



**City of New Fairview
City Council
Regular Called Meeting
999 Illinois Lane
Monday, July 15, 2024, at 7:00 pm**

WORK SESSION

- 1. Call to Order and Determination of Quorum (per Texas Election Code Sec. 67.004)**
- 2. Receive a report and hold a discussion regarding the Fiscal Year (FY) 2023-24 budget trends and the projections and priorities for FY 2024-25 annual budget.**
- 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 June 17, 2024.
 - B. Approve the June 2024 Financial Report.
7. **New Business:** All matters listed in New Business will be discussed and considered separately.
- A. Receive, consider, and act on a Resolution awarding the roadway reconstruction project for Pioneer Road to 3H Concrete Inc. for a total of \$130,526.17 and establish a not-to-exceed project contingency of \$145,000.
 - B. Receive, consider, and act on an Ordinance approving the 2024 Annual Service Plan Update to the Service and Assessment Plan, including the Assessment Roll, for the Constellation Lake Public Improvement District in accordance with Chapter 372, Local Government Code, as amended.
 - C. Receive, consider, and act on a Petition requesting the deannexation of approximately 236.70 acres in the Smith County School Land Survey, Wise County, Texas.
 - D. Receive, consider, and act on Resolution authorizing the City Administrator to execute a contract with Lloyd Gosselink Rochelle and Townsend, PC for legal services for water and wastewater for the Wise County Mayors Coalition.
 - E. Receive, consider, and act on a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for landscape architecture services relating to the awarded 2025 TXDOT Green Ribbon Grant Project.
 - F. Receive, consider, and act on an Interlocal Agreement with the Texas Municipal League Intergovernmental Risk Pool for continued Cyber Liability and Data Breach Response Coverage
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.
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 12th day of July, 2024 at 5:00 PM at least 72 hours proceeding the meeting time.



Susan Greenwood, City Secretary

SEAL:



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



**City of New Fairview
City Council
Regular Called Meeting
999 Illinois Lane
Monday, June 17, 2024, at 7:00 pm**

**CITY COUNCIL
Mayor John Taylor
Mayor Pro Tem Steven King
Place 1 Councilman Harvey Lynn Burger
Place 2 Councilman Peter Kozlowski
Place 3 Councilwoman Sarah Adams
Place 5 Councilwoman Alisa Scheps**

**City Staff
John Cabrales Jr, City Administrator
Susan Greenwood, City Secretary**

**Absent
Place 2 Councilman Peter Kozlowski**

WORK SESSION

1. Call to Order and Determination of Quorum (per Texas Election Code Sec. 67.004) **(Work Session called to order by Mayor John Taylor at 7:04 pm; Roll Call with the above-mentioned names.)**
2. Receive a report and hold a discussion regarding the Fiscal Year (FY) 2023-24 budget trends and the projections and priorities for FY 2024-25 annual budget.
Council received a presentation from City Administrator John Cabrales Jr. about the budget for the following departments: Public Works, Public Safety, Code Enforcement, and Parks.
3. Adjournment
**Motion: Councilman Steven King
Second: Councilwoman Alisa Scheps
Vote: All in Favor
Result: Council adjourned the work session at 8:28pm.**

REGULAR SESSION

1. Call to Order and Determination of Quorum **(Regular Session called to order by Mayor John Taylor at 7:30 pm; Roll Call with the above-mentioned names.)**

1. 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.
2. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
 - A. Wise EMS Recognition
3. 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.
4. 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.
5. 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 June 3, 2024.
Motion: Mayor Pro Tem Steven King
Second: Councilwoman Sarah Adams
Vote: All in Favor
Result: Council Approved the council minutes for June 3, 2024.
 - B. Approve the May 2024 Financial Report.
Motion: Mayor Pro Tem Steven King
Second: Councilwoman Sarah Adams
Vote: All in Favor
Result: Council Approved the financial report for May 2024.
6. New Business: All matters listed in New Business will be discussed and considered separately.
 - A. Receive, consider, and act on appointing members to the Parks and Recreation Board and the Keep New Fairview Beautiful Committee.
Motion: Mayor Pro Tem Steven King
Second: Councilwoman Sarah Adams
Vote: All in Favor
Result: Council reappointed Deborah Greene Place 1 to the Parks and Recreation Board and the Keep New Fairview Beautiful.

Motion: Councilwoman Sarah Adams

Second: Mayor Pro Tem Steven King

Vote: All in Favor

Result: Council removed Commissioner Christine Waldie from the Alternate Position to Place 3 and Commissioner Julie Burger was not reappointed.

- B. Receive, consider, and act on a Resolution for the cancellation of the July 1, 2024, Regular City Council Meeting.

Motion: Mayor Pro Tem Steven King

Second: Councilwoman Sarah Adams

Vote: All in Favor

Result: Council Approved the cancellation of the July 1, 2024, Regular City Council Meeting.

7. 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 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.
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11. Adjournment

Motion: Councilwoman Sarah Adams

Second: Councilwoman Alisa Scheps

Vote: All in Favor

Result: Council adjourned the Regular Session at 8:47pm.

MINUTES APPROVED ON THIS, THE 15TH DAY OF JULY 2024

John Taylor, Mayor

Susan Greenwood, City Secretary

CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

July 15, 2024

Bid Award for Pioneer Road Improvement Project

DESCRIPTION:

Receive, consider, and act on a Resolution awarding the roadway reconstruction project for Pioneer Road to 3H Concrete Inc. for a total of \$130,526.17 and establish a not-to-exceed project contingency of \$145,000.

BACKGROUND INFORMATION:

In late 2019, the City Council asked Pacheco Koch to do an assessment on the north and south portions of Pioneer Roadway and present their findings on what would be needed to pave the roadway with an estimate of costs.

In December 2020, the City entered into an agreement with Pacheco Koch for the surveying and engineering of the north and south portions of Pioneer Road that was assessed the previous year. The City executed an agreement with the developer of Fairview Meadows (Lackland Holdings) to reimburse the City for all fees accrued for the design of Pioneer Road.

In February 2021, Pacheco Koch submitted their plans of the connection to FM 407 to the Texas Department of Transportation (TxDOT) in order to obtain a driveway access permit for construction within TxDOT Rights-of-way (ROW).

On May 3, 2024, TxDOT approved the permit for the driveway access, and the permit is good for only six (6) months from the date of issuance. On May 20, 2024, the City Council had a discussion with the city engineer, Ryley Paroulek with Westwood, and authorized staff to move forward with bidding out the reconstruction of Pioneer Road at FM 407 as recommended by the city engineer.

The City posted all legally required notices for the soliciting of sealed bids for the Pioneer Road Improvement Project. There were two (2) bids received on June 28, 2024, and the bids were opened and are listed in the Financial Consideration Section below.

Staff recommend approval of the Resolution.

FINANCIAL CONSIDERATION:

The City obtained the following bids:

3H Concrete Inc.	\$130,526.17
SPI Asphalt	\$273,390.00

Staff also recommend establishing a not-to-exceed project contingency of \$145,000.

There are 2023 Certificate of Obligation Bond funds available in the Capital Improvement Projects Fund due to savings from the Chisholm Hills Phase II road and drainage projects. These funds will be used to pay for the Pioneer Road improvement project.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution awarding the roadway reconstruction project for Pioneer Road to 3H Concrete Inc. for a total of \$130,526.17 and establish a not-to-exceed project contingency of \$145,000.

ATTACHMENT(S):

1. Resolution 202407-01-127
2. Bids and Tabulation
3. Westwood Presentation



**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION No. 202407-01-127**

A RESOLUTION AWARDED A ROADWAY RECONSTRUCTION CONTRACT FOR PIONEER ROAD, TO 3H CONCRETE INC FOR A TOTAL OF \$130,526.17, AND ESTABLISH A NOT-TO-EXCEED PROJECT CONTINGENCY OF \$145,000, AND FURTHER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE THE NECESSARY CONTRACT DOCUMENTS FOR THE SAME.

WHEREAS, the City Council in late 2019, asked Pacheco Koch to do an assessment on the north and south portions of Pioneer Roadway and present their findings on what would be needed to pave the roadway with an estimate of costs; and

WHEREAS, in December 2020, the City entered into an agreement with Pacheco Koch for the surveying and engineering of the north and south portions of Pioneer Road that was assessed the previous year, and the City executed an agreement with the developer of Fairview Meadows (Lackland Holdings) to reimburse the City for all fees accrued for the design of Pioneer Road; and

WHEREAS, in February 2021, Pacheco Koch submitted their plans of the connection to FM 407 to the Texas Department of Transportation (TxDOT) in order to obtain a driveway access permit for construction within TxDOT Rights-of-way (ROW); and

WHEREAS, on May 3, 2024, TxDOT approved the permit for the driveway access, and the permit is good for only six (6) months from the date of issuance; and

WHEREAS, on May 20, 2024, the City Council had a discussion with the city engineer, Ryley Paroulek with Westwood, and authorized staff to move forward with bidding out the reconstruction of Pioneer Road at FM 407 as recommended by the city engineer; and

WHEREAS, the City published a notice to bidders, as required by state law, that the City would receive sealed bids for the roadway reconstruction project for Pioneer Road. The bids were received until 10:00 AM Friday, June 28, 2024, and they were opened and read on the same day in the City Council Chambers.

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 Pioneer Road, to 3H Concrete Inc. for a total of \$130,526.17 and establishes a not-to-exceed project contingency of \$145,000.

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 15th day of July, 2024, at a Regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

SUSAN GREENWOOD, City Secretary

CONSTRUCTION CONTRACT DOCUMENTS
FOR
PIONEER ROAD- FM 407 TxDOT CONNECTION

FOR THE

CITY OF NEW FAIRVIEW

999 Illinois Lane
New Fairview, Texas 76078
Phone (817) 638-5366 – Fax (817) 638-5369



JUNE 2024

Westwood

TX REG. ENGINEERING FIRM F-11756
4060 Bryant Irvin Road, Fort Worth, Texas 76109
(817) 412-7155 Fax (817) 412-7156
WW PROJECT NO. R0039209.01

Section 00 01 08

CITY OF NEW FAIRVIEW

BID OPENING CONVENIENCE PAGE

The City of New Fairview is soliciting sealed bids for the asphalt pavement construction within TxDOT ROW at FM 407 and culvert replacement.

Designate on the front, lower left hand corner of your response envelope, the following:

Subject: Pioneer Road- FM 407 TxDOT Connection

Bid Closing Time:

Friday, June 28, 2024 at 10:00 A.M.

For convenience at Bid Opening, enter bid on this cover page and include in sealed response envelope. (Do not place quoted prices on the outside of the envelope):

Total Cost: \$ 273,390.00 _____

SPI Asphalt, LLC.

Company Name

1001 Cliff Dr.


Address

Graham, TX 76450

City, State, and Zip Code

940-230-6575

Phone

By:  _____
Authorized Agent

SUPPLEMENTS TO THIS BID:

The following Supplements are attached as an integral part of this Bid:

- Document 00 42 10 – Unit Price Bid Form (If Applicable)
- Document 00 43 10 - Bid Bond Form (Form May be Supplied by Bidder)
- Document 00 45 10 - Form of Business
- Document 00 45 13 - Statement of Bidder's Qualifications
- Document 00 45 15 - Certificate of Bidder's Experience & Qualifications
- Document 00 45 19 - Non-Collusion Affidavit
- Document 00 45 43 - Resolution of Corporation (Form May be Supplied by Bidder)
- Document 00 45 50 – Conflict of Interest Questionnaire (CIQ)

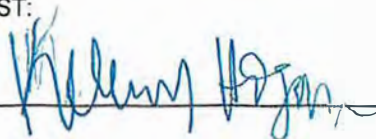
The undersigned, as Bidder, declares that the only person or parties interested in this Proposal as principals are those named herein, that this Proposal is made without collusion with any other person, firm or corporation.

Bidder: SPI Asphalt, LLC.
[Type the full name of your proprietorship, partnership, corporation, or joint venture.]

By:  6/28/2024
[Signature] [Date]

Name: Anthony Hagan 6/28 Managing Member
[Type name] [Title]

(Seal - if Bidder is
a Corporation)

ATTEST:


Section 00 21 00

INSTRUCTIONS TO BIDDERS

Part 1 – GENERAL

1.1 INVITATION TO BID

- A. Sealed proposals for furnishing all labor, materials, and equipment for Pioneer Road- FM 407 TxDOT Connection are invited to be submitted to the City of New Fairview, 999 Illinois Lane, New Fairview, Texas 76078.
- B. The project is located in the City of New Fairview, Wise County, Texas.

1.2 SCOPE OF PROJECT: The project consists of approximately 925 SY of asphalt pavement type B and D, 1,000 SY of base work, 450 SY of ditch grading and 81 LF of storm pipe installation.

1.3 OWNER

The OWNER of the project is the City of New Fairview, 999 Illinois Lane, New Fairview, Texas 76078.

1.4 ENGINEER

The ENGINEER for this project is Westwood Professional Services, 4060 Bryant Irvin, Fort Worth, Texas 76109.

1.5 PROCEDURE OF SUBMISSION

- A. Proposals shall be addressed to the OWNER and on forms furnished by the ENGINEER, which are bound with these Contract Documents. All blanks in the Proposal and Bid Form must be completed.
- B. An opaque, sealed envelope containing one copy of the Proposal Form shall be clearly marked as follows:
"Proposal of (Name of Bidder).
For: Pioneer Road- TM 407 TxDOT Connection
- C. Proposals will be accepted for this project until 10:00 AM, Friday, June 28th, 2024.

1.6 BID SECURITY

Bid Security in the amount of five percent (5%) of the sum of the Total Amount Bid must accompany each Bid.

1.7 DRAWINGS AND SPECIFICATIONS

- A. Construction Contract Documents may be examined without charge at the office of the OWNER.
- B. Copies of the Construction Contract Documents may be obtained from the ENGINEER by email accompanied by the bidder's name, contact name, address, telephone number, fax number and email address. A pdf copy of the bid documents may be obtained free of charge by emailing ryley.paroulek@westwoodps.com and requesting a PDF copy of the Pioneer Road- FM 407 TxDOT Connection. Addenda are free of charge and will be distributed to those who obtain Bid Documents from Westwood. For more information, you may contact Ryley Paroulek, at (817) 785-7350 for questions.

1.8 QUANTITIES IN UNIT PRICE BID FORM

The quantities of the work and materials set forth in the Unit Price Bid Form or on the plans approximately represents the work to be performed and materials to be furnished; and are for the purpose of comparing the bids on a uniform basis. Payments shall be made to the contractor only for the actual quantities of work performed or materials furnished in

accordance with the plans and specifications; and it is understood that the quantities may be increased or decreased, without in any way invalidating the bid process.

1.9 EXAMINATION OF PLANS, SPECIFICATIONS & SITE OF THE WORK

- A. Bidders are advised that the plan drawings, specifications and other documents provided herein shall constitute all the information which the OWNER shall furnish. Bidders are required, prior to submitting any proposal, to review the plan drawings and read the specifications, proposal, contract and bond forms carefully; to visit the site of the work; to examine carefully local conditions; to inform themselves by their independent research, tests and investigations of the difficulties to be encountered and judge for themselves the accessibility of the work and all attending circumstances affecting the cost of doing work or time required for its completion; and to obtain all information required to make an intelligent proposal.
- B. No information given by the OWNER or any official thereof, other than that shown on the plan drawings and contained in the specifications, proposal and other contract documents, shall be binding upon the OWNER. Bidders shall rely exclusively upon their own estimates, investigation, tests and other data which are necessary for full and complete information upon which the proposal may be based. Any bidder, by submitting his bid, represents and warrants: that he has prepared his bid in accordance with the specifications, with full knowledge and understanding of the terms and provisions thereof; that he has reviewed, studied and examined the bid prior to the signing and submission of same; and that he was cognizant of the terms of his proposal, verified his calculations and found them to be correct and agrees to be bound thereby.

1.10 BID DOCUMENT QUESTIONS

Questions regarding these bid documents shall be addressed to the ENGINEER for clarification. Items requiring an addendum will be issued to all those who purchase Bid Documents and will become part of the Contract. Questions received less than 72 hours before the designated bid time cannot be answered by Addendum, and oral statements at any time will not be binding to the OWNER or the Contractor.

1.11 PERMIT FEES

The Contractor shall be responsible for the payment of all permit fees associated with the construction of these improvements. No reimbursement shall be made to the Contractor for this item.

1.12 BONDS

The CONTRACTOR will be required to submit Performance, Payment and Maintenance Bonds for the project. No additional reimbursement will be made for these bonds.

END OF SECTION

Section 00 42 00

BID PROPOSAL

TO:

City of New Fairview
c/o City Secretary
999 Illinois Lane,
New Fairview, Texas 76078

Date: 06/28/2024

Name of Bidder: SPI Asphalt, LLC. Phone: 940-230-6575

Street Address: 1001 Cliff Dr.

City and State: Graham, TX Zip: 76450

The undersigned BIDDER, having examined the site, Plans, Specifications and other documents, HEREBY PROPOSES to furnish all labor, materials, tools, supplies, and necessary equipment to construct, complete in place and ready for use:

Pioneer Road- FM 407 TxDOT Connection

For the Total Price of:

In Words: TWO HUNDRED SEVENTY THREE THOUSAND THREE HUNDRED NINETY Dollars

and ZERO Cents

In Figures: \$ 273,390.00

Maximum contract time required by the Contractor for completion of these improvements, beginning on the date specified in the Notice to Proceed, is 60 Calendar days.

Receipt is acknowledged of the following Addenda:

Addendum No. 1 _____

Addendum No. 2 _____

Addendum No. 3 _____

Address: 1001 Cliff Dr. Graham, TX 76450
[Mailing]

[Street, if different]

Telephone: 940-230-6575
[Type telephone number]

* *If the Bid is a joint venture, add additional Bid form signature sheets for each member of the joint venture.*

** *The undersigned, as bidder, certifies that the only person or parties interested in this proposal as principals are those named herein; that the Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the Contract for the Project.*

Note: This document constitutes a government record, as defined by § 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in § 37.10 of the Texas Penal Code.

Section 00 42 10
UNIT PRICE BID FORM

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION (SPECIFICATION NO.) PRICES TO BE WRITTEN IN WORDS	UNIT PRICE	TOTAL PRICE
PROPOSED IMPROVEMENTS				
1	1 LS	Mobilization (Spec No. 01 29 10) <u>TWENTY THOUSAND</u> DOLLARS AND <u>ZERO</u> CENTS PER LS	\$ <u>20,000.00</u>	\$ <u>20,000.00</u>
2	2 MO	Traffic Control (Spec No. NCTCOG 801.1) <u>EIGHT THOUSAND</u> DOLLARS AND <u>ZERO</u> CENTS PER MO	\$ <u>8,000.00</u>	\$ <u>16,000.00</u>
3	1 LS	Temporary Erosion, Sedimentation And Water Pollution Prevention (SWPPP) (Spec No. NCTCOG 202) <u>TEN THOUSAND</u> DOLLARS AND <u>ZERO</u> CENTS PER LS	\$ <u>10,000.00</u>	\$ <u>10,000.00</u>
4	3 STA	Right of Way Preparations (Spec No. NCTCOG 203.1) <u>TEN THOUSAND</u> DOLLARS AND <u>ZERO</u> CENTS PER STA	\$ <u>10,000.00</u>	\$ <u>30,000.00</u>
5	90 LF	Remove Crossing Culvert (18" RCP) (Spec No. NCTCOG 203.1) <u>SIXTY</u> DOLLARS AND <u>ZERO</u> CENTS PER LF	\$ <u>60.00</u>	\$ <u>5,400.00</u>
6	2 EA	Remove Concrete Safety End Treatment (Spec No. NCTCOG 203.1) <u>ONE THOUSAND FIVE HUNDRED</u> DOLLARS AND <u>ZERO</u> CENTS PER EA	\$ <u>1,500.00</u>	\$ <u>3,000.00</u>
7	45 LF	Remove Barbed Wire Fence (Spec No. NCTCOG 203.1) <u>FORTY</u> DOLLARS AND <u>ZERO</u> CENTS PER LF	\$ <u>40.00</u>	\$ <u>1,800.00</u>
8	70 SY	Remove Gravel Driveway (Spec No. NCTCOG 203.1) <u>FIFTY</u> DOLLARS AND <u>ZERO</u> CENTS PER SY	\$ <u>50.00</u>	\$ <u>3,500.00</u>

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION (SPECIFICATION NO.) PRICES TO BE WRITTEN IN WORDS	UNIT PRICE	TOTAL PRICE
9	150 CY	Unclassified Roadway Excavation (Spec No. NCTCOG 203.2) <u>ONE HUNDRED FIFTY</u> DOLLARS AND <u>ZERO</u> CENTS PER CY	\$ <u>150.00</u>	\$ <u>22,500.00</u>
10	925 SY	4" HMAC Type "B" (Spec No. NCTCOG 302) <u>SIXTY</u> DOLLARS AND <u>ZERO</u> CENTS PER SY	\$ <u>60.00</u>	\$ <u>55,500.00</u>
11	925 SY	2" HMAC Type "D" (Spec No. NCTCOG 302) <u>THIRTY</u> DOLLARS AND <u>ZERO</u> CENTS PER SY	\$ <u>30.00</u>	\$ <u>27,750.00</u>
12	1,000 SY	8" Grade 1 Type D Flex Base Subgrade (Spec No. NCTCOG 301.2) <u>TEN</u> DOLLARS AND <u>ZERO</u> CENTS PER SY	\$ <u>30.00</u>	\$ <u>30,000.00</u>
13	30 SY	6" Flexible Base Driveway Approach (Spec No. NCTCOG 305.2) <u>ONE HUNDRED FIFTY</u> DOLLARS AND <u>ZERO</u> CENTS PER SY	\$ <u>150.00</u>	\$ <u>4,500.00</u>
14	1 EA	Install Dual Metal Swing Gate (Spec No. -) <u>FOUR THOUSAND</u> DOLLARS AND <u>ZERO</u> CENTS PER EA	\$ <u>4,000.00</u>	\$ <u>4,000.00</u>
15	450 SY	4" Topsoil (Spec No. NCTCOG 204.2) <u>TWENTY</u> DOLLARS AND <u>ZERO</u> CENTS PER SY	\$ <u>20.00</u>	\$ <u>9,000.00</u>
16	450 SY	Seeding Hydromulch (Spec No. NCTCOG 204.6) <u>TEN</u> DOLLARS AND <u>ZERO</u> CENTS PER SY	\$ <u>10.00</u>	\$ <u>4,500.00</u>

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION (SPECIFICATION NO.) PRICES TO BE WRITTEN IN WORDS	UNIT PRICE	TOTAL PRICE
17	21 LF	CMP (GAL STL 12 IN) (Spec No. TxDOT 460) ONE HUNDRED FORTY DOLLARS AND ZERO CENTS PER LF	\$ <u>140.00</u>	\$ <u>2,490.00</u>
18	60 LF	RC PIPE (CL III) (18 IN) (Spec No. TxDOT 464) TWO HUNDRED DOLLARS AND ZERO CENTS PER LF	\$ <u>200.00</u>	\$ <u>12,000.00</u>
19	2 EA	SET (TY II) (12 in) (CMP) (6:1) (P) (Spec No. TxDOT 467) TWO THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS PER EA	\$ <u>2,500.00</u>	\$ <u>5,000.00</u>
20	2 EA	SET (TY II) (18 in) (RCP) (6:1) (P) (Spec No. TxDOT 467) THREE THOUSAND DOLLARS AND ZERO CENTS PER EA	\$ <u>3,000.00</u>	\$ <u>6,000.00</u>
TOTAL BID \$			<u>273,390.00</u>	

Section 00 43 10

BID BOND FORM

BIDDER (Name and Address):

SPI Asphalt, LLC
1103 Misty Ridge Drive
Justin, TX 76247

SURETY (Name and Address of Principal Place of Business):

American Contractors Indemnity Company dba Texas Bonding Company
801 S. Figueroa Street, Suite 700
Los Angeles, CA 90017

OWNER (Name and Address):

City of New Fairview, TX
999 Illinois Lane
New Fairview, TX 76078

BID

BID DUE DATE: June 28, 2024

PROJECT TITLE:
Pioneer Road - FM 407 TxDOT Connection

BOND

BOND NUMBER: Bid Bond

DATE (Not later than Bid due date): June 25, 2024

PENAL SUM: Five Percent of Total Amount Bid (Words) 5% TAB (Figures)

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent or representative.

