview Court roads are located in the Sky View Ranch Subdivision and consist of chip seal, and the Pavement Condition Index for both of these roads was 71 as per the 2023 Pavement Management Plan, which means that these roads do not require a full reconstruction, but instead can have a chip seal overlay done to them to extend the useful life of the road; and

**WHEREAS**, staff, in compliance with the City’s Procurement Policies, reached out to several contractors to get quotes for a coated and uncoated aggregate chip seal overlay for these roads, and the City received three responses from three (3) contractors, with one of the contractors being non-responsive, advising that they do not do chip seal work and the other two providing written estimates; and

**WHEREAS**, the City Council has determined that it is in the best interest of the health, safety, and welfare of the public to repair these roads.

**THEREFORE, 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 hereby awards a roadway reconstruction contract for Sky Way and Skyview Court, to Peachtree Construction, LTD, the lower bid received, for a total of \$48,713.50, and authorize the City Administrator to expend a not-to-exceed project contingency of \$5,286.50 for a Budget commitment or total of \$54,000.

**SECTION 3.** That the City Administrator is hereby authorized to execute the necessary contract

documents.

**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 1<sup>st</sup> day of April, 2024, at a regular meeting of the New Fairview City Council.

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JOHN TAYLOR, Mayor

ATTEST:

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BROOKE BOLLER, City Secretary



**3H Concrete Inc  
411 Golliad  
Lake Dallas, TX 75065  
OFFICE (940) 391-9924  
E-MAIL: [jflowers@3h-inc.com](mailto:jflowers@3h-inc.com)**

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**BID PROPOSAL**

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**DATE: MARCH 5, 2024**

**TO: New Fairview Tx**

**E-MAIL: [jflowers@3h-inc.com](mailto:jflowers@3h-inc.com)**

**PROJECT: NEW FAIRVIEW, Sky view**

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**INSTALL 1 LAYER CHIP SEAL INFRASTRUCTURE 9350 SY**

**Rock used will be coated rock  
Sweeping and repairs buy others**

**Price for non-coated rock \$ 45,475.75**

**SALE PRICE: \$45,475.75**

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**NOT RESPONSIBLE FOR BONDS, PERMITS, SURVEYING OR TESTING  
NOT RESPONSIBLE FOR GROUNDWATER  
CUSTOMER TO SUPPLY WATER FOR JOB CONSTRUCTION  
1 YR. WARRANTY ON WORKMANSHIP AND MATERIALS**

**SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_**

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Lake Dallas, TX 75065  
OFFICE (940) 391-9924  
E-MAIL: [jflowers@3h-inc.com](mailto:jflowers@3h-inc.com)**

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**BID PROPOSAL**

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**DATE: FEBRUARY 29, 2024**

**TO: New Fairview Tx**

**E-MAIL: [jflowers@3h-inc.com](mailto:jflowers@3h-inc.com)**

**PROJECT: NEW FAIRVIEW, Sky view**

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**INSTALL 1 LAYER CHIP SEAL INFRASTRUCTURE 9350 SY**

**Rock used will be coated rock  
Sweeping and repairs buy others**

**SALE PRICE: \$48,975.75**

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**NOT RESPONSIBLE FOR BONDS, PERMITS, SURVEYING OR TESTING  
NOT RESPONSIBLE FOR GROUNDWATER  
CUSTOMER TO SUPPLY WATER FOR JOB CONSTRUCTION  
1 YR. WARRANTY ON WORKMANSHIP AND MATERIALS**

**SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_**

# PEACHTREE CONSTRUCTION, LTD.

5801 Park Vista Cir. • Keller, TX. 76244 • (817) 741-4658 • Fax (817) 741-4648

**Pacheco Koch**  
**Attn: Ryley Paroulek**

**March 06, 2024**  
**Fax Number:**

*We propose to furnish all labor, materials, and equipment to construct, as an independent contractor, the following work:* Sky Way and Skyview Court Sealcoat – City of New Fairview