BIDDER

SPI Asphalt, LLC (Seal)
Bidder's Name and Corporate Seal

By: [Signature] Managing Member
Signature and Title

Attest: [Signature] Secretary
Signature and Title

SURETY

American Contractors Indemnity Company dba Texas Bonding Company (Seal)
Surety's Name and Corporate Seal

By: [Signature]
Signature and Title Ginger Hoke, Attorney-in-Fact (Attach Power of Attorney)

Attest: [Signature]
Signature and Title Mark R. DeWitt, Witness



- Note: (1) Above addresses are to be used for giving required notices.
(2) Any singular reference to Bidder, Surety, OWNER or other party shall be considered plural where applicable.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to OWNER upon default of Bidder any difference between the total amount of Bidder's Bid and the total amount of the Bid of the next lowest, responsible and responsive Bidder as determined by OWNER for the Work required by the Contract Documents, provided that:
 - A. If there is no such next lowest, responsible and responsive Bidder, and OWNER does not abandon the Project, then Bidder and Surety shall pay to OWNER the penal sum set forth on the face of this Bond, and
 - B. In no event shall Bidder's and Surety's obligation hereunder exceed the penal sum set forth on the face of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by Bidding Documents.
3. This obligation shall be null and void if:
 - A. OWNER accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by Bidding Documents and any performance and payment Bonds required by the Bidding Documents, or
 - B. All Bids are rejected by OWNER, or
 - C. OWNER fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and if applicable, consented to by Surety when required by paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from OWNER, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by OWNER and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 30 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirements of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer or proposal as applicable.

End of Section



TOKIO MARINE
HCC

POWER OF ATTORNEY

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Mark DeWitt, Jay D. Freiermuth Ginger Hoke, Donald G. Stitts or Keeton Welch of Dallas, Texas

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** *****Ten Million***** Dollars (***\$10,000,000.00***)

This Power of Attorney shall expire without further action on April 23rd, 2026. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 18th day of April 2022.



AMERICAN CONTRACTORS INDEMNITY COMPANY, TEXAS BONDING COMPANY, UNITED STATES SURETY COMPANY, U.S. SPECIALTY INSURANCE COMPANY

By

Daniel P. Aguilar, Vice President

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

On this 18th day of April 2022, before me, Sonia O. Carrejo, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 25th day of June 2024

Bond No. bid bond
Agency No. 17077 - PDF POA



Kio Lo, Assistant Secretary

visit tmhcc.com/surety for more information

HCCSMANPOA072023

Section 00 01 08

CITY OF NEW FAIRVIEW

BID OPENING CONVENIENCE PAGE

The City of New Fairview is soliciting sealed bids for the asphalt pavement construction within TxDOT ROW at FM 407 and culvert replacement.

Designate on the front, lower left hand corner of your response envelope, the following:

Subject: Pioneer Road- FM 407 TxDOT Connection

Bid Closing Time:

Friday, June 28, 2024 at 10:00 A.M.

For convenience at Bid Opening, enter bid on this cover page and include in sealed response envelope. (Do not place quoted prices on the outside of the envelope):

Total Cost: \$ 130,526.17

3H Concrete Inc.
Company Name

411 Goliad Ave
Address

Lake Dallas TX 75065
City, State, and Zip Code

(940) 391-9924
Phone

By: 
Authorized Agent

Section 00 42 00

BID PROPOSAL

TO:

City of New Fairview
c/o City Secretary
999 Illinois Lane,
New Fairview, Texas 76078

Date: June 28, 2024

Name of Bidder: 3H Concrete, Inc. Phone: (940)391-9924

Street Address: 411 Goliad Ave
(Mailing: PO Box 776, Lake Dallas, TX 75065)

City and State: Lake Dallas, Texas Zip: 75065

The undersigned BIDDER, having examined the site, Plans, Specifications and other documents, HEREBY PROPOSES to furnish all labor, materials, tools, supplies, and necessary equipment to construct, complete in place and ready for use:

Pioneer Road- FM 407 TxDOT Connection

For the Total Price of:

In Words: One Hundred Thirty Thousand Five Hundred Twenty Six Dollars

and Seventeen Cents

In Figures: \$ 130,526.17.

Maximum contract time required by the Contractor for completion of these improvements, beginning on the date specified in the Notice to Proceed, is 60 Calendar days.

Receipt is acknowledged of the following Addenda:

Addendum No. 1 _____

Addendum No. 2 _____

Addendum No. 3 _____

SUPPLEMENTS TO THIS BID:

The following Supplements are attached as an integral part of this Bid:

- Document 00 42 10 – Unit Price Bid Form (If Applicable)
- Document 00 43 10 - Bid Bond Form (Form May be Supplied by Bidder)
- Document 00 45 10 - Form of Business
- Document 00 45 13 - Statement of Bidder's Qualifications
- Document 00 45 15 - Certificate of Bidder's Experience & Qualifications
- Document 00 45 19 - Non-Collusion Affidavit
- Document 00 45 43 - Resolution of Corporation (Form May be Supplied by Bidder)
- Document 00 45 50 – Conflict of Interest Questionnaire (CIQ)

The undersigned, as Bidder, declares that the only person or parties interested in this Proposal as principals are those named herein, that this Proposal is made without collusion with any other person, firm or corporation.

Bidder: 3H Concrete Inc.
[Type the full name of your proprietorship, partnership, corporation, or joint venture.]

By:  06/28/2024
[Signature] [Date]

Name: Joe Flowers Owner/CEO
[Type name] [Title]

(Seal - if Bidder is a Corporation)

ATTEST:

Linda Hayes, 

Address: P.O Box 776, Lake Dallas, TX 75065
[Mailing]

411 Goliad Ave, Lake Dallas, TX 75065
[Street, if different]

Telephone: (940) 391-9924
[Type telephone number]

* *If the Bid is a joint venture, add additional Bid form signature sheets for each member of the joint venture.*

** *The undersigned, as bidder, certifies that the only person or parties interested in this proposal as principals are those named herein; that the Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the Contract for the Project.*

Note: This document constitutes a government record, as defined by § 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in § 37.10 of the Texas Penal Code.

Section 00 42 10

UNIT PRICE BID FORM

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION (SPECIFICATION NO.) PRICES TO BE WRITTEN IN WORDS	UNIT PRICE	TOTAL PRICE
PROPOSED IMPROVEMENTS				
1	1 LS	Mobilization (Spec No. 01 29 10) <u>Seven thousand six hundred</u> DOLLARS AND <u>eighty four dollars</u> <u>seventeen</u> CENTS PER LS	\$ <u>7,684.17</u>	\$ <u>7,684.17</u>
2	2 MO	Traffic Control (Spec No. NCTCOG 801.1) <u>One thousand Five Hundred</u> DOLLARS AND <u>NO</u> CENTS PER MO	\$ <u>1,500.00</u>	\$ <u>3,000.00</u>
3	1 LS	Temporary Erosion, Sedimentation And Water Pollution Prevention (SWPPP) (Spec No. NCTCOG 202) <u>Nine thousand</u> DOLLARS AND <u>NO</u> CENTS PER LS	\$ <u>9,000.00</u>	\$ <u>9,000.00</u>
4	3 STA	Right of Way Preparations (Spec No. NCTCOG 203.1) <u>Two hundred ninety four</u> DOLLARS AND <u>NO</u> CENTS PER STA	\$ <u>294.00</u>	\$ <u>882.00</u>
5	90 LF	Remove Crossing Culvert (18" RCP) (Spec No. NCTCOG 203.1) <u>Twenty Four</u> DOLLARS AND <u>NO</u> CENTS PER LF	\$ <u>24.00</u>	\$ <u>2,160.00</u>
6	2 EA	Remove Concrete Safety End Treatment (Spec No. NCTCOG 203.1) <u>Three hundred fifty</u> DOLLARS AND <u>NO</u> CENTS PER EA	\$ <u>350.00</u>	\$ <u>700.00</u>
7	45 LF	Remove Barbed Wire Fence (Spec No. NCTCOG 203.1) <u>Five</u> DOLLARS AND <u>NO</u> CENTS PER LF	\$ <u>5.00</u>	\$ <u>225.00</u>
8	70 SY	Remove Gravel Driveway (Spec No. NCTCOG 203.1) <u>Five</u> DOLLARS AND <u>no</u> CENTS PER SY	\$ <u>5.00</u>	\$ <u>350.00</u>

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION (SPECIFICATION NO.) PRICES TO BE WRITTEN IN WORDS	UNIT PRICE	TOTAL PRICE
9	150 CY	Unclassified Roadway Excavation (Spec No. NCTCOG 203.2) <u>Twelve</u> DOLLARS AND <u>NO</u> CENTS PER CY	\$ <u>12.00</u>	\$ <u>1,800.00</u>
10	925 SY	4" HMAC Type "B" (Spec No. NCTCOG 302) <u>Forty nine</u> DOLLARS AND <u>Forty seven</u> CENTS PER SY	\$ <u>49.47</u>	\$ <u>45,759.75</u>
11	925 SY	2" HMAC Type "D" (Spec No. NCTCOG 302) <u>Twenty seven</u> DOLLARS AND <u>seventy three</u> CENTS PER SY	\$ <u>27.73</u>	\$ <u>25,650.25</u>
12	1,000 SY	8" Grade 1 Type D Flex Base Subgrade (Spec No. NCTCOG 301.2) <u>Seven</u> DOLLARS AND <u>NO</u> CENTS PER SY	\$ <u>7.00</u>	\$ <u>7,000.00</u>
13	30 SY	6" Flexible Base Driveway Approach (Spec No. NCTCOG 305.2) <u>seven</u> DOLLARS AND <u>NO</u> CENTS PER SY	\$ <u>7.00</u>	\$ <u>210.00</u>
14	1 EA	Install Dual Metal Swing Gate (Spec No. -) <u>one thousand seven hundred</u> DOLLARS AND <u>fifty dollars</u> <u>N/O</u> CENTS PER EA	\$ <u>1,750.00</u>	\$ <u>1,750.00</u>
15	450 SY	4" Topsoil (Spec No. NCTCOG 204.2) <u>Four</u> DOLLARS AND <u>Fifty</u> CENTS PER SY	\$ <u>4.50</u>	\$ <u>2,025.00</u>
16	450 SY	Seeding Hydromulch (Spec No. NCTCOG 204.6) <u>Three</u> DOLLARS AND <u>eighty two</u> CENTS PER SY	\$ <u>3.82</u>	\$ <u>1,719.00</u>

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION (SPECIFICATION NO.) PRICES TO BE WRITTEN IN WORDS	UNIT PRICE	TOTAL PRICE
17	21 LF	CMP (GAL STL 12 IN) (Spec No. TxDOT 460) <u>Sixty Five</u> DOLLARS AND <u>NO</u> CENTS PER LF	\$ <u>65.00</u>	\$ <u>1,365.00</u>
18	60 LF	RC PIPE (CL III) (18 IN) (Spec No. TxDOT 464) <u>Two hundred twelve</u> DOLLARS AND <u>ninety</u> CENTS PER LF	\$ <u>212.90</u>	\$ <u>12,774.00</u>
19	2 EA	SET (TY II) (12 in) (CMP) (6:1) (P) (Spec No. TxDOT 467) <u>nine hundred</u> DOLLARS AND <u>NO</u> CENTS PER EA	\$ <u>900.00</u>	\$ <u>1,800.00</u>
20	2 EA	SET (TY II) (18 in) (RCP) (6:1) (P) (Spec No. TxDOT 467) <u>Two thousand three hundred</u> DOLLARS AND <u>thirty six</u> <u>NO</u> CENTS PER EA	\$ <u>2,336.00</u>	\$ <u>4,672.00</u>
TOTAL BID \$			<u>130,526.17</u>	

FORM OF BUSINESS

Fill in the appropriate area describing your firm's form of business and include the relevant attachments.

Corporation:

Corporate Name: 3H Concrete Inc.
State of Incorporation: Texas
Mailing Address: P.O. Box 776, Lake Dallas, TX 75065

- i Certificate of Assumed Name, if operating under a name different than that on the corporate charter (the Certificate must have been issued within the past ten years to be valid)
- i Certificate of Good Standing*
- i Certificate of Existence (if non-Texas corporation, Certificate of Authority) *

Partnership/Joint Venture:

Partnership/Joint Venture Name: _____
Mailing Address: _____

- i Copy of the Partnership or Joint Venture Agreement, or Affidavit with the name of the partnership or joint venture, the names of the individual partners or participants in the joint venture, and a statement that the partnership or joint venture is in existence
- i Certificate of Assumed Name, (the Certificate must have been issued within the past ten years to be valid)
- i If firm is a limited partnership, the Certificate of Limited Partnership
- i If any partner or joint venture is a corporation, the above information relating to corporation must be included as to each sum partner or joint venture

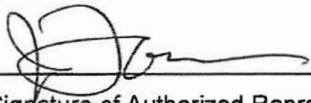
Sole Proprietorship

Name: _____
Mailing Address: _____

- i Certificate of Assumed Name, if operating under a name different than that of the sole proprietor (the Certificate must have been issued within the past ten years to be valid)

* *Must be furnished upon request of the Owner and must be less than 90 days old.*

Joe Flowers
[Typed Name and Title of Authorized Representative]



[Signature of Authorized Representative]

June 28, 2024

[Typed Date]

END OF SECTION

RESOLUTION OF CORPORATION

I hereby certify that it was RESOLVED by a quorum of the directors of

3H Concrete Inc.

[Name of Corporation / Contractor]

meeting on this 27th day of June, 2024, that Joe Flowers,

[Corporate Representative]

be, and hereby is, authorized to act on behalf of the Corporation, as its representative, in all business transactions conducted in the State of Texas, and that the above resolution was unanimously ratified by the Board of Directors at said meeting and that the resolution has not been rescinded or amended and is now in full force and effect; and in authentication of the adoption of this resolution, I subscribe my name and affix the seal of the Corporation on this

27th day of June, 2024.


Secretary/Assistant Secretary

[Seal]

END OF SECTION

PAVING IMPROVEMENTS				3H CONCRETE		SPI ASPHALT		ENGINEER ESTIMATE	
BID ITEM #	BID ITEM DESCRIPTION	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL
1	Mobilization	LS	1.00	\$ 7,684.17	\$ 7,684.17	\$ 20,000.00	\$ 20,000.00	\$ 10,000.00	\$ 10,000.00
2	Traffic Control	MO	2.00	1,500.00	3,000.00	8,000.00	16,000.00	7,500.00	15,000.00
3	Temporary Erosion, Sedimentation And Water Pollution Prevention (SWPPP)	LS	1.00	9,000.00	9,000.00	10,000.00	10,000.00	5,000.00	5,000.00
4	Right of Way Preparations	STA	3.00	294.00	882.00	10,000.00	30,000.00	1,000.00	3,000.00
5	Remove Crossing Culvert (18" RCP)	LF	90.00	24.00	2,160.00	60.00	5,400.00	30.00	2,700.00
6	Remove Concrete Safety End Treatment	EA	2.00	350.00	700.00	1,500.00	3,000.00	1,000.00	2,000.00
7	Remove Barbed Wire Fence	LF	45.00	5.00	225.00	40.00	1,800.00	10.00	450.00
8	Remove Gravel Driveway	SY	70.00	5.00	350.00	50.00	3,500.00	15.00	1,050.00
9	Unclassified Roadway Excavation	CY	150.00	12.00	1,800.00	150.00	22,500.00	50.00	7,500.00
10	4" HMAC Type "B"	SY	925.00	49.47	45,759.75	60.00	55,500.00	55.00	50,875.00
11	2" HMAC Type "D"	SY	925.00	27.73	25,650.25	30.00	27,750.00	30.00	27,750.00
12	8" Grade 1 Type D Flex Base Subgrade	SY	1,000.00	7.00	7,000.00	30.00	30,000.00	20.00	20,000.00
13	6" Flexible Base Driveway Approach	SY	30.00	7.00	210.00	150.00	4,500.00	15.00	450.00
14	Install Dual Metal Swing Gate	EA	1.00	1,750.00	1,750.00	4,000.00	4,000.00	2,500.00	2,500.00
15	4" Topsoil	SY	450.00	4.50	2,025.00	20.00	9,000.00	5.00	2,250.00
16	Seeding Hydromulch	SY	450.00	3.82	1,719.00	10.00	4,500.00	5.00	2,250.00
17	CMP (GAL STL 12 IN)	LF	21.00	65.00	1,365.00	140.00	2,940.00	85.00	1,785.00
18	RC PIPE (CL III) (18 IN)	LF	60.00	212.90	12,774.00	200.00	12,000.00	200.00	12,000.00
19	SET (TY II) (12 in) (CMP) (6:1) (P)	EA	2.00	900.00	1,800.00	2,500.00	5,000.00	1,250.00	2,500.00
20	SET (TY II) (18 in) (RCP) (6:1) (P)	EA	2.00	2,336.00	4,672.00	3,000.00	6,000.00	2,000.00	4,000.00
				\$ 130,526.17		\$ 273,390.00		\$ 173,060.00	



CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

July 15, 2024

2024 Annual Service Plan Update to Constellation Lake

DESCRIPTION:

Receive, consider, and act on an Ordinance approving the 2024 Annual Service Plan Update to the Service and Assessment Plan, including the Assessment Roll, for the Constellation Lake Public Improvement District in accordance with Chapter 372, Local Government Code, as amended.

BACKGROUND INFORMATION:

On April 20, 2020, the City Council approved Ordinance No. 2020-07-202 which approved the Service and Assessment Plan for the District and levied Assessments to finance the Authorized Improvements to be constructed for the benefit of the Assessed Property within the District. The Service and Assessment Plan also set forth the costs of the Authorized Improvements, the indebtedness to be incurred for such Authorized Improvements, and the manner of assessing the property in the District for the costs of such Authorized Improvements based on the benefit provided to the Assessed Property.

On July 19, 2021, the City Council approved the 2021 Annual Service Plan Update by adopting Ordinance No. 202107-01-228, which updated the Assessment Rolls for 2021.

On August 1, 2022, the City Council approved the 2022 Annual Service Plan Update by adopting Ordinance No. 202208-01-241, which updated the Assessment Rolls for 2022.

On August 7, 2023, the City Council approved the 2023 Annual Service Plan Update by adopting Ordinance No. 202308-01-114, which updated the Assessment Rolls for 2023.

Pursuant to the PID Act, the Service and Assessment Plan must be reviewed and updated annually. This document is the 2024 Annual Service Plan Update. This 2024 Annual Service Plan Update also updates the Assessment Roll for 2024.

Staff recommend approval of the Ordinance.

FINANCIAL CONSIDERATION:

The list of current Parcels within District, the corresponding total Assessments, and current Annual Installment are shown on the Improvement Area #1 Assessment Roll and Future Improvement Area Assessment Roll below as **Exhibit A-1** and **Exhibit A-2**, respectively. The Parcels shown on the Assessment Rolls will receive the bill for the 2023 Annual Installment which will be delinquent if not paid by January 31, 2024.

EXHIBIT A-1 – IMPROVEMENT AREA #1 ASSESSMENT ROLL

Property ID¹	Lot Type	Outstanding Assessment²	Annual Installment Due 1/31/2025
68026	Improvement Area #1 Initial Parcel	\$ 338,443.59	\$ 42.56
70814	Improvement Area #1 Initial Parcel	\$ 214,139.68	\$ 26.93
1024372	Improvement Area #1 Initial Parcel	\$ 700,290.88	\$ 88.06
1024373	Improvement Area #1 Initial Parcel	\$ 478,358.73	\$ 60.16
Total		\$ 1,731,232.88	\$ 217.71

Notes:

- 1) The entire Improvement Area #1 Initial Parcel is contained within Property IDs 68026, 70814, 1024372, and 1024373. For billing purposes, the Improvement Area #1 Annual Installment due 1/31/2025 shall be allocated to the Property IDs pro rata based on acreage.
- 2) Future allocation of the Assessment will occur in accordance with **Section VI** of the 2020 SAP.

EXHIBIT A-2 – FUTURE IMPROVEMENT AREA ASSESSMENT ROLL

Property ID¹	Lot Type	Outstanding Assessment²	Annual Installment Due 1/31/2025
68026	Improvement Area #1 Initial Parcel	\$ 7,434,350.72	\$ 934.90
70814	Improvement Area #1 Initial Parcel	\$ 4,703,854.74	\$ 591.53
1024372	Improvement Area #1 Initial Parcel	\$ 15,382,793.97	\$ 1,934.46
1024373	Improvement Area #1 Initial Parcel	\$ 10,507,767.69	\$ 1,321.40
Total		\$ 38,028,767.12	\$ 4,782.29

Notes:

- 1) The entire Future Improvement Area Initial Parcel is contained within Property IDs 68026, 70814, 1024372, and 1024373. For billing purposes, the Future Improvement Area Annual Installment due 1/31/2025 shall be allocated to the Property IDs pro rata based on acreage.
- 2) Future allocation of the Assessment will occur in accordance with **Section VI** of the 2020 SAP.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** an Ordinance approving the 2024 Annual Service Plan Update to the Service and Assessment Plan, including the Assessment Roll, for the Constellation Lake Public Improvement District in accordance with Chapter 372, Local Government Code, as amended.

ATTACHMENT(S):

1. Ordinance 202407-01-109



ORDINANCE NO. 202407-01-109

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, APPROVING THE ANNUAL SERVICE PLAN UPDATE TO THE CONSTELLATION LAKE PUBLIC IMPROVEMENT DISTRICT AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 6, 2020, the City held a public hearing then passed and adopted Resolution No. 2020-009-099 pursuant to and in accordance with the "PID Act"; and

WHEREAS, on April 20, 2020 after public hearing, the City he City passed and adopted Ordinance No. 2020-07-202 approving a Service and Assessment Plan (the "SAP") for the PID; and

WHEREAS, the PID Act requires the Service and Assessment Plan to be reviewed and updated annually for the purposes of determining the annual budget for improvements; and

WHEREAS, the City Council of the City now wishes to approve the 2024-25 Annual Update of the SAP (the "Annual Service Plan Update") for the PID.

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

Section 1. Findings. That the recitals and findings in the Recitals herein are true and correct and are incorporated for all purposes.

Section 2. Assessment Plan. The attached PID 2024-25 Annual Service Plan Update, **Exhibit A** is approved and adopted and incorporated herein for all purposes.

Section 3. Conflict. All ordinances, and agreements and parts of ordinances and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4. Severability. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the governing body of the City in adopting this Ordinance that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 5. Compliance with State Law, Filing in Land Records and Effective Date. It is hereby found and determined that the meeting at which this Ordinance was passed was open to the public and that advance public notice of the time, place and purpose of said meeting was given as required by law. This Ordinance shall become effective immediately upon passage. The City Secretary shall cause this Ordinance to be filed with the county clerk in each county in which all or a part of the PID is located not later than seven (7) days after the date the governing body of the City approves this Annual Service Plan Update.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, THE 15th DAY OF JULY 2024.

CITY OF NEW FAIRVIEW

John Taylor, Mayor

ATTEST:

Susan Greenwood, City Secretary

Exhibit A

2024 Annual Service Plan Update



CONSTELLATION LAKE
PUBLIC IMPROVEMENT DISTRICT
2024 ANNUAL SERVICE PLAN UPDATE

JULY 15, 2024

INTRODUCTION

Capitalized terms used in this 2024 Annual Service Plan Update and not otherwise defined herein shall have the meanings set forth in the 2020 Service and Assessment Plan (the "2020 SAP") used for levying Assessments against the Assessed Property.

The District was created pursuant to the PID Act by Resolution No. 2020-009-099 on April 6, 2020 by the City Council to finance certain Authorized Improvements for the benefit of the property in the District.

On April 20, 2020, the City approved the 2020 SAP for the District by adopting Ordinance No. 2020-07-202 which approved the levy of Assessments for Assessed Property within the District and approved the Assessment Rolls.

On July 19, 2021, the City approved the 2021 Annual Service Plan Update for the District by adopting Ordinance No. 202107-01-228, which updated the Assessment Rolls for 2021.

On August 1, 2022, the City approved the 2022 Annual Service Plan Update for the District by adopting Ordinance No. 202208-01-241, which updated the Assessment Rolls for 2022.

On August 7, 2023, the City approved the 2023 Annual Service Plan Update for the District by adopting Ordinance No. 202308-01-114, which updated the Assessment Rolls for 2023.

The 2020 SAP identified the Authorized Improvements to be constructed for the benefit of the Assessed Property within the District, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in the District for the costs of the Authorized Improvements. Pursuant to the PID Act, the 2020 SAP must be reviewed and updated annually. This document is the Annual Service Plan Update for 2024.

The City Council also adopted an Assessment Roll identifying the Assessments on each Lot within the District, based on the method of assessment identified in the 2020 SAP. This 2024 Annual Service Plan Update also updates the Assessment Roll for 2024.

TRIGGER DATE

The 2020 SAP defines “Trigger Date” as the date a preliminary subdivision plat is filed and approved by the City Council. If the Trigger Date occurs on or before July 31st of the then current year, then Assessments will be due the January 31st of the following year, including twelve months of interest. If the Trigger Date occurs after July 31st of the then current year, then the Assessments will be due on the second January 31st after the preliminary plat is filed, including twelve months of interest.

Neither Improvement Area #1 nor Future Improvement Area have reached the Trigger Date, and therefore have not triggered collection of Assessments to begin on Parcels within the District. Parcels within the District will pay for their pro rata share of Annual Collection Costs.

PARCEL SUBDIVISION

Improvement Area #1

There have not been any recorded plats in Improvement Area #1. The filing of the Special Warranty Deed document number 2023-68589 dated June 30, 2023, subdivided the Improvement Area #1 Initial Parcel for ownership purposes by legal description, however, did not meet the Trigger Date, as defined herein.

Future Improvement Area

There have not been any recorded plats in the Future Improvement Area. The filing of the Special Warranty Deed document number 2023-68589 dated June 30, 2023, subdivided the Future Improvement Area Initial Parcel by legal description, however, did not meet the Trigger Date, as defined herein.

LOT AND HOME SALES

Improvement Area #1

Improvement Area #1 is anticipated to include 89 Single Family Lots. No residential Lots have been completed to date.

Future Improvement Area

The Future Improvement Area is anticipated to include 1,955 Single Family Lots. No residential Lots have been completed to date. The Future Improvement Area is also anticipated to include

commercial, multi-family, townhomes, and school district property located within the District that benefit from Authorized Improvements but are not Assessed for Authorized Improvement costs.

See **Exhibit C** for the buyer disclosures for the District.

AUTHORIZED IMPROVEMENTS

Improvement Area #1

Per the Developer, the Authorized Improvements listed in the 2020 SAP for Improvement Area #1 are not yet under construction. No actual costs have been spent to date, as the Developer is currently determining service providers for water and sewer service. The budget for the Authorized Improvements remains unchanged as shown on the table below.

Future Improvement Area

Per the Developer, the Authorized Improvements listed in the 2020 SAP for the Future Improvement Area are not yet under construction. No actual costs have been spent to date, as the Developer is currently determining service providers for water and sewer service. The budget for the Authorized Improvements remains unchanged as shown on the table below.

Authorized Improvements	Total Budget	Budget for Future Improvement Area Projects	Budget for Improvement Area #1 Projects	Actual Costs Spent to Date ¹	Percent of Budget Spent
<i>Improvement Area #1 Improvements</i>					
Roads	\$ 1,527,221	-	\$ 1,527,221	-	0.00%
Storm Drain	1,070,677	-	1,070,677	-	0.00%
Soft Costs	532,569	-	532,569	-	0.00%
	\$ 3,130,466	-	\$ 3,130,466	-	0.00%
<i>Future Improvement Area Improvements</i>					
Roads	\$ 15,823,707	\$ 15,823,707		-	0.00%
Storm Drain	6,977,815	6,977,815		-	0.00%
Soft Costs	4,674,312	4,674,312		-	0.00%
	\$ 27,475,834	\$ 27,475,834	-	-	0.00%
<i>Major Improvements</i>					
Landscaping, Entryway, Open Space, and Parks	7,598,763	7,267,897	330,866		0.00%
Soft Costs	1,557,746	1,489,919	67,828		0.00%
	\$ 9,156,510	\$ 8,757,816	\$ 398,693	-	0.00%
Total	\$ 39,762,810	\$ 36,233,650	\$ 3,529,160	-	0.00%

Notes:

1) Authorized Improvement costs spent to date as provided by the Developer.

OUTSTANDING ASSESSMENT

Improvement Area #1

Improvement Area #1 has an outstanding Assessment of \$1,731,232.88.

Future Improvement Area

The Future Improvement Area has an outstanding Assessment of \$38,028,767.12.

ANNUAL INSTALLMENT DUE 1/31/2025

Improvement Area #1

- **Principal and Interest** - Pursuant to the Reimbursement Agreement, the Annual Installment shall include interest on the unpaid principal amount of the outstanding Assessment at a rate of 4.84% per annum, simple interest. Interest shall begin to accrue the January 1st after the Trigger Date has been met. The total principal and interest required for the Annual Installment due January 31, 2025, for Improvement Area #1 is \$0.00.
- **Annual Collection Costs** - The cost of administering the District and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on the Parcel. The total Annual Collection Costs budgeted for the Annual Installment for Improvement Area #1 is \$217.71.

Improvement Area #1	
Due January 31, 2025	
Principal	\$ -
Interest	-
Annual Collection Costs	217.71
Total Annual Installment	\$ 217.71

Please contact P3Works for the pay period for Improvement Area #1. See **Exhibit B-1** for the reimbursement schedule for Improvement Area #1.

Future Improvement Area

- **Principal and Interest** - Pursuant to the Reimbursement Agreement, the Annual Installment shall include interest on the unpaid principal amount of the outstanding Assessment at a rate of 4.84% per annum, simple interest. Interest shall begin to accrue the January 1st after the Trigger Date has been met. The total principal and interest

required for the Annual Installment due January 31, 2025, for the Future Improvement Area is \$0.00.

- **Annual Collection Costs** - The cost of administering the District and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on the Parcel. The total Annual Collection Costs budgeted for the Annual Installment for the Future Improvement Area is \$4,782.29.

Future Improvement Area		
Due January 31, 2025		
Principal	\$	-
Interest		-
Annual Collection Costs		4,782.29
Total Annual Installment	\$	4,782.29

Please contact P3Works for the pay period for the Future Improvement Area. See **Exhibit B-2** for the reimbursement schedule for the Future Improvement Area.

PREPAYMENT OF ASSESSMENTS IN FULL

Improvement Area #1

No full Prepayments of Assessments have occurred within Improvement Area #1.

Future Improvement Area

No full Prepayments of Assessments have occurred within the Future Improvement Area.

PARTIAL PREPAYMENT OF ASSESSMENTS

Improvement Area #1

No partial Prepayments of Assessments have occurred within Improvement Area #1.

Future Improvement Area

No partial Prepayments of Assessments have occurred within the Future Improvement Area.

EXTRAORDINARY OPTIONAL REDEMPTIONS

Improvement Area #1

No extraordinary optional redemptions have occurred within Improvement Area #1

Future Improvement Area

No extraordinary optional redemptions have occurred within the Future Improvement Area.

SERVICE PLAN - FIVE YEAR BUDGET FORECAST

The PID Act requires the annual indebtedness and projected costs for the Authorized Improvements to be reviewed and updated in the Annual Service Plan Update, and the projection shall cover a period of not less than five years.

		Improvement Area #1 ^(a)				
Annual Installments Due		1/31/2025	1/31/2026	1/31/2027	1/31/2028	1/31/2029
Principal		\$ -	\$ 26,781.87	\$ 28,078.11	\$ 29,437.09	\$ 30,861.84
Interest		-	83,791.67	82,495.43	81,136.45	79,711.69
	(1)	\$ -	\$ 110,573.54	\$ 110,573.54	\$ 110,573.54	\$ 110,573.54
Annual Collection Costs	(2)	\$ 217.71	\$ 222.06	\$ 226.50	\$ 231.03	\$ 235.65
Annual Installment	(3) = (1) + (2)	\$ 217.71	\$ 110,795.60	\$ 110,800.04	\$ 110,804.57	\$ 110,809.19

		Future Improvement Area ^{(b),(c)}				
Annual Installments Due		1/31/2025	1/31/2026	1/31/2027	1/31/2028	1/31/2029
Principal		\$ -	\$ 596,127.74	\$ 624,383.26	\$ 653,994.41	\$ 685,026.56
Interest		-	1,840,592.32	1,811,739.74	1,781,519.60	1,749,866.26
	(1)	\$ -	\$ 2,436,720.06	\$ 2,436,123.00	\$ 2,435,514.01	\$ 2,434,892.82
Annual Collection Costs	(2)	\$ 4,782.29	\$ 4,877.94	\$ 4,975.50	\$ 5,075.01	\$ 5,176.51
Annual Installment	(3) = (1) + (2)	\$ 4,782.29	\$ 2,441,598.00	\$ 2,441,098.50	\$ 2,440,589.02	\$ 2,440,069.33

Notes:

[a] Assumes the Trigger Date for collection of Improvement Area #1 Annual Installments will be met on or before July 31, 2025.

[b] Assumes the Trigger Date for collection of Future Improvement Area Annual Installments will be met on or before July 31, 2025.

[c] Collection of principal and interest on Improvement Area #1 and the Future Improvement Area will begin when the Trigger Date is met for said Improvement Area. To be updated annually in each Annual Service Plan Update.

ASSESSMENT ROLL

The list of current Parcels or Lots within the District, the corresponding total Assessments, and current Annual Installment are shown on the Improvement Area #1 Assessment Roll and the Future Improvement Area Assessment Roll attached hereto as **Exhibit A-1** and **Exhibit A-2**, respectively. The Parcels or Lots shown on the Assessment Rolls will receive the bills for the 2024 Annual Installment which will be delinquent if not paid by January 31, 2025.

[Remainder of page intentionally left blank.]

EXHIBIT A-1 – IMPROVEMENT AREA #1 ASSESSMENT ROLL

Property ID ¹	Lot Type	Outstanding Assessment ²	Annual Installment Due 1/31/2025
68026	Improvement Area #1 Initial Parcel	\$ 338,443.59	\$ 42.56
70814	Improvement Area #1 Initial Parcel	\$ 214,139.68	\$ 26.93
1024372	Improvement Area #1 Initial Parcel	\$ 700,290.88	\$ 88.06
1024373	Improvement Area #1 Initial Parcel	\$ 478,358.73	\$ 60.16
Total		\$ 1,731,232.88	\$ 217.71

Notes:

- 1) The entire Improvement Area #1 Initial Parcel is contained within Property IDs 68026, 70814, 1024372, and 1024373. For billing purposes, the Improvement Area #1 Annual Installment due 1/31/2025 shall be allocated to the Property IDs pro rata based on acreage.
- 2) Future allocation of the Assessment will occur in accordance with **Section VI** of the 2020 SAP.

EXHIBIT A-2 – FUTURE IMPROVEMENT AREA ASSESSMENT ROLL

Property ID ¹	Lot Type	Outstanding Assessment ²	Annual Installment Due 1/31/2025
68026	Improvement Area #1 Initial Parcel	\$ 7,434,350.72	\$ 934.90
70814	Improvement Area #1 Initial Parcel	\$ 4,703,854.74	\$ 591.53
1024372	Improvement Area #1 Initial Parcel	\$ 15,382,793.97	\$ 1,934.46
1024373	Improvement Area #1 Initial Parcel	\$ 10,507,767.69	\$ 1,321.40
Total		\$ 38,028,767.12	\$ 4,782.29

Notes:

- 1) The entire Future Improvement Area Initial Parcel is contained within Property IDs 68026, 70814, 1024372, and 1024373. For billing purposes, the Future Improvement Area Annual Installment due 1/31/2025 shall be allocated to the Property IDs pro rata based on acreage.
- 2) Future allocation of the Assessment will occur in accordance with **Section VI** of the 2020 SAP.

EXHIBIT B-1 – IMPROVEMENT AREA #1 TOTAL ANNUAL INSTALLMENT

Annual Installments Due 1/31	Principal	Interest ¹	Annual Collection Costs	Total Annual Installment ²
2025	\$ -	\$ -	\$ 217.71	\$ 217.71
2026	\$ 26,781.87	\$ 83,791.67	\$ 222.06	\$ 110,795.60
2027	\$ 28,078.11	\$ 82,495.43	\$ 226.50	\$ 110,800.04
2028	\$ 29,437.09	\$ 81,136.45	\$ 231.03	\$ 110,804.57
2029	\$ 30,861.84	\$ 79,711.69	\$ 235.65	\$ 110,809.19
2030	\$ 32,355.56	\$ 78,217.98	\$ 240.36	\$ 110,813.90
2031	\$ 33,921.57	\$ 76,651.97	\$ 245.17	\$ 110,818.71
2032	\$ 35,563.37	\$ 75,010.17	\$ 250.07	\$ 110,823.61
2033	\$ 37,284.64	\$ 73,288.90	\$ 255.07	\$ 110,828.61
2034	\$ 39,089.21	\$ 71,484.32	\$ 260.17	\$ 110,833.71
2035	\$ 40,981.13	\$ 69,592.41	\$ 265.37	\$ 110,838.91
2036	\$ 42,964.62	\$ 67,608.92	\$ 270.68	\$ 110,844.22
2037	\$ 45,044.11	\$ 65,529.43	\$ 276.09	\$ 110,849.63
2038	\$ 47,224.24	\$ 63,349.30	\$ 281.61	\$ 110,855.15
2039	\$ 49,509.89	\$ 61,063.64	\$ 287.24	\$ 110,860.78
2040	\$ 51,906.17	\$ 58,667.36	\$ 292.98	\$ 110,866.52
2041	\$ 54,418.43	\$ 56,155.11	\$ 298.84	\$ 110,872.38
2042	\$ 57,052.28	\$ 53,521.25	\$ 304.82	\$ 110,878.36
2043	\$ 59,813.61	\$ 50,759.92	\$ 310.92	\$ 110,884.46
2044	\$ 62,708.59	\$ 47,864.94	\$ 317.14	\$ 110,890.68
2045	\$ 65,743.69	\$ 44,829.85	\$ 323.48	\$ 110,897.02
2046	\$ 68,925.68	\$ 41,647.85	\$ 329.95	\$ 110,903.49
2047	\$ 72,261.69	\$ 38,311.85	\$ 336.55	\$ 110,910.09
2048	\$ 75,759.15	\$ 34,814.39	\$ 343.28	\$ 110,916.82
2049	\$ 79,425.90	\$ 31,147.64	\$ 350.15	\$ 110,923.69
2050	\$ 83,270.11	\$ 27,303.43	\$ 357.15	\$ 110,930.69
2051	\$ 87,300.38	\$ 23,273.16	\$ 364.29	\$ 110,937.83
2052	\$ 91,525.72	\$ 19,047.82	\$ 371.58	\$ 110,945.12
2053	\$ 95,955.56	\$ 14,617.97	\$ 379.01	\$ 110,952.55
2054	\$ 100,599.81	\$ 9,973.72	\$ 386.59	\$ 110,960.13
2055	\$ 105,468.85	\$ 5,104.69	\$ 394.32	\$ 110,967.86
Total ³	\$ 1,731,232.88	\$ 1,585,973.24	\$ 9,225.83	\$ 3,326,431.95

Notes:

- 1) Interest is calculated at 4.84% from the Trigger Date. Assumes the Trigger Date for collection of Improvement Area #1 Annual Installments will be met on or before July 31, 2025. Prior to the Trigger Date being met for the Improvement Area #1, the Improvement Area #1 will continue to pay its allocable share of Annual Collection Costs pro rata based on the then outstanding Assessment.
- 2) The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.
- 3) Totals may not sum due to rounding.