ITEM #	ITEM DESCRIPTION	QUANTITY	UM	UNIT PRICE	TOTAL PRICE
1	Sealcoat (with Uncoated Aggregate)	9,350.00	SY	\$5.05	\$47,217.50
				<b>Total:</b>	<b>\$47,217.50</b>

### INCLUSIONS & EXCLUSIONS:

\*Bid does not include the following: sales tax, bond cost, AGC dues, testing, utility adjustments, curb or pavement edge backfill, temporary striping or tabs, barricades, traffic control (including lane closure labor or equipment), engineering or layout, patching or repair to installed or existing facilities, or any item not specifically called out in this bid.

\*Prices based upon doing work in 1 move-in. Additional move-ins will be charged @ the rate of \$6,500.00 each.

\*Existing pavement to be crack sealed, vegetation removed, any potholes filled, and acceptable by Peachtree Construction, prior to our mobilization.

\*Sealcoat based on TY-L GR-4 aggregate with CRS-2P.

\*Because of anticipated escalation in costs, all liquid asphalt and emulsion quoted daily rack; any increase from time of bid will be billed to general contractor. Because of the difficulty and uncertainty of ascertaining fault, if any, for delay in prosecution of the work, and because such escalation costs are a function of the prices charged by Peachtree's vendors, the parties agree that such escalation rates shall be paid regardless of fault for any such delay.

\*Peachtree Construction's indemnification shall be to the extent of our own negligence. Peachtree Construction shall have no liability for design or the sole or partial negligence of the owner or general contractor's personnel.

**\*Due to volatile pricing of liquid AC and HMAC materials, quoted prices are firm for 14 days unless written notice of acceptance of our quote is received in our office prior to expiration. Failure to provide written intent of award may result in additional cost. All items are bid as unit price unless shown otherwise.**

**\*This proposal and the scope of work set for herein shall be considered a part of any contract executed concerning the work generally outlined in this proposal. The scope of work under any such contract shall be limited to the scope of work in this proposal unless changes in the scope of work are identified specifically, such changes are called to the attention of Peachtree, and Peachtree has accepted the changed scope of work as indicated by its authorized representative's initial next to the scope of work item(s) in the contract that are different from the proposal.**

### ACCEPTED:

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

### PEACHTREE CONSTRUCTION, LTD.

By: Peachtree International, L.L.C., General Partner

Submitted By: \_\_\_\_\_

Marshall Luig, Estimator

# PEACHTREE CONSTRUCTION, LTD.

5801 Park Vista Cir. • Keller, TX. 76244 • (817) 741-4658 • Fax (817) 741-4648

**Pacheco Koch**  
**Attn: Ryley Paroulek**

**March 06, 2024**  
**Fax Number:**

*We propose to furnish all labor, materials, and equipment to construct, as an independent contractor, the following work:* Sky Way and Skyview Court Sealcoat – City of New Fairview

ITEM #	ITEM DESCRIPTION	QUANTITY	UM	UNIT PRICE	TOTAL PRICE
1	Sealcoat (with Coated Aggregate)	9,350.00	SY	\$5.21	\$48,713.50
				<b>Total:</b>	<b>\$48,713.50</b>

### INCLUSIONS & EXCLUSIONS:

\*Bid does not include the following: sales tax, bond cost, AGC dues, testing, utility adjustments, curb or pavement edge backfill, temporary striping or tabs, barricades, traffic control (including lane closure labor or equipment), engineering or layout, patching or repair to installed or existing facilities, or any item not specifically called out in this bid.

\*Prices based upon doing work in 1 move-in. Additional move-ins will be charged @ the rate of \$6,500.00 each.

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\*Sealcoat based on TY-PL GR-4 aggregate with CRS-2P.

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### ACCEPTED:

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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By: Peachtree International, L.L.C., General Partner

Submitted By: \_\_\_\_\_

Marshall Luig, Estimator