EXHIBIT B-2 – FUTURE IMPROVEMENT AREA TOTAL ANNUAL INSTALLMENT

Annual Installments Due	Principal	Interest ¹	Annual Collection Costs	Total Annual Installment ²
2025	\$ -	\$ -	\$ 4,782.29	\$ 4,782.29
2026	\$ 596,127.74	\$ 1,840,592.32	\$ 4,877.94	\$ 2,441,598.00
2027	\$ 624,383.26	\$ 1,811,739.74	\$ 4,975.50	\$ 2,441,098.50
2028	\$ 653,994.41	\$ 1,781,519.60	\$ 5,075.01	\$ 2,440,589.02
2029	\$ 685,026.56	\$ 1,749,866.26	\$ 5,176.51	\$ 2,440,069.33
2030	\$ 717,548.25	\$ 1,716,710.98	\$ 5,280.04	\$ 2,439,539.27
2031	\$ 751,631.30	\$ 1,681,981.64	\$ 5,385.64	\$ 2,438,998.58
2032	\$ 787,351.05	\$ 1,645,602.70	\$ 5,493.35	\$ 2,438,447.10
2033	\$ 824,786.45	\$ 1,607,494.90	\$ 5,603.22	\$ 2,437,884.57
2034	\$ 864,020.29	\$ 1,567,575.24	\$ 5,715.28	\$ 2,437,310.81
2035	\$ 905,139.33	\$ 1,525,756.66	\$ 5,829.59	\$ 2,436,725.58
2036	\$ 948,234.53	\$ 1,481,947.92	\$ 5,946.18	\$ 2,436,128.63
2037	\$ 993,401.27	\$ 1,436,053.36	\$ 6,065.10	\$ 2,435,519.73
2038	\$ 1,040,739.52	\$ 1,387,972.74	\$ 6,186.40	\$ 2,434,898.66
2039	\$ 1,090,354.09	\$ 1,337,600.94	\$ 6,310.13	\$ 2,434,265.16
2040	\$ 1,142,354.87	\$ 1,284,827.80	\$ 6,436.33	\$ 2,433,619.00
2041	\$ 1,196,857.05	\$ 1,229,537.84	\$ 6,565.06	\$ 2,432,959.95
2042	\$ 1,253,981.36	\$ 1,171,609.96	\$ 6,696.36	\$ 2,432,287.68
2043	\$ 1,313,854.43	\$ 1,110,917.26	\$ 6,830.29	\$ 2,431,601.98
2044	\$ 1,376,608.95	\$ 1,047,326.70	\$ 6,966.90	\$ 2,430,902.55
2045	\$ 1,442,384.07	\$ 980,698.82	\$ 7,106.24	\$ 2,430,189.13
2046	\$ 1,511,325.66	\$ 910,887.44	\$ 7,248.36	\$ 2,429,461.46
2047	\$ 1,583,586.63	\$ 837,739.28	\$ 7,393.33	\$ 2,428,719.24
2048	\$ 1,659,327.28	\$ 761,093.68	\$ 7,541.20	\$ 2,427,962.16
2049	\$ 1,738,715.68	\$ 680,782.24	\$ 7,692.02	\$ 2,427,189.94
2050	\$ 1,821,928.02	\$ 596,628.40	\$ 7,845.86	\$ 2,426,402.28
2051	\$ 1,909,148.99	\$ 508,447.08	\$ 8,002.78	\$ 2,425,598.85
2052	\$ 2,000,572.26	\$ 416,044.28	\$ 8,162.84	\$ 2,424,779.38
2053	\$ 2,096,400.83	\$ 319,216.58	\$ 8,326.10	\$ 2,423,943.51
2054	\$ 2,196,847.53	\$ 217,750.78	\$ 8,492.62	\$ 2,423,090.93
2055	\$ 2,302,135.46	\$ 111,423.36	\$ 8,662.47	\$ 2,422,221.29
Total	\$ 38,028,767.12	\$ 34,757,346.50	\$ 202,670.94	\$ 72,988,784.56

Notes:

- 1) Interest is calculated at 4.84% from the Trigger Date. Assumes the Trigger Date for collection of Future Improvement Area Annual Installments will be met on or before July 31, 2025. Prior to the Trigger Date being met for the Future Improvement Area, the Future Improvement Area will continue to pay its allocable share of Annual Collection Costs pro rata based on the then outstanding Assessment.
- 2) The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs or other available offsets could increase or decrease the amounts shown.

EXHIBIT C – BUYER DISCLOSURES

Buyer disclosures for the following lot types are found in this Exhibit.

- Improvement Area #1
 - Improvement Area #1 Initial Parcel
 - Lot Type Single Family
- Future Improvement Area
 - Future Improvement Area Initial Parcel

[Remainder of page left intentionally blank.]

**CONSTELLATION LAKE PUBLIC IMPROVEMENT DISTRICT – IMPROVEMENT AREA
#1 INITIAL PARCEL BUYER DISCLOSURE**

NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.005), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING¹ RETURN TO:

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO
THE CITY OF NEW FAIRVIEW, TEXAS
CONCERNING THE FOLLOWING PROPERTY

STREET ADDRESS

**IMPROVEMENT AREA #1 INITIAL PARCEL PRINCIPAL ASSESSMENT:
\$1,731,232.88**

As the purchaser of the real property described above, you are obligated to pay assessments to City of New Fairview, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within *City of New Fairview Constellation Lake Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from City of New Fairview. The exact amount of each annual installment will be approved each year by the New Fairview City Council in the annual service plan update for the District. More information about the assessments, including the amounts and due dates, may be obtained from City of New Fairview.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

¹ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER]²

² To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

STATE OF TEXAS

§

§

COUNTY OF _____

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]³

³ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER

STATE OF TEXAS

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§

COUNTY OF _____

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The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]⁴

⁴ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

ANNUAL INSTALLMENTS - IMPROVEMENT AREA #1 INITIAL PARCEL

Annual Installments Due 1/31	Principal	Interest ¹	Annual Collection Costs	Total Annual Installment ²
2025	\$ -	\$ -	\$ 217.71	\$ 217.71
2026	\$ 26,781.87	\$ 83,791.67	\$ 222.06	\$ 110,795.60
2027	\$ 28,078.11	\$ 82,495.43	\$ 226.50	\$ 110,800.04
2028	\$ 29,437.09	\$ 81,136.45	\$ 231.03	\$ 110,804.57
2029	\$ 30,861.84	\$ 79,711.69	\$ 235.65	\$ 110,809.19
2030	\$ 32,355.56	\$ 78,217.98	\$ 240.36	\$ 110,813.90
2031	\$ 33,921.57	\$ 76,651.97	\$ 245.17	\$ 110,818.71
2032	\$ 35,563.37	\$ 75,010.17	\$ 250.07	\$ 110,823.61
2033	\$ 37,284.64	\$ 73,288.90	\$ 255.07	\$ 110,828.61
2034	\$ 39,089.21	\$ 71,484.32	\$ 260.17	\$ 110,833.71
2035	\$ 40,981.13	\$ 69,592.41	\$ 265.37	\$ 110,838.91
2036	\$ 42,964.62	\$ 67,608.92	\$ 270.68	\$ 110,844.22
2037	\$ 45,044.11	\$ 65,529.43	\$ 276.09	\$ 110,849.63
2038	\$ 47,224.24	\$ 63,349.30	\$ 281.61	\$ 110,855.15
2039	\$ 49,509.89	\$ 61,063.64	\$ 287.24	\$ 110,860.78
2040	\$ 51,906.17	\$ 58,667.36	\$ 292.98	\$ 110,866.52
2041	\$ 54,418.43	\$ 56,155.11	\$ 298.84	\$ 110,872.38
2042	\$ 57,052.28	\$ 53,521.25	\$ 304.82	\$ 110,878.36
2043	\$ 59,813.61	\$ 50,759.92	\$ 310.92	\$ 110,884.46
2044	\$ 62,708.59	\$ 47,864.94	\$ 317.14	\$ 110,890.68
2045	\$ 65,743.69	\$ 44,829.85	\$ 323.48	\$ 110,897.02
2046	\$ 68,925.68	\$ 41,647.85	\$ 329.95	\$ 110,903.49
2047	\$ 72,261.69	\$ 38,311.85	\$ 336.55	\$ 110,910.09
2048	\$ 75,759.15	\$ 34,814.39	\$ 343.28	\$ 110,916.82
2049	\$ 79,425.90	\$ 31,147.64	\$ 350.15	\$ 110,923.69
2050	\$ 83,270.11	\$ 27,303.43	\$ 357.15	\$ 110,930.69
2051	\$ 87,300.38	\$ 23,273.16	\$ 364.29	\$ 110,937.83
2052	\$ 91,525.72	\$ 19,047.82	\$ 371.58	\$ 110,945.12
2053	\$ 95,955.56	\$ 14,617.97	\$ 379.01	\$ 110,952.55
2054	\$ 100,599.81	\$ 9,973.72	\$ 386.59	\$ 110,960.13
2055	\$ 105,468.85	\$ 5,104.69	\$ 394.32	\$ 110,967.86
Total³	\$ 1,731,232.88	\$ 1,585,973.24	\$ 9,225.83	\$ 3,326,431.95

Notes:

- 1) Interest is calculated at 4.84% from the Trigger Date. Assumes the Trigger Date for collection of Improvement Area #1 Annual Installments will be met on or before July 31, 2025. Prior to the Trigger Date being met for the Improvement Area #1, the Improvement Area #1 will continue to pay its allocable share of Annual Collection Costs pro rata based on the then outstanding Assessment.
- 2) The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.
- 3) Totals may not sum due to rounding.

**CONSTELLATION LAKE PUBLIC IMPROVEMENT DISTRICT – IMPROVEMENT AREA
#1 - LOT TYPE SINGLE FAMILY BUYER DISCLOSURE**

NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.005), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING¹ RETURN TO:

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO
THE CITY OF NEW FAIRVIEW, TEXAS
CONCERNING THE FOLLOWING PROPERTY

STREET ADDRESS

LOT TYPE SINGLE FAMILY PRINCIPAL ASSESSMENT: \$19,452.05

As the purchaser of the real property described above, you are obligated to pay assessments to City of New Fairview, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within *City of New Fairview Constellation Lake Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from City of New Fairview. The exact amount of each annual installment will be approved each year by the New Fairview City Council in the annual service plan update for the District. More information about the assessments, including the amounts and due dates, may be obtained from City of New Fairview.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

¹ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER]²

² To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

STATE OF TEXAS

§

§

COUNTY OF _____

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]³

³ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER

STATE OF TEXAS

§

§

COUNTY OF _____

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]⁴

⁴ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

ANNUAL INSTALLMENTS - LOT TYPE SINGLE FAMILY

Annual Installments Due	Principal	Interest ¹	Annual Collection Costs	Total Annual Installment ²
Year 1	\$ 300.92	\$ 941.48	\$ 2.50	\$ 1,244.89
Year 2	\$ 315.48	\$ 926.91	\$ 2.54	\$ 1,244.94
Year 3	\$ 330.75	\$ 911.65	\$ 2.60	\$ 1,245.00
Year 4	\$ 346.76	\$ 895.64	\$ 2.65	\$ 1,245.05
Year 5	\$ 363.55	\$ 878.85	\$ 2.70	\$ 1,245.10
Year 6	\$ 381.14	\$ 861.26	\$ 2.75	\$ 1,245.15
Year 7	\$ 399.59	\$ 842.81	\$ 2.81	\$ 1,245.21
Year 8	\$ 418.93	\$ 823.47	\$ 2.87	\$ 1,245.27
Year 9	\$ 439.20	\$ 803.19	\$ 2.92	\$ 1,245.32
Year 10	\$ 460.46	\$ 781.94	\$ 2.98	\$ 1,245.38
Year 11	\$ 482.75	\$ 759.65	\$ 3.04	\$ 1,245.44
Year 12	\$ 506.11	\$ 736.29	\$ 3.10	\$ 1,245.50
Year 13	\$ 530.61	\$ 711.79	\$ 3.16	\$ 1,245.56
Year 14	\$ 556.29	\$ 686.11	\$ 3.23	\$ 1,245.63
Year 15	\$ 583.22	\$ 659.18	\$ 3.29	\$ 1,245.69
Year 16	\$ 611.44	\$ 630.96	\$ 3.36	\$ 1,245.76
Year 17	\$ 641.04	\$ 601.36	\$ 3.42	\$ 1,245.82
Year 18	\$ 672.06	\$ 570.34	\$ 3.49	\$ 1,245.89
Year 19	\$ 704.59	\$ 537.81	\$ 3.56	\$ 1,245.96
Year 20	\$ 738.69	\$ 503.71	\$ 3.63	\$ 1,246.03
Year 21	\$ 774.45	\$ 467.95	\$ 3.71	\$ 1,246.11
Year 22	\$ 811.93	\$ 430.47	\$ 3.78	\$ 1,246.18
Year 23	\$ 851.23	\$ 391.17	\$ 3.86	\$ 1,246.26
Year 24	\$ 892.43	\$ 349.97	\$ 3.93	\$ 1,246.33
Year 25	\$ 935.62	\$ 306.78	\$ 4.01	\$ 1,246.41
Year 26	\$ 980.90	\$ 261.50	\$ 4.09	\$ 1,246.49
Year 27	\$ 1,028.38	\$ 214.02	\$ 4.18	\$ 1,246.57
Year 28	\$ 1,078.15	\$ 164.25	\$ 4.26	\$ 1,246.66
Year 29	\$ 1,130.33	\$ 112.06	\$ 4.34	\$ 1,246.74
Year 30	\$ 1,185.04	\$ 57.36	\$ 4.43	\$ 1,246.83
Total	\$ 19,452.05	\$ 17,819.92	\$ 103.66	\$ 37,375.64

Notes:

- 1) Interest is calculated at 4.84% from the Trigger Date. Table is shown for illustrative purposes only, and is subject to change pending the actual Trigger Date for each Improvement Area.
- 2) The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs or other available offsets could increase or decrease the amounts shown.

Annual Installment Schedule to Notice
of Obligation to Pay Improvement District Assessment

**CONSTELLATION LAKE PUBLIC IMPROVEMENT DISTRICT – FUTURE
IMPROVEMENT AREA INITIAL PARCEL BUYER DISCLOSURE**

NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.005), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING¹ RETURN TO:

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO
THE CITY OF NEW FAIRVIEW, TEXAS
CONCERNING THE FOLLOWING PROPERTY

STREET ADDRESS

**FUTURE IMPROVEMENT AREA INITIAL PARCEL PRINCIPAL ASSESSMENT:
\$38,028,767.12**

As the purchaser of the real property described above, you are obligated to pay assessments to City of New Fairview, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within *City of New Fairview Constellation Lake Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from City of New Fairview. The exact amount of each annual installment will be approved each year by the New Fairview City Council in the annual service plan update for the District. More information about the assessments, including the amounts and due dates, may be obtained from City of New Fairview.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

¹ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER]²

² To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

SIGNATURE OF PURCHASER

SIGNATURE OF PURCHASER

STATE OF TEXAS

§

§

COUNTY OF _____

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]³

³ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

SIGNATURE OF SELLER

SIGNATURE OF SELLER

STATE OF TEXAS

§

§

COUNTY OF _____

§

The foregoing instrument was acknowledged before me by _____ and _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this _____, 20__.

Notary Public, State of Texas]⁴

⁴ To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

ANNUAL INSTALLMENTS - FUTURE IMPROVEMENT AREA INITIAL PARCEL

Annual Installments Due	Principal	Interest ¹	Annual Collection Costs	Total Annual Installment ²
2025	\$ -	\$ -	\$ 4,782.29	\$ 4,782.29
2026	\$ 596,127.74	\$ 1,840,592.32	\$ 4,877.94	\$ 2,441,598.00
2027	\$ 624,383.26	\$ 1,811,739.74	\$ 4,975.50	\$ 2,441,098.50
2028	\$ 653,994.41	\$ 1,781,519.60	\$ 5,075.01	\$ 2,440,589.02
2029	\$ 685,026.56	\$ 1,749,866.26	\$ 5,176.51	\$ 2,440,069.33
2030	\$ 717,548.25	\$ 1,716,710.98	\$ 5,280.04	\$ 2,439,539.27
2031	\$ 751,631.30	\$ 1,681,981.64	\$ 5,385.64	\$ 2,438,998.58
2032	\$ 787,351.05	\$ 1,645,602.70	\$ 5,493.35	\$ 2,438,447.10
2033	\$ 824,786.45	\$ 1,607,494.90	\$ 5,603.22	\$ 2,437,884.57
2034	\$ 864,020.29	\$ 1,567,575.24	\$ 5,715.28	\$ 2,437,310.81
2035	\$ 905,139.33	\$ 1,525,756.66	\$ 5,829.59	\$ 2,436,725.58
2036	\$ 948,234.53	\$ 1,481,947.92	\$ 5,946.18	\$ 2,436,128.63
2037	\$ 993,401.27	\$ 1,436,053.36	\$ 6,065.10	\$ 2,435,519.73
2038	\$ 1,040,739.52	\$ 1,387,972.74	\$ 6,186.40	\$ 2,434,898.66
2039	\$ 1,090,354.09	\$ 1,337,600.94	\$ 6,310.13	\$ 2,434,265.16
2040	\$ 1,142,354.87	\$ 1,284,827.80	\$ 6,436.33	\$ 2,433,619.00
2041	\$ 1,196,857.05	\$ 1,229,537.84	\$ 6,565.06	\$ 2,432,959.95
2042	\$ 1,253,981.36	\$ 1,171,609.96	\$ 6,696.36	\$ 2,432,287.68
2043	\$ 1,313,854.43	\$ 1,110,917.26	\$ 6,830.29	\$ 2,431,601.98
2044	\$ 1,376,608.95	\$ 1,047,326.70	\$ 6,966.90	\$ 2,430,902.55
2045	\$ 1,442,384.07	\$ 980,698.82	\$ 7,106.24	\$ 2,430,189.13
2046	\$ 1,511,325.66	\$ 910,887.44	\$ 7,248.36	\$ 2,429,461.46
2047	\$ 1,583,586.63	\$ 837,739.28	\$ 7,393.33	\$ 2,428,719.24
2048	\$ 1,659,327.28	\$ 761,093.68	\$ 7,541.20	\$ 2,427,962.16
2049	\$ 1,738,715.68	\$ 680,782.24	\$ 7,692.02	\$ 2,427,189.94
2050	\$ 1,821,928.02	\$ 596,628.40	\$ 7,845.86	\$ 2,426,402.28
2051	\$ 1,909,148.99	\$ 508,447.08	\$ 8,002.78	\$ 2,425,598.85
2052	\$ 2,000,572.26	\$ 416,044.28	\$ 8,162.84	\$ 2,424,779.38
2053	\$ 2,096,400.83	\$ 319,216.58	\$ 8,326.10	\$ 2,423,943.51
2054	\$ 2,196,847.53	\$ 217,750.78	\$ 8,492.62	\$ 2,423,090.93
2055	\$ 2,302,135.46	\$ 111,423.36	\$ 8,662.47	\$ 2,422,221.29
Total	\$ 38,028,767.12	\$ 34,757,346.50	\$ 202,670.94	\$ 72,988,784.56

Notes:

1) Interest is calculated at 4.84% from the Trigger Date. Assumes the Trigger Date for collection of Future Improvement Area Annual Installments will be met on or before July 31, 2025. Prior to the Trigger Date being met for the Future Improvement Area, the Future Improvement Area will continue to pay its allocable share of Annual Collection Costs pro rata based on the then outstanding Assessment.

2) The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs or other available offsets could increase or decrease the amounts shown.



AGENDA ITEM: 7C

**CITY COUNCIL
AGENDA MEMO**

Prepared By: John Cabrales Jr, City Administrator

October 16, 2023

Disannexation Request

DESCRIPTION:

Receive, consider, and act on an Ordinance approving the disannexation of approximately 236.70 acres in the Smith County School Land Survey, Wise County, Texas.

BACKGROUND INFORMATION:

On September 12, 2023 the City received a letter from Shawn Boedecker, Satellite City Holdings, LLC, owner of approximately 236.70 acres in the Smith County School Land Survey, Wise County, Texas. He is requesting that the City Council consider an ordinance to disannex this property from the city limits since the, “property receives no city services or other benefits derived from the payment of property taxes”. Mr. Boedecker’s attorney, Brandon Shelby, reached out to Mayor Taylor as well. The City Administrator reached to the City Attorney and requested a response to Mr. Shelby (see attached).

Texas Local Government Code §43.144(a), allows – but does not require - the mayor and governing body of a general-law municipality to discontinue, by ordinance, an area as a part of the municipality, where (1) the area consists of at least 10 acres contiguous to the municipality; and (2) the area either is either uninhabited or contains less than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre.

The received correspondence characterizes Satellite City Holdings, LLC’s letter as a “petition” for disannexation. Additionally, the email and letter both refer to the lack of city services received for ad valorem taxes paid. However, unlike Tex. Loc. Gov’t. Code §43.143, neither §§ 43.141 or 43.144 reference a lack of municipal services as a basis for the described disannexation process. Additionally (unlike Tex. Loc. Gov’t. Code § 43.142), § 43.144 does not rely on a “petition” brought forward by residents. Rather, § 43.144 makes the determination of whether to disannex any such qualifying properties as being discretionary and vested in the legislative authority of the City Council.

Nonetheless, it should be noted that the City does in fact provide emergency rescue and fire services to its residents, via interlocal service agreements. It likewise provides law enforcement services in this manner as well.

Staff has verified that the property is either “uninhabited or contains less than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre” per state statute.

Staff do not recommend approval of the ordinance.

FINANCIAL CONSIDERATION:

If the property is disannexed then the City will lose the ad valorem tax and any fees associated with any future development on this property.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** an Ordinance approving the disannexation of approximately 236.70 acres in the Smith County School Land Survey, Wise County, Texas.

ATTACHMENT(S):

1. Letter from Shawn Boedecker, Satellite City Holdings, LLC (Sept. 12, 2023)
2. Letter from Messer Fort (Oct. 4, 2023)
3. Ordinance 202310-04-103

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COUNTY OF WISE §
STATE OF TEXAS §
§
§

AFFIDAVIT OF CALVIN UGENE RHODES

● On this day, appeared before me, the undersigned notary public, CALVIN UGENE RHODES, and after I administered an oath to him, upon his oath, he said:

"My name is Calvin Ugene Rhodes. I am more than twenty-one (21) years of age and capable of making this affidavit. I have personal knowledge of the facts stated herein, which are true and correct.

1. I am a registered voter in the City of New Fairview, Wise County, Texas.
2. My residential address is 1.75 North of the Intersection of FM 407 and FM 2264 on the East side of FM 2264 in New Fairview, Texas.
3. The Petition for Deannexation of the property on which my residential address is located was posted in three locations on my property line facing FM 2264 visible from the public right of way.
4. The Petition was posted on Friday, May 10, 2024 and remained in place for at least 10 consecutive days.

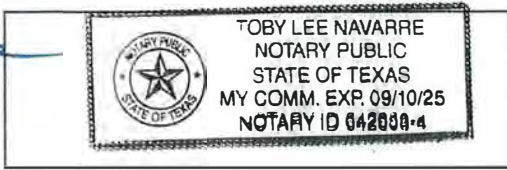
{Signature Page to follow}

Signed: Calvin Eugene Rhodes
CALVIN UGENE RHODES

Date: 06/05/24

This instrument was sworn to and subscribed before me, the undersigned authority on 06/05, 2024, by Calvin Ugene Rhodes.

Toby Lee Navarre
Notary Public, State of Texas



My commissions expires: _____

PETITION FOR DEANNEXATION
FROM THE CITY OF NEW FAIRVIEW, TEXAS

STATE OF TEXAS

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COUNTY OF WISE

Signature Page of Qualified Voters

I am a registered voter in the City of New Fairview, Wise County, Texas. My residential address is 1.75 North of the Intersection of FM 407 and FM 2264 on the East side of FM 2264 in New Fairview, Texas. I have reviewed the Petition for Deannexation attached hereto and, by my signature, show that I am in favor of said Deannexation.

Signed:

Calvin Eugene Rhodes
Calvin Eugene Rhodes

Date: 6/5/2024

Residence Address: 1.75 North of the Intersection of FM 407 and FM 2264 on the East side of FM 2264 in New Fairview, Texas

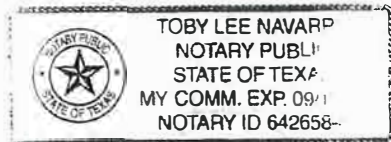
Precinct Number: 6

Voter Registration Number: 2170840863

ATTESTATION:

This instrument was sworn to and subscribed before me, the undersigned authority on 06/05, 2024, by Calvin Eugene Rhodes.

Toby Lee Navar
Notary Public, State of Texas



My commissions expires: _____

AFFP
PETITION FOR DEANNEXATION

Affidavit of Publication

STATE OF TEXAS }
COUNTY OF WISE } SS

PETITION FOR
DEANNEXATION
FROM THE CITY OF
NEW FAIRVIEW, TEXAS

Roy J Eaton, being duly sworn, says:

That he is Publisher of the Wise County Messenger, a daily newspaper of general circulation, printed and published in Decatur, Wise County, Texas; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

May 16, 2024

That said newspaper was regularly issued and circulated on those dates.

SIGNED

Roy J. Eaton

Publisher

Subscribed to and sworn to me this 16th day of May 2024.

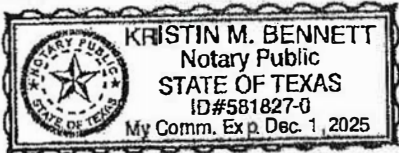
Kristin M. Bennett

Kristin M. Bennett, Notary Public, Wise County, Texas

My commission expires: December 01, 2025

02120209 00135123

Cheshire Jason
Hakuna Matata Investments



STATE OF TEXAS
COUNTY OF WISE

The undersigned qualified voter(s) ("Petitioner(s)"), residing in the land hereinafter described, acting pursuant to the provisions of Chapter 43, Texas Local Government Code, particularly Section 43.141 together with all amendments and additions thereto, petition this Honorable City Council to deannex the land described by metes and bounds in Exhibit "A" attached hereto ("Deannexation Tract") from the City. In support of this Petition, the Petitioner(s) represent, covenant, and agree as follows:

I. Petitioner(s) desires that the Deannexation Tract be disannexed in accordance with Section 43.141 of the Texas Local Government Code for failure to provide services.

II. Petitioner(s) affirm that the amount of property taxes and fees collected by the City during the time the Deannexation Tract has been located within the City is less than or equal to the amount of money that the City has spent for the direct benefit of the Deannexation Tract during the same period. If the Petition is granted by the City, Petitioner(s) waives any remedies or rights as set forth in law or equity pertaining to recovery of property taxes and fees collected by the City relative to the Deannexation Tract.

III. The Deannexation Tract lies entirely within Wise County, Texas and is accurately described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.

IV. The execution and submission of this Petition shall not constitute an election by Petitioner(s) to change the tax status of the Deannexation Tract and shall not constitute a waiver by the Petitioner(s) of rights, powers, and privileges under the Texas Constitution and statutes regarding the tax status of the the Deannexation Tract.

WHEREFORE, the Petitioner(s) prays that this Petition be granted, that the Deannexation Tract be disannexed, discontinued and removed from the City, and that this Petition, if granted by filed for record and be recorded in the Official Records of Wise County, Texas.
EXHIBIT "A"

Being a tract of land situated in the Smith County School Land Survey, Abstract No. 744, Block 20 and Block 27, Wise County, Texas, and being that same called 236.702 acres tract of land conveyed to The Jamal & Family Properties, LP recorded in Volume 1574, Page 493, Official Records, Wise County, Texas, and being more particularly described herein as follows; BEGINNING at a 5/8 inch iron rod found for the most southerly southeast corner of said 236.702 acres tract and also being the northeast corner of Lot 24, Block 3 of Highland Meadows, an addition to Wise County, Texas recorded in Cabinet B, Page 402, Plat Records, Wise County, Texas; THENCE South 89 degrees 32 minutes 33 seconds West (called South 89 degrees 33 minutes 38 seconds West by Deed), with the south line of said 236.702 acres tract, a distance of 2597.05 feet (2595.92 feet by Deed) to a 1/2 inch iron rod found for the most southerly southwest corner of said 236.702 acres tract and also being the northwest corner of Lot 19 of said addition, said corner also being in the east line of a called 240 acres tract of land described in Deed to Alvin B. Carter and Lequeita Joyce Carter, as Trustees for the Alvin B. Carter and Lequeita Joyce Carter Revocable Living Trust recorded in Volume 1578, Page 157 of said Official Records; THENCE North 00 degrees 15 minutes 11 seconds West (called North 00 degrees 14 minutes 26 seconds West by Deed), along or near a fence, a distance of 1302.75 feet to a 5/8 inch iron with plastic cap stamped "PLS INC" (typical) found for an ell corner of said 236.702 acres tract and being the northeast corner of said Carter Tract; THENCE South 89 degrees 26 minutes 09 seconds West (called South 89 degrees 26 minutes 54 seconds West by Deed), along or

near a fence, a distance of 2632.37 feet to a 5/8 Inch Iron rod set in the occupied east right-of-way (R.O.W.) line of F.M. 2264 (a public road) for the most westerly southwest corner of said 236.702 acres tract and the beginning of a curve to the left with a radius of 1980.00 feet; THENCE Northeasterly along the arc of said curve to the left a distance of 405.41 feet with an interior angle 11 degrees 51 minutes 04 seconds, a chord bearing North 05 degrees 00 minutes 28 seconds East, and chord length of 404.68 feet along said R.O.W. to a 1/2 Inch Iron rod with cap found in the occupied east R.O. .Wline of said F.M. 2264; THENCE North 00 degrees 53 minutes 20 seconds West (called North 00 degrees 54 minutes 12 seconds West by Deed), with the west line of said 236.702 acres tract, a distance of 929.75 feet (called 929.72 feet by Deed) to a 60d nail found for the northwest corner of said 236.702 acres tract; THENCE North 89 degrees 26 minutes 49 seconds East (called North 89 degrees 26 minutes 54 seconds East by Deed), with the north line of said 236.702 acres tract, a distance of 5203.30 feet (called 5201.99 feet by Deed) to a 3/8 inch iron rod found for the northeast corner of said 236.702 acres tract; THENCE South 00 degrees 14 minutes 20 seconds East (called South 00 degrees 14 minutes 33 seconds East by Deed), with the east line of said 236.702 acres tract, a distance of 2639.11 feet (called 2639.60 feet by Deed) to the POINT OF BEGINNING and containing, within the metes and bounds herein recited, 236.824 acres of land, more or less. NOTE: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for information and/or identification purposes and does not override Item 2 of Schedule B hereof.

NOTICES

REQUEST FOR PROPOSAL

Paradise ISO is accepting proposals for the following services to be provided to the district:
HVAC Service
Plumbing Services
Electrician Services
Proposal information may be obtained by calling the Paradise ISO Administrative Offices at 940-969-2901.

REQUEST FOR COMPETITIVE SEALED PROPOSAL

Competitive sealed proposals for the general construction to renovate Box Warehouse Lift and Shifffery Enclosure (OSP 6234-1) for the District Independent School District will be received by District I.S.D. at the Administration Building at 307 S. Gates St, Decatur, TX 76234, until 2:00 p.m., Thursday, May 23, 2024. Proposals should be hand delivered or mail after 2:03 p.m., Thursday, May 23, 2024, will be retained unopened.

No proposer shall withdraw a proposal within 48 (forty-eight) days after the actual date of opening thereof. The Owner reserves the right to waive any informality or to reject any or all proposals. A pre-proposal conference will be held at the Decatur I.S.D., Eagle Stadium on Thursday, May 16, 2024 at 2:00 p.m. Attendance is encouraged by all proposers. The project is scheduled to be substantially complete no later than Oct 30, 2024, with an estimated budget of \$160,000. Questions concerning the project should be directed to:
940-969-2900
www.paradiseiso.com

CITY OF DECATUR ORDINANCE NO. 2324-18

An ORDINANCE AMENDING CHAPTER 12, OF THE CODE OF ORDINANCES OF THE CITY OF DECATUR, TEXAS; BEING THAT CHAPTER DEALING WITH TRAFFIC AND MOTOR VEHICLES; PROVIDING FOR THE ADOPTION OF A NEW 'ARTICLE VI' TO ADDRESS ISSUES RELATED TO VEHICLE TONING, AMENDING THE SCHEDULE 1, NONPOINT CONTRIBUTION, ON MAY 23, 2024, COMMENCING AT 10:00 AM. It provides an opportunity for all interested persons to be heard with respect to a loan (all of which constitute "qualified 891(c)(3) beneficiaries" as defined in Section 170(b)(1)(G) of the Internal Revenue Code of 1986, as amended) from Zion Bancorporation, National Association dba Arroyo Bank (the "Lender") to the Corporation to make maximum municipal amount of \$22,000,000, and a loan from the Corporation to The Emory/Walter Center for Jewish Education (the "Borrower"), a Texas nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, in the same amount (collectively, the "Loans"); all pursuant to a Loan Agreement by and among the Corporation, the Lender and the Borrower.

CITY OF DECATUR ORDINANCE NO. 2324-18

This ordinance, in its entirety, is available for review in the Office of the City Secretary located at City Hall, 501 E. Walnut.
YOU HAVE BEEN SUE D, YOU or your attorney does not file a written answer to the PLAINTIFF'S FIRST AMENDED PETITION (or before 10:09 AM, on the Monday next following the expiration of forty-two days from the date of issuance of this citation the same being being Monday, June 17, 2024 with the clerk who issued this citation, a default judgment may be taken against you, in addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer to this case. Find out more at TexasLawHelp.org.

The Loans are being made for the purpose of financing all or a portion of the costs of the construction, renovation, finishing and equipment of new buildings that will house the Levine-Krohnitz Hall, new STEM-focused classrooms, a new gym, multi-use athletic space, new and renovated locker rooms, and a score construction area for Backs! Theater, all located at 9825 Steas Link Rd., Houston, Texas 77018 (collectively, the "Project"). A portion of the proceeds of the Loans will be used to pay certain expenses in connection with the execution and delivery of the loans, including travel and working capital. The Project will be owned by the Borrower. The Loans are not payable out of taxes and are secured by proceeds from at least two funds provided by the Borrower.

At the time and place set for the public hearing, interested persons will be given a reasonable opportunity to express their views, both orally via telephonic participation and in writing, on the merits of the Project, the Loans or related matters. Members of the public may listen to and contribute to any discussion during the hearing by calling the number 281-271-0524, ext. 558681. Persons wishing to participate should submit a written request to speak to two persons at least 48 hours before the hearing; however, the hearing officer will also provide time for additional comments during the hearing. Oral remarks may not exceed five minutes in duration. Written comments may also be submitted to htw@jw.com.

"Don't Miss the Moss"

PR-6443

IN THE MATTER OF THE ESTATE OF DEANNA FAITH WILSON, DECEASED, IN THE COUNTY COURT AND CLERK OF WISE COUNTY, TEXAS CITATION BY PUBLICATION FIRST AMENDED APPLICATION TO DETERMINE HEIRSHIP DETERMINE HEIRSHIP THE STATE OF TEXAS To all persons interested in the ESTATE OF DEANNA FAITH WILSON, DECEASED, the alleged heir(s) at law on the above-numbered and entitled case filed as First Amended Application to Determine Heirship on the estate May 8, 2024, requesting that the Court determine who are the heirs and only heirs of Deanna Faith Wilson, deceased, and their respective shares and interests in such estate.

This application may be acted on by the Court at any call of the docket on or after 10:00am on the first Monday following the publication of this citation of publication of this citation, all persons interested in this case are cited to appear before this Honorable Court for the cause, to file their answers to this Application should they desire to do so. To ensure its consideration, you, or your attorney must file their objections, intervention, or response in writing with the County Clerk of Wise County, Texas on or before the above-stated date and time.

Given under my hand and seal of said Court of office in Decatur, Texas, on this 9th day of May 2024.
BLANCA TUMA COUNTY CLERK, WISE COUNTY 200 N. TRINITY RECORDS BUILDING P.O. BOX 359 DECATUR, TX 76234 By: REBECCA JOHNSON, DEPUTY

CITY OF DECATUR ORDINANCE NO. 2324-18 AN ORDINANCE AMENDING CHAPTER 12, OF THE CODE OF ORDINANCES OF THE CITY OF DECATUR, TEXAS; BEING THAT CHAPTER DEALING WITH TRAFFIC AND MOTOR VEHICLES; PROVIDING FOR THE ADOPTION OF A NEW 'ARTICLE VI' TO ADDRESS ISSUES RELATED TO VEHICLE TONING, AMENDING THE SCHEDULE 1, NONPOINT CONTRIBUTION, ON MAY 23, 2024, COMMENCING AT 10:00 AM. It provides an opportunity for all interested persons to be heard with respect to a loan (all of which constitute "qualified 891(c)(3) beneficiaries" as defined in Section 170(b)(1)(G) of the Internal Revenue Code of 1986, as amended) from Zion Bancorporation, National Association dba Arroyo Bank (the "Lender") to the Corporation to make maximum municipal amount of \$22,000,000, and a loan from the Corporation to The Emory/Walter Center for Jewish Education (the "Borrower"), a Texas nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, in the same amount (collectively, the "Loans"); all pursuant to a Loan Agreement by and among the Corporation, the Lender and the Borrower.

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NATIONAL ASSOCIATION, INC. IN THE MATTER OF THE ESTATE OF DEANNA FAITH WILSON, DECEASED, IN THE COUNTY COURT AND CLERK OF WISE COUNTY, TEXAS CITATION BY PUBLICATION FIRST AMENDED APPLICATION TO DETERMINE HEIRSHIP DETERMINE HEIRSHIP THE STATE OF TEXAS To all persons interested in the ESTATE OF DEANNA FAITH WILSON, DECEASED, the alleged heir(s) at law on the above-numbered and entitled case filed as First Amended Application to Determine Heirship on the estate May 8, 2024, requesting that the Court determine who are the heirs and only heirs of Deanna Faith Wilson, deceased, and their respective shares and interests in such estate.

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DECATUR CITY COUNCIL

BEING THAT CHAPTER DEALING WITH TRAFFIC AND MOTOR VEHICLES; PROVIDING FOR THE ADOPTION OF A NEW 'ARTICLE VI' TO ADDRESS ISSUES RELATED TO VEHICLE TONING, AMENDING THE SCHEDULE 1, NONPOINT CONTRIBUTION, ON MAY 23, 2024, COMMENCING AT 10:00 AM. It provides an opportunity for all interested persons to be heard with respect to a loan (all of which constitute "qualified 891(c)(3) beneficiaries" as defined in Section 170(b)(1)(G) of the Internal Revenue Code of 1986, as amended) from Zion Bancorporation, National Association dba Arroyo Bank (the "Lender") to the Corporation to make maximum municipal amount of \$22,000,000, and a loan from the Corporation to The Emory/Walter Center for Jewish Education (the "Borrower"), a Texas nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, in the same amount (collectively, the "Loans"); all pursuant to a Loan Agreement by and among the Corporation, the Lender and the Borrower.

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BEING THAT CHAPTER DEALING WITH TRAFFIC AND MOTOR VEHICLES; PROVIDING FOR THE ADOPTION OF A NEW 'ARTICLE VI' TO ADDRESS ISSUES RELATED TO VEHICLE TONING, AMENDING THE SCHEDULE 1, NONPOINT CONTRIBUTION, ON MAY 23, 2024, COMMENCING AT 10:00 AM. It provides an opportunity for all interested persons to be heard with respect to a loan (all of which constitute "qualified 891(c)(3) beneficiaries" as defined in Section 170(b)(1)(G) of the Internal Revenue Code of 1986, as amended) from Zion Bancorporation, National Association dba Arroyo Bank (the "Lender") to the Corporation to make maximum municipal amount of \$22,000,000, and a loan from the Corporation to The Emory/Walter Center for Jewish Education (the "Borrower"), a Texas nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, in the same amount (collectively, the "Loans"); all pursuant to a Loan Agreement by and among the Corporation, the Lender and the Borrower.

This ordinance, in its entirety, is available for review in the Office of the City Secretary located at City Hall, 501 E. Walnut.
YOU HAVE BEEN SUE D, YOU or your attorney does not file a written answer to the PLAINTIFF'S FIRST AMENDED PETITION (or before 10:09 AM, on the Monday next following the expiration of forty-two days from the date of issuance of this citation the same being being Monday, June 17, 2024 with the clerk who issued this citation, a default judgment may be taken against you, in addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer to this case. Find out more at TexasLawHelp.org.

The Loans are being made for the purpose of financing all or a portion of the costs of the construction, renovation, finishing and equipment of new buildings that will house the Levine-Krohnitz Hall, new STEM-focused classrooms, a new gym, multi-use athletic space, new and renovated locker rooms, and a score construction area for Backs! Theater, all located at 9825 Steas Link Rd., Houston, Texas 77018 (collectively, the "Project"). A portion of the proceeds of the Loans will be used to pay certain expenses in connection with the execution and delivery of the loans, including travel and working capital. The Project will be owned by the Borrower. The Loans are not payable out of taxes and are secured by proceeds from at least two funds provided by the Borrower.

DECATUR CITY COUNCIL

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At the time and place set for the public hearing, interested persons will be given a reasonable opportunity to express their views, both orally via telephonic participation and in writing, on the merits of the Project, the Loans or related matters. Members of the public may listen to and contribute to any discussion during the hearing by calling the number 281-271-0524, ext. 558681. Persons wishing to participate should submit a written request to speak to two persons at least 48 hours before the hearing; however, the hearing officer will also provide time for additional comments during the hearing. Oral remarks may not exceed five minutes in duration. Written comments may also be submitted to htw@jw.com.

"Don't Miss the Moss"

DECATUR CITY COUNCIL

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"Don't Miss the Moss"



Wise County Messenger
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City of New Fairview

CITY BASE MAP



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ENGINEERING CORPORATION
L.P. REGISTRATION #299
8421 CAMP BONE BLVD. SUITE 400 FORT WORTH, TEXAS 76116-8421
OCTOBER 2008

LOCAL GOVERNMENT CODE
TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT
SUBTITLE C. MUNICIPAL BOUNDARIES AND ANNEXATION
CHAPTER 43. MUNICIPAL ANNEXATION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 43.001. DEFINITIONS. In this chapter:

- (1) "Extraterritorial jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.
 - (2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.
 - (3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.
 - (4) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.
 - (5) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.
- Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 1, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Sec. 43.002. CONTINUATION OF LAND USE. (a) A municipality may not, after annexing an area, prohibit a person from:

- (1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or
- (2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:

- (A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
- (B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

(b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

- (1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;
- (2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;
- (3) a regulation relating to preventing imminent destruction of property or injury to persons;
- (4) a regulation relating to public nuisances;
- (5) a regulation relating to flood control;
- (6) a regulation relating to the storage and use of hazardous substances; or
- (7) a regulation relating to the sale and use of fireworks.

(d) A regulation relating to the discharge of firearms or other weapons is subject to the restrictions in Section 229.002.

(e) Notwithstanding Subsection (c) and until the 20th anniversary of the date of the annexation of an area that includes a permanent retail structure, a municipality may not prohibit a person from continuing to use the structure for the indoor seasonal sale of retail goods if the structure:

- (1) is more than 5,000 square feet; and
- (2) was authorized under the laws of this state to be used for the indoor seasonal sale of retail goods on the effective date of the annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 18 (S.B. 734), Sec. 3, eff. May 3, 2005.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 2, eff. December 1, 2017.

Sec. 43.003. AUTHORITY OF HOME-RULE MUNICIPALITY TO ANNEX AREA AND TAKE OTHER ACTIONS REGARDING BOUNDARIES. A home-rule municipality may take the following actions according to rules as may be provided by the charter of the municipality and not inconsistent with the requirements prescribed by this chapter:

- (1) fix the boundaries of the municipality;
- (2) extend the boundaries of the municipality and annex area adjacent to the municipality; and
- (3) exchange area with other municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Transferred, redesignated and amended from Local Government Code, Section 43.021 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 3, eff. December 1, 2017.

Sec. 43.004. ANNEXATION BY DEFUNDING MUNICIPALITY PROHIBITED; EXCEPTION. (a) In this section, "defunding municipality" means a home-rule municipality that is considered to be a defunding municipality under Chapter 109.

(b) Except as provided by Subsection (c), a defunding municipality may not annex an area during the period beginning on the date that the criminal justice division of the governor's office issues the written determination that the municipality is a defunding municipality and ending on the 10th anniversary of the date on which the criminal justice division of the governor's office issues a written determination in accordance with Section 109.005 finding that the defunding municipality has reversed the reduction described by Section 109.003(1).

(c) This section does not apply to a defunding municipality annexing all or part of an area under Section 43.0116 that was designated an industrial district under Section 42.044(b) or the subject of an agreement under Section 42.044(c) as of January 1, 2021.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 2.01, eff. September 1, 2021

Sec. 43.005. REQUIRED DISCLOSURE BEFORE ANNEXATION AGREEMENT. (a) At the time a municipality makes an offer to a landowner to enter into an agreement in which the landowner consents to annexation, the municipality must provide the landowner with the written disclosure described by Section 212.172(b-1).

(b) An annexation agreement for which a disclosure is not provided in accordance with Subsection (a) is void.

Added by Acts 2021, 87th Leg., R.S., Ch. 103 (S.B. 1338), Sec. 1, eff. September 1, 2021.

Redesignated from Local Government Code, Section 43.004 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(28), eff. September 1, 2023.

SUBCHAPTER A-1. GENERAL AUTHORITY TO ANNEX

Sec. 43.0115. AUTHORITY OF CERTAIN MUNICIPALITIES TO ANNEX ENCLAVES. (a) This section applies only to a municipality that:

- (1) is wholly or partly located in a county in which a majority of the population of two or more municipalities, each with a population of 300,000 or more, are located; and
- (2) proposes to annex an area that:
 - (A) is wholly surrounded by a municipality and within the municipality's extraterritorial jurisdiction; and

(B) has fewer than 100 dwelling units.

(b) Notwithstanding any other law, the governing body of a municipality by ordinance may annex an area without the consent of any of the residents of, voters of, or owners of land in the area under the procedures prescribed by Subchapter C-1.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 4, eff. December 1, 2017.

Sec. 43.0116. AUTHORITY OF MUNICIPALITY TO ANNEX INDUSTRIAL DISTRICTS. (a) Notwithstanding any other law and subject to Subsection (b), a municipality may annex all or part of the area located in an industrial district designated by the governing body of the municipality under Section 42.044 under the procedures prescribed by Subchapter C-1.

(b) A municipality that proposes to annex an area located in an industrial district subject to a contract described by Section 42.044(c) may initiate the annexation only:

- (1) on or after the date the contract expires, including any period renewing or extending the contract; or
- (2) as provided by the contract.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 4, eff. December 1, 2017.

Amended by: Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.02, eff. May 24, 2019.

Sec. 43.0117. AUTHORITY OF MUNICIPALITY TO ANNEX AREA NEAR MILITARY BASE. (a) In this section, "military base" means a presently functioning federally owned or operated military installation or facility.

(b) A municipality may annex for full or limited purposes, under the annexation provisions applicable to that municipality under this chapter, any part of the area located within five miles of the boundary of a military base in which an active training program is conducted. The annexation proposition shall be stated to allow the voters of the area to be annexed to choose between either annexation or providing the municipality with the authority to adopt and enforce an ordinance regulating the land use in the area in the manner recommended by the most recent joint land use study.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 4, eff. December 1, 2017.

Sec. 43.012. AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA IT OWNS. The governing body of a Type A general-law municipality by ordinance may annex area that the municipality owns under the procedures prescribed by Subchapter C-1. The ordinance must describe the area by metes and bounds and must be entered in the minutes of the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Transferred, redesignated and amended from Local Government Code, Section 43.026 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 5, eff. December 1, 2017.

Sec. 43.013. AUTHORITY OF MUNICIPALITY TO ANNEX NAVIGABLE STREAM. The governing body of a municipality by ordinance may annex any navigable stream adjacent to the municipality and within the municipality's extraterritorial jurisdiction under the procedures prescribed by Subchapter C-1.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Transferred, redesignated and amended from Local Government Code, Section 43.027 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 6, eff. December 1, 2017.

Sec. 43.014. AUTHORITY TO ANNEX LIMITED TO EXTRATERRITORIAL JURISDICTION. A municipality may annex area only in its extraterritorial jurisdiction unless the municipality owns the area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Transferred and redesignated from Local Government Code, Section 43.051 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 7, eff. December 1, 2017.

Sec. 43.015. AUTHORITY OF ADJACENT MUNICIPALITIES TO CHANGE BOUNDARIES BY AGREEMENT. Adjacent municipalities may make mutually agreeable changes in their boundaries of areas that are less than 1,000 feet in width.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(c), eff. Aug. 28, 1989.

Transferred and redesignated from Local Government Code, Section 43.031 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 8, eff. December 1, 2017.

Sec. 43.016. AUTHORITY OF MUNICIPALITY TO ANNEX AREA QUALIFIED FOR AGRICULTURAL OR WILDLIFE MANAGEMENT USE OR AS TIMBER LAND. (a) This section applies only to an area:

(1) eligible to be the subject of a development agreement under Subchapter G, Chapter 212; and
(2) appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter.

(b) A municipality may not annex an area to which this section applies unless:

(1) the municipality offers to make a development agreement with the landowner under Section 212.172 that would:

(A) guarantee the continuation of the extraterritorial status of the area; and

(B) authorize the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber; and

(2) the landowner declines to make the agreement described by Subdivision (1).

(c) For purposes of Section 43.003(2) or another law, including a municipal charter or ordinance, relating to municipal authority to annex an area adjacent to the municipality, an area adjacent or contiguous to an area that is the subject of a development agreement described by Subsection (b)(1) is considered adjacent or contiguous to the municipality.

(d) A provision of a development agreement described by Subsection (b)(1) that restricts or otherwise limits the annexation of all or part of the area that is the subject of the agreement is void if the landowner files any type of subdivision plat or related development document for the area with a governmental entity that has jurisdiction over the area, regardless of how the area is appraised for ad valorem tax purposes.

(e) A development agreement described by Subsection (b)(1) is not a permit for purposes of Chapter 245.

Added by Acts 2007, 80th Leg., R.S., Ch. 225 (H.B. 1472), Sec. 1, eff. May 25, 2007.

Transferred, redesignated and amended from Local Government Code, Section 43.035 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 9, eff. December 1, 2017.

Sec. 43.017. PROHIBITION AGAINST ANNEXATION TO SURROUND MUNICIPALITY IN CERTAIN COUNTIES.

A municipality with a population of more than 175,000 located in a county that contains an international border and borders the Gulf of Mexico may not annex an area that would cause another municipality to be entirely surrounded by the corporate limits or extraterritorial jurisdiction of the annexing municipality.

Added by Acts 2015, 84th Leg., R.S., Ch. 941 (H.B. 4059), Sec. 3, eff. June 18, 2015.

Transferred and redesignated from Local Government Code, Section 43.037 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 10, eff. December 1, 2017.

SUBCHAPTERC. LIMITATIONS AND REQUIREMENTS REGARDING ANNEXATIONS EXEMPTED FROM CONSENT ANNEXATION PROCEDURES

Sec. 43.0505. APPLICABILITY. (a) This subchapter applies only to an annexation under Subchapter C-1.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(4), eff. May 24, 2019.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 14, eff. December 1, 2017.

Amended by: Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.04, eff. May 24, 2019.

But reference to the amendment of this section, this section was repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Sec. 43.052. MUNICIPAL ANNEXATION PLAN REQUIRED.

(f-1) In addition to the notice provided under Subsection (f), a home-rule municipality, before the 90th day after the date the municipality adopts or amends an annexation plan under this section, shall give written notice as provided by this subsection to each property owner in any area that would be newly included in the municipality's extraterritorial jurisdiction as a result of the proposed annexation. For purposes of this subsection, a property owner is the owner as indicated by the appraisal records furnished by the appraisal district for each county in which the area that would be newly included in the municipality's extraterritorial jurisdiction is located. The notice must include:

- (1) a description of the area that has been included in the municipality's annexation plan;
- (2) a statement that the completed annexation of that area will expand the municipality's extraterritorial jurisdiction to include all or part of the property owner's property;
- (3) a statement of the purpose of extraterritorial jurisdiction designation as provided by Section 42.001; and
- (4) a brief description of each municipal ordinance that would be applicable, as authorized by Section 212.003, in the area that would be newly included in the municipality's extraterritorial jurisdiction.

(f-2) In addition to the notice requirements under Subsection (f), a home-rule municipality, before the 90th day after the date the municipality adopts or amends an annexation plan under this section, shall create, or contract for the creation of, and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the municipality's extraterritorial jurisdiction as a result of the proposed annexation. A digital map required under this subsection must be made available without charge and in a format widely used by common geographic information system software or in any other widely used electronic format if the municipality does not have common geographic information system software. If the municipality maintains an Internet website, the municipality shall make the digital map available on the municipality's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1167, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 1, eff. June 15, 2007.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 15, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 2, eff. September 1, 2019.

Sec. 43.054. WIDTH REQUIREMENTS. (a) A municipality may not annex a publicly or privately owned area, including a strip of area following the course of a road, highway, river, stream, or creek, unless the width of the area at its narrowest point is at least 1,000 feet.

(b) The prohibition established by Subsection (a) does not apply if:

- (1) the boundaries of the municipality are contiguous to the area on at least two sides;
- (2) the annexation is initiated on the written petition of the owners or of a majority of the qualified voters of the area; or
- (3) the area abuts or is contiguous to another jurisdictional boundary.

(c) Notwithstanding Subsection (a), a municipality with a population of 21,000 or more located in a county with a population of 100,000 or more may annex a publicly owned strip or similar area following the course of a road or highway for the purpose of annexing territory contiguous to the strip or area if the territory contiguous to the strip or area was formerly used or was to be used in connection with or by a superconducting super collider high-energy research facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(d), eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1167, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 768, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 16, eff. December 1, 2017.

Sec. 43.0545. ANNEXATION OF CERTAIN ADJACENT AREAS. (a) A municipality may not annex an area that is located in the extraterritorial jurisdiction of the municipality only because the area is contiguous to municipal territory that is less than 1,000 feet in width at its narrowest point.

(b) A municipality may not annex an area that is located in the extraterritorial jurisdiction of the municipality only because the area is contiguous to municipal territory that:

(1) was annexed before September 1, 1999; and

(2) was in the extraterritorial jurisdiction of the municipality at the time of annexation only because the territory was contiguous to municipal territory that was less than 1,000 feet in width at its narrowest point.

(c) Subsections (a) and (b) do not apply to an area:

(1) completely surrounded by incorporated territory of one or more municipalities;

(2) for which the owners of the area have requested annexation by the municipality;

(3) that is owned by the municipality; or

(4) that is the subject of an industrial district contract under Section 42.044.

(d) Subsection (b) does not apply if the minimum width of the narrow territory described by Subsection (b)(2), following subsequent annexation, is no longer less than 1,000 feet in width at its narrowest point.

(e) For purposes of this section, roads, highways, rivers, lakes, or other bodies of water are not included in computing the 1,000-foot distance unless the area being annexed includes land in addition to a road, highway, river, lake, or other body of water.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 6, eff. Sept. 1, 1999.

Sec. 43.055. MAXIMUM AMOUNT OF ANNEXATION EACH YEAR. (a) In a calendar year, a municipality may not annex a total area greater than 10 percent of the incorporated area of the municipality as of January 1 of that year, plus any amount of area carried over to that year under Subsection (b). In determining the total area annexed in a calendar year, an area annexed for limited purposes is included, but an annexed area is not included if it is:

(1) annexed at the request of a majority of the qualified voters of the area and the owners of at least 50 percent of the land in the area;

(2) owned by the municipality, a county, the state, or the federal government and used for a public purpose;

(3) annexed at the request of at least a majority of the qualified voters of the area; or

(4) annexed at the request of the owners of the area.

(b) If a municipality fails to annex in a calendar year the entire 10 percent amount permitted under Subsection (a), the municipality may carry over the unused allocation for use in subsequent calendar years.

(c) A municipality carrying over an allocation may not annex in a calendar year a total area greater than 30 percent of the incorporated area of the municipality as of January 1 of that year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(e), eff. Aug. 28, 1989.

Sec. 43.056. PROVISION OF SERVICES TO ANNEXED AREA.

(a) This section applies to a service plan under Section 43.065.

(b) The service plan, which must be completed before the annexation, must include a program under which the municipality will provide full municipal services in the annexed area

no later than 2-1/2 years after the effective date of the annexation, in accordance with Subsection (e), unless certain services cannot reasonably be provided within that period and the municipality proposes a schedule for providing those services, and must include a list of all services required by this section to be provided under the plan. If the municipality proposes a schedule to extend the period for providing certain services, the schedule must provide for the provision of full municipal services no later than 4-1/2 years after the effective date of the annexation. However, under the program if the municipality provides any of the following services within the corporate boundaries of the municipality before annexation, the municipality must provide those services in the area proposed for annexation on the effective date of the annexation of the area:

- (1) police protection;
- (2) fire protection;
- (3) emergency medical services;
- (4) solid waste collection, except as provided by Subsection (o);
- (5) operation and maintenance of water and wastewater facilities in the annexed area that are not within the service area of another water or wastewater utility;
- (6) operation and maintenance of roads and streets, including road and street lighting;
- (7) operation and maintenance of parks, playgrounds, and swimming pools; and
- (8) operation and maintenance of any other publicly owned facility, building, or service.

(c) For purposes of this section, "full municipal services" means services provided by the annexing municipality within its full-purpose boundaries, including water and wastewater services and excluding gas or electrical service.

(d) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

(e) The service plan must also include a program under which the municipality will initiate after the effective date of the annexation the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the area. The construction shall be substantially completed within the period provided in the service plan. The service plan may be amended to extend the period for construction if the construction is proceeding with all deliberate speed. The acquisition or construction of the facilities shall be accomplished by purchase, lease, or other contract or by the municipality succeeding to the powers, duties, assets, and obligations of a conservation and reclamation district as authorized or required by law. The construction of the facilities shall be accomplished in a continuous process and shall be completed as soon as reasonably possible, consistent with generally accepted local engineering and architectural standards and practices. However, the municipality does not violate this subsection if the construction process is interrupted for any reason by circumstances beyond the direct control of the municipality. The requirement that construction of capital improvements must be substantially completed within the period provided in the service plan does not apply to a development project or proposed development project within an annexed area if the annexation of the area was initiated by petition or request of the owners of land in the annexed area and the municipality and the landowners have subsequently agreed in writing that the development project within that area, because of its size or projected manner of development by the developer, is not reasonably expected to be completed within that period.

(f) A service plan may not:

- (1) require the creation of another political subdivision;
- (2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner;
- (3) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the corporate boundaries of the municipality before annexation;

(4) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the area before annexation; or

(5) cause a reduction in fire and police protection and emergency medical services within the area to be annexed below that of areas within the corporate boundaries of the municipality with similar topography, land use, and population density.

(g) If the annexed area had a lower level of services, infrastructure, and infrastructure maintenance than the level of services, infrastructure, and infrastructure maintenance provided within the corporate boundaries of the municipality before annexation, a service plan must provide the annexed area with a level of services, infrastructure, and infrastructure maintenance that is comparable to the level of services, infrastructure, and infrastructure maintenance available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the area. If the annexed area had a level of services, infrastructure, and infrastructure maintenance equal to the level of services, infrastructure, and infrastructure maintenance provided within the corporate boundaries of the municipality before annexation, a service plan must maintain that same level of services, infrastructure, and infrastructure maintenance. Except as provided by this subsection, if the annexed area had a level of services superior to the level of services provided within the corporate boundaries of the municipality before annexation, a service plan must provide the annexed area with a level of services that is comparable to the level of services available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the area. If the annexed area had a level of services for operating and maintaining the infrastructure of the area, including the facilities described by Subsections (b)(5)-(8), superior to the level of services provided within the corporate boundaries of the municipality before annexation, a service plan must provide for the operation and maintenance of the infrastructure of the annexed area at a level of services that is equal or superior to that level of services.

(h) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

(i) If only a part of the area to be annexed is actually annexed, the governing body shall direct the department to prepare a revised service plan for that part.

(j) The proposed service plan must be made available for public inspection and explained to the inhabitants of the area at the public hearings held under Section 43.063. The plan may be amended through negotiation at the hearings, but the provision of any service may not be deleted. On completion of the public hearings, the service plan shall be attached to the ordinance annexing the area and approved as part of the ordinance.

(k) On approval by the governing body, the service plan is a contractual obligation that is not subject to amendment or repeal except that if the governing body determines at the public hearings required by this subsection that changed conditions or subsequent occurrences make the service plan unworkable or obsolete, the governing body may amend the service plan to conform to the changed conditions or subsequent occurrences. An amended service plan must provide for services that are comparable to or better than those established in the service plan before amendment. Before any amendment is adopted, the governing body must provide an opportunity for interested persons to be heard at public hearings called and held in the manner provided by Section 43.063.

(l) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing or owning land in an annexed area may enforce a service plan by applying for a writ of mandamus not later than the second anniversary of the date the person knew or should have known that the municipality was not complying with the service plan. If a writ of mandamus is applied for, the municipality has the burden of proving that the services have been provided in accordance with the service plan in question. If a court issues a writ under this subsection, the court:

(1) must provide the municipality the option of disannexing the area within a reasonable period specified by the court;

(2) may require the municipality to comply with the service plan in question before a reasonable date specified by the court if the municipality does not disannex the area within the period prescribed by the court under Subdivision (1);

(3) may require the municipality to refund to the landowners of the annexed area money collected by the municipality from those landowners for services to the area that were not provided;

(4) may assess a civil penalty against the municipality, to be paid to the state in an amount as justice may require, for the period in which the municipality is not in compliance with the service plan;

(5) may require the parties to participate in mediation; and

(6) may require the municipality to pay the person's costs and reasonable attorney's fees in bringing the action for the writ.

(m) This section does not require that a uniform level of full municipal services be provided to each area of the municipality if different characteristics of topography, land use, and population density constitute a sufficient basis for providing different levels of service. Any disputes regarding the level of services provided under this subsection are resolved in the same manner provided by Subsection (l). Nothing in this subsection modifies the requirement under Subsection (g) for a service plan to provide a level of services in an annexed area that is equal or superior to the level of services provided within the corporate boundaries of the municipality before annexation. To the extent of any conflict between this subsection and Subsection (g), Subsection (g) prevails.

(n) Before the second anniversary of the date an area is included within the corporate boundaries of a municipality by annexation, the municipality may not:

(1) prohibit the collection of solid waste in the area by a privately owned solid waste management service provider; or

(2) offer solid waste management services in the area unless a privately owned solid waste management service provider is unavailable.

(o) A municipality is not required to provide solid waste collection services under Subsection (b) to a person who continues to use the services of a privately owned solid waste management service provider as provided by Subsection (n).

(p) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(b), eff. December 1, 2017.

(q) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(f), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 822, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 4.011, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 969, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1062, Sec. 1, eff. June 17, 1995; Acts 1999, 76th Leg., ch. 1167, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 2, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1363 (S.B. 1596), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 952 (S.B. 1878), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 17, eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(a), eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 55(b), eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(7), eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.05, eff. May 24, 2019.

Without reference to the amendment of this section, this section was repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01, eff. May 24, 2019.

Sec. 43.0561. ANNEXATION HEARING REQUIREMENTS.

(c) The municipality must:

(1) post notice of the hearings on the municipality's Internet website if the municipality has an Internet website; and

(2) publish notice of the hearings in a newspaper of general circulation:

(A) in the municipality;

(B) in the area proposed for annexation; and

(C) if the municipality is a home-rule municipality, in any area that would be newly included in the municipality's extraterritorial jurisdiction by the expansion of the municipality's extraterritorial jurisdiction resulting the proposed annexation.

(d) The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

(e) This subsection applies only to a home-rule municipality. If applicable, the notice for each hearing must include:

(1) a statement that the completed annexation of the area will expand the municipality's extraterritorial jurisdiction;

(2) a description of the area that would be newly included in the municipality's extraterritorial jurisdiction;

(3) a statement of the purpose of extraterritorial jurisdiction designation as provided by Section 42.001; and

(4) a brief description of each municipal ordinance that would be applicable, as authorized by Section 212.003, in the area that would be newly included in the municipality's extraterritorial jurisdiction.

(f) In addition to the notice required by Subsection (c), the municipality must give notice by certified mail to:

(1) each public entity, as defined by Section 43.053, and utility service provider that provides services in the area proposed for annexation; and

(2) each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999.

Amended by: Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 3, eff. September 1, 2019

Sec. 43.0565. ACCESS TO SERVICES BY CERTAIN MUNICIPALITIES IN ANNEXED AREA. (a) A municipality with a population of 350,000 or less shall provide access to services provided to an annexed area under a service plan described by Section 43.056 that is identical or substantially similar to access to those services in the municipality.

(b) A person residing in an annexed area subject to a service plan may apply for a writ of mandamus against a municipality that fails to provide access to services in accordance with Subsection (a). In the action for the writ:

(1) the court may order the parties to participate in mediation;

(2) the municipality has the burden of proving that the municipality complied with Subsection (a);

(3) the person may provide evidence that the costs for the person to access the services are disproportionate to the costs incurred by a municipal resident to access those services; and

(4) if the person prevails:

(A) the municipality shall:

(i) disannex the property that is the subject of the suit within a reasonable period specified by the court; or

(ii) comply with Subsection (a); and

(B) the court shall award the person's attorney's fees and costs incurred in bringing the action for the writ.

(c) A municipality's governmental immunity to suit and from liability is waived and abolished to the extent of liability created under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 429 (S.B. 1024), Sec. 1, eff. September 1, 2019.

Sec. 43.057. ANNEXATION THAT SURROUNDS AREA: FINDINGS REQUIRED. If a proposed annexation would cause an area to be entirely surrounded by the annexing municipality but would not include the area within the municipality, the governing body of the municipality must find, before completing the annexation, that surrounding the area is in the public interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C-1. ANNEXATION PROCEDURE FOR AREAS EXEMPTED FROM CONSENT ANNEXATION PROCEDURES

Sec. 43.061. APPLICABILITY. (a) Unless otherwise specifically provided by this chapter or another law, this subchapter applies only to an annexation under:

- (1) Section 43.0115 (Enclave)
- (2) Section 43.0116 (Industrial District);
- (3) Section 43.012 (Area Owned by Type-A Municipality);
- (4) Section 43.013 (Navigable Stream);
- (5) Section 43.0751(h) (Strategic Partnership);
- (6) Section 43.101 (Municipally Owned Reservoir);
- (7) Section 43.102 (Municipally Owned Airport); and
- (8) Section 43.1055 (Road and Right-of-Way).

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(12), eff. May 24, 2019.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Amended by: Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 21, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 1.01(12), eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.07, eff. May 24, 2019.

Sec. 43.062. PROCEDURES APPLICABLE. (a) Sections 43.054, 43.0545, 43.055, and 43.057 apply to the annexation of an area to which this subchapter applies.

(b) This subsection applies only to an area that contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract. Before the 30th day before the date of the first hearing required under Section 43.063, a municipality shall give written notice of its intent to annex the area to:

- (1) each property owner in an area proposed for annexation, as indicated by the appraisal records furnished by the appraisal district for each county in which the area is located;
- (2) each public entity or private entity that provides services in the area proposed for annexation, including each:
 - (A) municipality, county, fire protection service provider, including a volunteer fire department, and emergency medical services provider, including a volunteer emergency medical services provider; and
 - (B) municipal utility district, water control and improvement district, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution; and
- (3) each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Amended by: Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 22, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.08, eff. May 24, 2019.

Sec. 43.063. ANNEXATION HEARING REQUIREMENTS. (a) Before a municipality may institute annexation proceedings, the governing body of the municipality must conduct two public hearings at which persons interested in the annexation are given the opportunity to be heard. The hearings must be conducted on or after the 40th day but before the 20th day before the date of the institution of the proceedings.

(b) At least one of the hearings must be held in the area proposed for annexation if a suitable site is reasonably available and more than 10 percent of the adults who are permanent residents of the area file a written protest of the annexation with the secretary of the municipality within 10 days after the date of the publication of the notice required by this section. The protest must state the name, address, and age of each protester who signs.

(c) The municipality must:

(1) post notice of the hearings on the municipality's Internet website if the municipality has an Internet website; and

(2) publish notice of the hearings in a newspaper of general circulation:

(A) in the municipality;

(B) in the area proposed for annexation; and

(C) if the municipality is a home-rule municipality, in any area that would be newly included in the municipality's extraterritorial jurisdiction by the expansion of the municipality's extraterritorial jurisdiction resulting from the proposed annexation.

(d) The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

(e) This subsection applies only to a home-rule municipality. If applicable, the notice for each hearing must include:

(1) a statement that the completed annexation of the area will expand the municipality's extraterritorial jurisdiction;

(2) a description of the area that would be newly included in the municipality's extraterritorial jurisdiction;

(3) a statement of the purpose of extraterritorial jurisdiction designation as provided by Section 42.001; and

(4) a brief description of each municipal ordinance that would be applicable, as authorized by Section 212.003, in the area that would be newly included in the municipality's extraterritorial jurisdiction.

(f) In addition to the notice required by Subsection (c), the municipality must give notice by certified mail to each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Amended by: Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 4, eff. September 1, 2019.

Sec. 43.0635. MAP REQUIREMENT FOR PROPOSED ANNEXATION. In addition to the notice requirements under Section 43.063, a home-rule municipality, before the municipality may institute annexation proceedings, shall create, or contract for the creation of, and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the municipality's extraterritorial jurisdiction as a result of the proposed annexation. A digital map required under this section must be made available without charge and in a format widely used by common geographic information system software or in any other widely used electronic format if the municipality does not have common geographic information system software. If the municipality maintains an Internet website, the municipality shall make the digital map available on the municipality's website.

Added by Acts 2019, 86th Leg., R.S., Ch. 1217 (S.B. 1303), Sec. 5, eff. September 1, 2019.

Sec. 43.064. PERIOD FOR COMPLETION OF ANNEXATION. The annexation of an area must be completed within 90 days after the date the governing body institutes the annexation proceedings or those proceedings are void. Any period during which the municipality is restrained or enjoined by a court from annexing the area is not included in computing the 90-day period.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Amended by: Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 23, eff. December 1, 2017.

Sec. 43.065. PROVISION OF SERVICES TO ANNEXED AREA. (a) Before the publication of the notice of the first hearing required under Section 43.063, the governing body of the municipality proposing the annexation shall direct its planning department or other appropriate municipal department to prepare a service plan that provides for the extension of full municipal services to the area to be annexed. The municipality shall provide the services by any of the methods by which it extends the services to any other area of the municipality.

(b) Sections 43.056(b)-(o) apply to the annexation of an area to which this subchapter applies.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

SUBCHAPTER C-2. GENERAL ANNEXATION AUTHORITY AND PROCEDURES REGARDING CONSENT ANNEXATIONS

Sec. 43.0661. PROVISION OF CERTAIN SERVICES TO ANNEXED AREA. (a) This section applies only to a municipality that includes solid waste collection services in the list of services that will be provided in the area proposed for annexation on or before the second anniversary of the effective date of the annexation of the area under a written agreement under Section 43.0672 or a resolution under Section 43.0682 or 43.0692.

(b) A municipality is not required to provide solid waste collection services to a person who continues to use the services of a privately owned solid waste management service provider as provided by Subsection (c).

(c) Before the second anniversary of the effective date of the annexation of an area, a municipality may not:

(1) prohibit the collection of solid waste in the area by a privately owned solid waste management service provider; or

(2) offer solid waste management services in the area unless a privately owned solid waste management service provider is unavailable.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 24, eff. December 1, 2017.

Sec. 43.0662. AUTHORITY OF MUNICIPALITY WITH POPULATION OF 74,000 TO 99,700 IN URBAN COUNTY TO ANNEX SMALL, SURROUNDED GENERAL-LAW MUNICIPALITY. (a) Notwithstanding Subchapter C-4 or C-5, a municipality that has a population of 74,000 to 99,700, that is located wholly or partly in a county with a population of more than 1.8 million, and that completely surrounds and is contiguous to a general-law municipality with a population of less than 600, may annex the general-law municipality as provided by this section.

(b) The governing body of the smaller municipality may adopt an ordinance ordering an election on the question of consenting to the annexation of the smaller municipality by the larger municipality. The governing body of the smaller municipality shall adopt the ordinance if it receives a petition to do so signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters of the municipality who voted in the most recent general election. If the ordinance ordering the election is

to be adopted as a result of a petition, the ordinance shall be adopted within 30 days after the date the petition is received.

(c) The ordinance ordering the election must provide for the submission of the question at an election to be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the 30th day after the date the ordinance is adopted and that affords enough time to hold the election in the manner required by law.

(d) Within 10 days after the date on which the election is held, the governing body of the smaller municipality shall canvass the election returns and by resolution shall declare the results of the election. If a majority of the votes received is in favor of the annexation, the secretary of the smaller municipality or other appropriate municipal official shall forward by certified mail to the secretary of the larger municipality a certified copy of the resolution.

(e) The larger municipality, within 90 days after the date the resolution is received, must complete the annexation by ordinance in accordance with its municipal charter or the general laws of the state. If the annexation is not completed within the 90-day period, any annexation proceeding is void and the larger municipality may not annex the smaller municipality under this section. However, the failure to complete the annexation as provided by this subsection does not prevent the smaller municipality from holding a new election on the question to enable the larger municipality to annex the smaller municipality as provided by this section.

(f) If the larger municipality completes the annexation within the prescribed period, the incorporation of the smaller municipality is abolished. The records, public property, public buildings, money on hand, credit accounts, and other assets of the smaller municipality become the property of the larger municipality and shall be turned over to the officers of that municipality. The offices in the smaller municipality are abolished and the persons holding those offices are not entitled to further remuneration or compensation. All outstanding liabilities of the smaller municipality are assumed by the larger municipality.

(g) In the annexation ordinance, the larger municipality shall adopt, for application in the area zoned by the smaller municipality, the identical comprehensive zoning ordinance that the smaller municipality applied to the area at the time of the election. Any attempted annexation of the smaller municipality that does not include the adoption of that comprehensive zoning ordinance is void. That comprehensive zoning ordinance may not be repealed or amended for a period of 10 years unless the written consent of the landowners who own at least two-thirds of the surface land of the annexed smaller municipality is obtained.

(h) If the annexed smaller municipality has on hand any bond funds for public improvements that are not appropriated or contracted for, the funds shall be kept in a separate special fund to be used only for public improvements in the area for which the bonds were voted.

(i) On the annexation, all claims, fines, debts, or taxes due and payable to the smaller municipality become due and payable to the larger municipality and shall be collected by it. If taxes for the year in which the annexation occurs have been assessed in the smaller municipality before the annexation, the amounts assessed remain as the amounts due and payable from the inhabitants of the smaller municipality for that year.

(j) This section does not affect a charter provision of a home-rule municipality. This section grants additional power to the municipality and is cumulative of the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 80, eff. Sept. 1, 1991.

Transferred, redesignated and amended from Local Government Code, Section 43.030 by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 25, eff. December 1, 2017.

Sec. 43.0663. EFFECT ON OTHER LAW. Subchapters C-3 through C-5 do not affect the procedures described by Section 397.005 or 397.006 applicable to a defense community as defined by Section 397.001.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 24, eff. December 1, 2017.

SUBCHAPTER C-3. ANNEXATION OF AREA ON REQUEST OF OWNERS

Sec. 43.0671. AUTHORITY TO ANNEX AREA ON REQUEST OF OWNERS. Notwithstanding Subchapter C-4 or C-5, a municipality may annex an area if each owner of land in the area requests the annexation.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0672. WRITTEN AGREEMENT REGARDING SERVICES. (a) The governing body of the municipality that elects to annex an area under this subchapter must first negotiate and enter into a written agreement with the owners of land in the area for the provision of services in the area.

(b) The agreement must include:

- (1) a list of each service the municipality will provide on the effective date of the annexation; and
- (2) a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

(c) The municipality is not required to provide a service that is not included in the agreement.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0673. PUBLIC HEARING. (a) Before a municipality may adopt an ordinance annexing an area under this subchapter, the governing body of the municipality must conduct one public hearing.

(c) During the public hearing, the governing body:

- (1) must provide persons interested in the annexation the opportunity to be heard; and
- (2) may adopt an ordinance annexing the area.

(d) The municipality must post notice of the hearing on the municipality's Internet website if the municipality has an Internet website and publish notice of the hearing in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for the hearing must be:

- (1) published at least once on or after the 20th day but before the 10th day before the date of the hearing; and
- (2) posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Amended by: Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 3.01, eff. May 24, 2019.

SUBCHAPTER C-4. ANNEXATION OF AREAS WITH POPULATION OF LESS THAN 200 BY PETITION

Sec. 43.0681. AUTHORITY TO ANNEX. A municipality may annex an area with a population of less than 200 only if the following conditions are met, as applicable:

- (1) the municipality obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area; and
- (2) if the registered voters of the area do not own more than 50 percent of the land in the area, the petition described by Subdivision (1) is signed by more than 50 percent of the owners of land in the area.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0682. RESOLUTION. The governing body of the municipality that proposes to annex an area under this subchapter must adopt a resolution that includes:

- (1) a statement of the municipality's intent to annex the area;
- (2) a detailed description and map of the area;
- (3) a description of each service to be provided by the municipality in the area on or after the effective date of the annexation, including, as applicable:
 - (A) police protection;
 - (B) fire protection;
 - (C) emergency medical services;
 - (D) solid waste collection;
 - (E) operation and maintenance of water and wastewater facilities in the annexed area;
 - (F) operation and maintenance of roads and streets, including road and street lighting;
 - (G) operation and maintenance of parks, playgrounds, and swimming pools; and
 - (H) operation and maintenance of any other publicly owned facility, building, or service;
- (4) a list of each service the municipality will provide on the effective date of the annexation; and
- (5) a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0683. NOTICE OF PROPOSED ANNEXATION. Not later than the seventh day after the date the governing body of the municipality adopts the resolution under Section 43.0682, the municipality must mail to each resident and property owner in the area proposed to be annexed notification of the proposed annexation that includes:

- (1) notice of the public hearing required by Section 43.0684;
- (2) an explanation of the 180-day petition period described by Section 43.0685; and
- (3) a description, list, and schedule of services to be provided by the municipality in the area on or after annexation as provided by Section 43.0682.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0684. PUBLIC HEARING. The governing body of a municipality must conduct at least one public hearing not earlier than the 21st day and not later than the 30th day after the date the governing body adopts the resolution under Section 43.0682.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0685. PETITION. (a) Except as provided by Subsection (a-1), the petition required by Section 43.0681 may be signed only by a registered voter of the area proposed to be annexed.

(a-1) If the registered voters of the area proposed to be annexed do not own more than 50 percent of the land in the area, the petition required by Section 43.0681 may also be signed by the owners of land in the area that are not registered voters. Notwithstanding Subsection (e), the municipality may provide for an owner of land in the area that is not a resident of the area to sign the petition electronically.

(a-2) The petition must clearly indicate that the person is signing as a registered voter of the area, an owner of land in the area, or both.

(b) The municipality may collect signatures on the petition only during the period beginning on the 31st day after the date the governing body of the municipality adopts the resolution under Section 43.0682 and ending on the 180th day after the date the resolution is adopted.

(c) The petition must clearly state that a person signing the petition is consenting to the proposed annexation.

(d) The petition must include a map of and describe the area proposed to be annexed.

(e) Signatures collected on the petition must be in writing.

(f) Chapter 277, Election Code, applies to a petition under this section.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

Sec. 43.0686. RESULTS OF PETITION. (a) When the petition period prescribed by Section 43.0685 ends, the petition shall be verified by the municipal secretary or other person responsible for verifying signatures. The municipality must notify the residents and property owners of the area proposed to be annexed of the results of the petition.

(b) If the municipality does not obtain the number of signatures on the petition required to annex the area, the municipality may not annex the area and may not adopt another resolution under Section 43.0682 to annex the area until the first anniversary of the date the petition period ended.

(c) If the municipality obtains the number of signatures on the petition required to annex the area, the municipality may annex the area after:

- (1) providing notice under Subsection (a);
- (2) holding a public hearing at which members of the public are given an opportunity to be heard; and
- (3) holding a final public hearing not earlier than the 10th day after the date of the public hearing under Subdivision (2) at which the ordinance annexing the area may be adopted.

Added by Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 26, eff. December 1, 2017.

SUBCHAPTER G. DISANNEXATION

Sec. 43.141. DISANNEXATION FOR FAILURE TO PROVIDE SERVICES. (a) A majority of the qualified voters of an annexed area may petition the governing body of the municipality to disannex the area if the municipality fails or refuses to provide services or to cause services to be provided to the area:

(1) if the area was annexed under Subchapter C-1, within the period specified by Section 43.056 or by the service plan prepared for the area under that section; or

(2) if the area was annexed under Subchapter C-3, C-4, or C-5, within the period specified by the written agreement under Section 43.0672 or the resolution under Section 43.0682 or 43.0692, as applicable.

(b) If the governing body fails or refuses to disannex the area within 60 days after the date of the receipt of the petition, any one or more of the signers of the petition may bring a cause of action in a district court of the county in which the area is principally located to request that the area be disannexed. On the filing of an answer by the governing body, and on application of either party, the case shall be advanced and heard without further delay in accordance with the Texas Rules of Civil Procedure. The district court shall enter an order disannexing the area if the court finds that a valid petition was filed with the municipality and that the municipality failed to:

(1) perform its obligations in accordance with:

- (A) the service plan under Section 43.056;
- (B) the written agreement entered into under Section 43.0672; or
- (C) the resolution adopted under Section 43.0682 or 43.0692, as applicable; or

(2) perform in good faith.

(c) If the area is disannexed under this section, it may not be annexed again within 10 years after the date of the disannexation.

(d) The petition for disannexation must:

- (1) be written;
- (2) request the disannexation;
- (3) be signed in ink or indelible pencil by the appropriate voters;

(4) be signed by each voter as that person's name appears on the most recent official list of registered voters;

(5) contain a note made by each voter stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;

(6) describe the area to be disannexed and have a plat or other likeness of the area attached; and

(7) be presented to the secretary of the municipality.

(e) The signatures to the petition need not be appended to one paper.

(f) Before the petition is circulated among the voters, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the annexed area and by publishing a copy of the petition once in a newspaper of general circulation serving the area before the 15th day before the date the petition is first circulated. Proof of the posting and publication must be made by attaching to the petition presented to the secretary:

(1) the sworn affidavit of any voter who signed the petition, stating the places and dates of the posting; and

(2) the sworn affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1167, Sec. 14, eff. Sept. 1, 1999.

Amended by: Acts 2017, 85th Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 39, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 155 (H.B. 347), Sec. 2.15, eff. May 24, 2019.

Sec. 43.142. DISANNEXATION ACCORDING TO MUNICIPAL CHARTER IN HOME-RULE MUNICIPALITY. A home-rule municipality may disannex an area in the municipality according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.143. DISANNEXATION BY PETITION AND ELECTION IN GENERAL-LAW MUNICIPALITY. (a) When at least 50 qualified voters of an area located in a general-law municipality sign and present a petition to the mayor of the municipality that describes the area by metes and bounds and requests that the area be declared no longer part of the municipality, the mayor shall order an election on the question in the municipality. The election shall be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the date on which the petition is filed and that affords enough time to hold the election in the manner required by law.

(b) When a majority of the votes received in the election favor discontinuing the area as part of the municipality, the mayor shall declare that the area is no longer a part of the municipality and shall enter an order to that effect in the minutes or records of the governing body of the municipality. The area ceases to be a part of the municipality on the date of the order. However, the area may not be discontinued as part of the municipality if the discontinuation would result in the municipality having less area than one square mile or one mile in diameter around the center of the original municipal boundaries.

(c) If the area withdraws from a municipality as provided by this section and if, at the time of the withdrawal, the municipality owes any debts, by bond or otherwise, the area is not released from its pro rata share of that indebtedness. The governing body shall continue to levy a property tax each year on the property in the area at the same rate that is levied on other property in the municipality until the taxes collected from the area equal its pro rata share of the indebtedness. Those taxes may be charged only with the cost of levying and collecting the taxes, and the taxes shall be applied exclusively to the payment of the pro rata share of the indebtedness. This subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.144. DISANNEXTION OF SPARSELY POPULATED AREA IN GENERAL-LAW MUNICIPALITY. (a) The mayor and governing body of a general-law municipality by ordinance may discontinue an area as a part of the municipality if:

- (1) the area consists of at least 10 acres contiguous to the municipality; and
 - (2) the area:
 - (A) is uninhabited; or
 - (B) contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre.
- (b) On adoption of the ordinance, the mayor shall enter in the minutes or records of the governing body an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.145. DISANNEXTION OF UNIMPROVED AREA OR NONTAXABLE AREA IN CERTAIN MUNICIPALITIES. (a) The governing body of a municipality by ordinance may discontinue an area as a part of the municipality if:

- (1) the municipality has a population of 4,000 or more and is located in a county with a population of more than 205,000, and the area is composed of at least three contiguous acres that are unimproved and adjoining the municipal boundaries; or
 - (2) the municipality has a population of 596,000 or more, and the area is an improved area that is not taxable by the municipality and is contiguous to the municipal boundary.
- (b) On adoption of the ordinance, the governing body shall enter in the minutes or records of the municipality an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.146. DISANNEXTION OF LAND IN A MUNICIPAL UTILITY DISTRICT. Notwithstanding any provision of any other law related to the annexation or disannexation of territory, including but not limited to the requirement that the minimum width of any territory annexed be at least 1,000 feet in width, a municipality that has exercised limited purpose annexation may disannex any land located within a municipal utility district. Such disannexation shall not affect the validity of the annexation of other territory. Such municipality may refund any taxes paid or waive any taxes due to the municipality by the owners of the property disannexed pursuant to the provisions of this section.

Added by Acts 1989, 71st Leg., ch. 1058, Sec. 5, eff. Sept. 1, 1989.

Sec. 43.1463. DISANNEXTION OF AREAS ANNEXED DURING TRANSITION FROM NONCONSENT TO CONSENT ANNEXATION MODEL.

- (a) This section applies only to an area:
- (1) for which an annexation was:
 - (A) initiated by a municipality with a population of 500,000 or more; and
 - (B) finalized for full purposes between March 3, 2015, and December 1, 2017; and
 - (2) that had a population of greater than zero on the date the area was annexed.
- (b) This section does not apply to a municipality:
- (1) whose extraterritorial jurisdiction is adjacent to or includes all or part of a federal military installation in active use as of May 1, 2023; or
 - (2) in which all or part of a federal military installation in active use as of May 1, 2023, is located.

(c) A municipality shall hold an election in an area described by Subsection (a) on the question of disannexing the area from the municipality. The municipality:

(1) may not use public money on promotional campaigns or advocacy related to the election; and

(2) shall ensure that the ballot proposition for the election:

(A) describes the area to be disannexed;

(B) identifies the area by the commonly used name of the area, if applicable;

(C) identifies the entities that will provide law enforcement, fire, and emergency services after disannexation;

(D) describes the effect of disannexation on ad valorem taxes and fees in the area; and

(E) describes the effect of disannexation on special districts located in the area.

(d) A municipality shall disannex an area described by Subsection (a), including residential and commercial property in the area, if the voters approve the disannexation in the election held under Subsection (c).

(e) A municipality shall retain ownership of any infrastructure, including a water treatment and storage facility, transferred to the municipality from a special district as part of the annexation of an area disannexed under this section.

(f) After an area is disannexed under this section:

(1) a special district located in and serving the area may be dissolved only if the members of the governing body of the district elect to dissolve the district after the disannexation; and

(2) an emergency services district located in or adjacent to the area shall provide services to the area.

(g) A disannexation under this section does not authorize the impairment of a municipal debt obligation and, to the extent applicable, the area is not released from its pro rata share of that indebtedness. The municipality shall continue to impose a property tax each year on the property in the area at the same rate that is imposed on other property in the municipality until the taxes collected from the area equal its pro rata share of the indebtedness. Those taxes may be charged only with the cost of imposing and collecting the taxes, and the taxes shall be applied exclusively to the payment of the pro rata share of the indebtedness. This subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness.

(h) Section 43.148 does not apply to an area disannexed under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 521 (H.B. 3053), Sec. 1, eff. September 1, 2023

Sec. 43.147. WIDTH REQUIREMENT FOR DISANNEXATION. (a) A municipality disannexing a road or highway shall also disannex a strip of area that is equal in size to the minimum area that the municipality is required to annex in order to comply with the width requirements of Section 43.054 unless such disannexation is undertaken with the mutual agreement of the county government and the municipality.

(b) The strip of area to be disannexed must:

(1) be adjacent to either side of the road or highway; and

(2) follow the course of the road or highway.

Added by Acts 1995, 74th Leg., ch. 513, Sec. 1, eff. Sept. 1, 1995.

Sec. 43.148. REFUND OF TAXES AND FEES. (a) *If an area is disannexed, the municipality disannexing the area shall refund to the landowners of the area the amount of money collected by the municipality in property taxes and fees from those landowners during the period that the area was a part of the municipality less the amount of money that the municipality spent for the direct benefit of the area during that period.*

(b) A municipality shall proportionately refund the amount under Subsection (a) to the landowners according to a method to be developed by the municipality that identifies each landowner's approximate pro rata payment of the taxes and fees being refunded.

(c) A municipality required to refund money under this section shall refund the money to current landowners in the area not later than the 180th day after the date the area is disannexed. Money that is not refunded within the period prescribed by this subsection accrues interest at the rate of:

(1) six percent each year after the 180th day and until the 210th day after the date the area is disannexed;
and

(2) one percent each month after the 210th day after the date the area is disannexed.

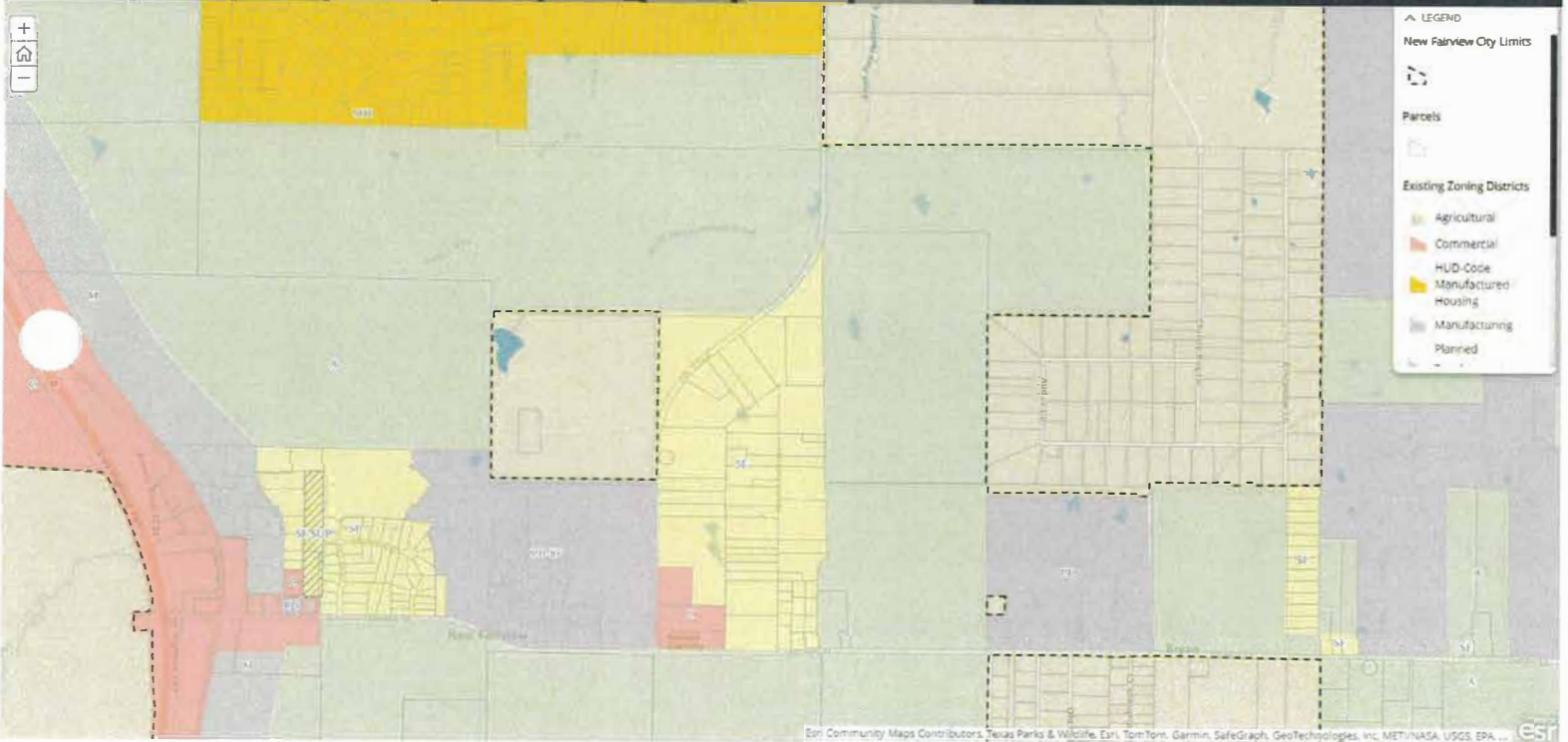
Added by Acts 1999, 76th Leg., ch. 1167, Sec. 15, eff. Sept. 1, 1999.

New Fairview Maps

Created by [username] (last updated 12/14/2022)



- Regional Overview
- City Overview
- Subdivisions
- Existing Zoning
- Transportation
- Road Surface
- Topography
- Wells & Pipelines
- Child Safety Zones



LEGEND

- New Fairview City Limits
- Parcels
- Existing Zoning Districts
 - Agricultural
 - Commercial
 - HUD-Code Manufactured Housing
 - Manufacturing
 - Planned

Esri, Community Maps Contributors, Texas Parks & Wildlife, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, ...



AGENDA ITEM: 7D

CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

July 15, 2024

Professional Services Agreement with Lloyd Gosselink Rochelle and Townsend, PC for legal services for the Wise County Mayors Coalition Steering Committee related to the creation of a Regional Water/Wastewater Utility District

DESCRIPTION:

Receive, consider, and act on a Resolution authorizing the City Administrator to execute a Professional Services Agreement with Lloyd Gosselink Rochelle and Townsend, PC for legal services for the Wise County Mayors Coalition Steering Committee related to the creation of a Regional Water/Wastewater Utility District.

BACKGROUND INFORMATION:

Recently, the cities of Aurora, Boyd, New Fairview, Paradise, and Rhome, and Wise County all agreed that it is necessary and proper to seek regional options that can provide reliable long-term solutions for the water and wastewater needs. Each of these entities passed a Joint Resolution codifying this agreement.

On March 18, 2024 the New Fairview City 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 (\$10,000) to cover expenses associated with seeking regional water and wastewater solutions.

The City of New Fairview has agreed to deposit the MOU funds from all the entities into a dedicated financial account, separate and apart from any of the City of New Fairview's funds. As a result of this, the City of New Fairview will need to enter into any contracts for professional services to assist with the regional solutions for water and wastewater issues and will use these funds to pay for those services. The City of New Fairview also agreed to share a financial report with the WCMCSC parties on a regular basis.

The Wise County Mayors Coalition appointed a Steering Committee (WCMCSC) to explore long term solutions, including the possible creation of a Regional Water/Wastewater Utility District. As part of their work, the WCMCSC put out a Request for Proposal (RFP) for legal services for water and wastewater. Proposals were due on April 30, 2024 and three (3) law firms submitted a proposal. The WCMCSC met on May 8, 2024 to evaluate and score the proposals based on the evaluation criteria included in the RFP. The WCMCSC members agreed that they desired that Lloyd Gosselink Rochelle and Townsend, PC

provide legislative services and legal representation for such matters, and that the City of New Fairview engage them for such purpose on WCMCSC's behalf.

Attached is a Resolution to award a Professional Services Agreement to Lloyd Gosselink Rochelle and Townsend, PC for the stated legal services on behalf of the Wise County Mayors Coalition Steering Committee related to creating a Regional Water/Wastewater Utility District.

Staff recommend approval of the Resolution

FINANCIAL CONSIDERATION:

The City of New Fairview has created a new account in the local government investment pool, Texas Class, for the deposit of the cities of Aurora, Boyd, New Fairview, and Rhome, and Wise County MOU funds. The expenses related to regional water and wastewater solutions will be paid from this new account. This includes the costs associated with this Lloyd Gosselink Rochelle and Townsend, PC Professional Services Agreement.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution authorizing the City Administrator to execute a Professional Services Agreement with Lloyd Gosselink Rochelle and Townsend, PC for legal services for the Wise County Mayors Coalition Steering Committee related to the creation of a Regional Water/Wastewater Utility District.

ATTACHMENT(S):

1. Lloyd Gosselink Rochelle and Townsend, PC Engagement Letter (July 3, 2024)
2. Resolution 202407-02-128

Mr. Embrey's Direct Line: (512) 322-5829
Email: tembrey@lglawfirm.com

July 3, 2024

Mr. John Cabrales, Jr.
City Administrator
City of New Fairview
999 Illinois Lane
New Fairview, Texas 76078

VIA ELECTRONIC TRANSMISSION

Re: City of New Fairview – Wise County Mayor's Coalition/Gov't. Relations;
Billing File Number: 4563-1

Dear Mr. Cabrales:

We want to express our appreciation for the opportunity you have given our firm to work with you. As part of our routine in opening new files, and in part to comply with the provisions of Texas Local Government Code Chapter 176, we provide clients with an engagement letter. The purpose of this letter is to set forth our understanding of the legal services to be performed by us for this engagement and the basis upon which we will be paid for those services. This letter confirms that Lloyd Gosselink Rochelle & Townsend, P.C. ("Lloyd Gosselink") will represent the City of New Fairview with respect to providing legislative consulting services, including drafting and supporting passage of a local legislative bill, to create a special purpose district to provide regional water and wastewater services to New Fairview, Boyd, Aurora, Rhome, Paradise, and other customers, if applicable, in Wise County, Texas (the "Matter"). Our acceptance of this representation (the "Representation") becomes effective upon our receipt of an executed copy of this agreement.

Terms of Engagement

This letter sets out the terms of our engagement in the Representation. Certain of those terms are included in the body of this letter, and additional terms are contained in the attached document, entitled *Additional Terms of Engagement*, dated October 2, 2018. That document is expressly incorporated into this letter, and it should be read carefully. The execution and return of the enclosed copy of this letter constitutes an agreement to all the terms set forth in this letter and in the attached *Additional Terms of Engagement*.

It is understood and agreed that our engagement is limited to the Representation, and our acceptance of this engagement does not imply any undertaking to provide legal services other than those set forth in this letter.

Personnel Who Will Be Working on the Matter

I will be the attorney in charge of the Representation, and I will be working on the Matter. You may call, write, or e-mail me whenever you have any questions about the Representation. Other firm personnel, including firm lawyers and paralegals, will participate in the Representation if, in our judgment, their participation is necessary or appropriate.

Legal Fees and Other Charges

2024 Legislative Interim Period (from Date of Execution of Engagement Letter to December 31, 2024):

We will bill the City of New Fairview on a billable hour basis for any work performed by Lloyd Gosselink related to the legislative services provided to New Fairview during the 2024 Legislative Interim Period. We believe billing our legislative clients on a billable hour basis during the legislative interim period is the best method to bill our clients due to the intermittent legislative-related activity that occurs during the legislative interim period.

We will not bill New Fairview for any time spent by LG attorneys and staff for travel to and from meetings with legislators, legislative staff, and the client or for any mileage incurred by LG attorneys and staff associated with the aforementioned meetings.

Billable Hour Rate for Ty Embrey = \$350 per hour

Billable Hour Rate for Lauren Kalisek = \$350 per hour

Billable Hour Rate for Audrey Cooper = \$170 per hour

89th Legislative (Regular) Session (from January 1, 2025 to May 31, 2025):

We will bill New Fairview on a flat fee basis in the amount of five thousand dollars (\$5,000) per month for a five-month time period starting on January 1, 2025 and ending on May 31, 2025 for a total flat fee amount of \$25,000. It has been our experience that billing legislative clients during a Regular Session of the Texas Legislature on a monthly flat fee basis is the most fair and efficient method of billing for both the client and Lloyd Gosselink due to the amount of consistent legislative activity time and effort involved in providing legislative services.

Conflicts of Interest

Before accepting the Representation, we have undertaken reasonable and customary efforts to determine whether there are any potential conflicts of interest that would bar our firm from representing you in the Matter. Additionally, in order that we comply with the requirements of Chapter 176 of the Texas Local Government Code, we have performed an internal conflicts of interest inquiry. Based on the information obtained from this inquiry, we will file a completed

conflict of interest questionnaire with the individual deemed as the records administrator for your entity. Based on the information available to us, we are not aware of any potential disqualification. We reviewed that issue in accordance with the rules of professional responsibility adopted in Texas.

Cloud-Based Software

We use cloud-based electronic data storage and/or document preparation systems to store Client confidential information and/or prepare legal documents pertaining to this Matter. We may also use software that utilizes artificial intelligence where doing so would provide material benefit to your representation. In accordance with the Texas Disciplinary Rules of Professional Conduct and the Supreme Court of Texas, Professional Ethics Committee Opinion No. 680, in using such cloud-based or artificial intelligence software, we undertake reasonable precautions and remain alert to avoid the possibility of data breaches, unauthorized access, and/or disclosure of Client confidential information.

Document Retention

We may choose to keep records pertaining to this Matter in partially or exclusively electronic format, and we will bear ordinary costs relating to the treatment and storage of such records as part of the cost of providing legal services to you. Upon completion of our work on this Matter, your file, in the form in which it was maintained, will be made available for transfer to you at our office. As a general rule, we keep client files for five years. If your file has not previously been returned to you before the end of the retention period, our document retention policy directs us to offer the file to you at that time. Original documents (e.g., permits, licenses, deeds, wills and the like), or material that has unique or significant value in the form we originally acquired it, will be returned to you in that original form. We may, however, require you to pay any delivery or shipping expenses associated with delivering your client file and other client property to you at a location other than our office. If you do not indicate a desire to have the file returned to you, the file (both electronic and written) will be destroyed.

Conclusion

This letter and the attached *Additional Terms of Engagement* constitute the entire terms of the engagement of Lloyd Gosselink Rochelle & Townsend, P.C. in the Representation. These written terms of engagement are not subject to any oral agreements or understandings, and they can be modified only by further written agreement signed both by you and Lloyd Gosselink Rochelle & Townsend, P.C. Unless expressly stated in these terms of engagement, no obligation or undertaking shall be implied on the part of either you or Lloyd Gosselink Rochelle & Townsend, P.C.

Please carefully review this document, which includes this letter and the attached *Additional Terms of Engagement*. If there are any questions about these terms of engagement, or

City of New Fairview
July 3, 2024
Page 4

if these terms are inaccurate in any way, please let me know immediately. If acceptable, we would appreciate you signing and returning the enclosed duplicate original of this document.

Sincerely,



Ty H. Embrey

THE/ldp

AGREED AND ACCEPTED:

CITY OF NEW FAIRVIEW

By: _____
Signature

Printed Name

Title

Date

Additional Terms of Engagement

This supplement to our engagement letter sets out additional terms of our agreement to provide the representation described in our engagement. Because these additional terms of engagement are a part of our agreement to provide legal services, you should review them carefully and should promptly communicate to us any questions concerning this document. We suggest that you retain this statement of additional terms along with our engagement letter and any related documents.

The Scope of the Representation

As lawyers, we undertake to provide representation and advice on the legal matters for which we are engaged. It is important for our clients to have a clear understanding of the legal services that we have agreed to provide. Thus, if there are any questions about the scope of the Representation that we are to provide in the Matter, please raise those questions promptly, so that we may resolve them at the outset of the Representation.

Any expressions on our part concerning the outcome of the Representation, or any other legal matters, are based on our professional judgment and are not guarantees. Such expressions, even when described as opinions, are necessarily limited by our knowledge of the facts and are based on our views of the state of the law at the time they are expressed.

Upon accepting this engagement on your behalf, Lloyd Gosselink Rochelle & Townsend, P.C. agrees to do the following: (1) provide legal counsel in accordance with these terms of engagement and the related engagement letter, and in reliance upon information and guidance provided by you; and (2) keep you reasonably informed about the status and progress of the Representation.

To enable us to provide effective representation, you agree to do the following: (1) disclose to us, fully and accurately and on a timely basis, all facts and documents that are or might be material or that we may request, (2) keep us apprised on a timely basis of all developments relating to the Representation that are or might be material, (3) attend meetings, conferences, and other proceedings when it is reasonable to do so, and (4) otherwise cooperate fully with us.

Our firm has been engaged to provide legal services in connection with the Representation in the Matter, as specifically defined in our engagement letter. After completion of the Representation in the Matter, changes may occur in the applicable laws or regulations that could affect your future rights and liabilities in regard to the Matter. Unless we are actually engaged after the completion of the Representation to provide additional advice on such issues, the firm has no continuing obligation to give advice with respect to any future legal developments that may pertain to the Matter.

It is our policy and your agreement that the person or entity that we represent is the one identified in our engagement letter, and that our attorney-client relationship does not include any related persons, employees of the client, or related entities.

Who Will Provide the Legal Services

As our engagement letter confirms, Lloyd Gosselink Rochelle & Townsend, P.C. will represent you in the Matter. Lloyd Gosselink Rochelle & Townsend, P.C. is a Texas professional corporation.

Although our firm will be providing legal services, each client of the firm customarily has a relationship principally with one attorney, or perhaps a few attorneys. At the same time, however, the work required in the Representation, or parts of it, may be performed by other firm personnel, including lawyers and paralegals. Such delegation may be for the purpose of involving other firm personnel with experience in a given area or for the purpose of providing services on an efficient and timely basis.

Communication and Confidentiality

In keeping with technological advancements and the corresponding demands of clients, it is the practice of the firm to use electronic (email) correspondence from time to time to communicate and to transmit documents. As such, the possibility exists that electronic transmissions could be intercepted or otherwise received by third parties and lose their privileged nature if the method of communication is ruled to lack sufficient confidentiality. As with any correspondence regarding legal representation, regardless of the manner of transmission, we urge you to use caution in its dissemination in order to protect its confidentiality. By signing below, you agree that we may use email in the scope of the Representation.

We recognize our obligation to preserve the confidentiality of attorney-client communications as well as the client confidences, as required by the governing rules of professional responsibility. If the Matter involves transactions, litigation or administrative proceedings or like proceedings in which our firm appears as counsel of record for you in publicly available records, we reserve the right to inform others of the fact of our representation of you in the Matter and (if likewise reflected or record in publicly available records) the results obtained unless you specifically direct otherwise.

Periodically, the firm is asked to provide a Representative Client List to prospective clients and in various legal directories (e.g., Martindale-Hubbell and the Texas Legal Directory). Unless you advise us to the contrary, we may disclose to third parties the fact that our firm represents you. Lloyd Gosselink is not requesting authorization to disclose any privileged information obtained during its representation.

Disclaimer

Lloyd Gosselink Rochelle & Townsend, P.C. has made no promises or guarantees to you about the outcome of the Representation of the Matter, and nothing in our engagement letter or these terms of engagement shall be construed as such a promise or guarantee.

Termination

At any time, you may, with or without cause, terminate the Representation by notifying us in writing of your intention to do so. Any such termination of services will not affect the obligation to pay for legal services rendered and expenses and charges incurred before termination, as well as additional services and charges incurred in connection with an orderly transition of the Matter.

We are subject to the codes or rules of professional responsibility for the jurisdictions in which we practice. There are several types of conduct or circumstances that could result in our withdrawing from representing a client, including, for example, the following: non-payment of fees or charges; misrepresentation or failure to disclose material facts; fraudulent or criminal conduct; action contrary to our advice; and conflict of interest with another client. We try to identify in advance and discuss with our clients any situation that may lead to our withdrawal.

A failure by you to meet any obligations under these terms of engagement shall entitle Lloyd Gosselink Rochelle & Townsend, P.C. to terminate the Representation. In that event, you will take all steps necessary to release Lloyd Gosselink Rochelle & Townsend, P.C. of any further obligations in the Representation or the Matter, including without limitation the execution of any documents necessary to effectuate our withdrawal from the Representation or the Matter. The right of Lloyd Gosselink Rochelle & Townsend, P.C. to withdraw in such circumstances is in addition to any rights created by statute or recognized by the governing rules of professional conduct.

Our engagement letter specifically explains our fees for services in the Matter. We will bill on a regular basis, normally each month, for fees and expenses and charges. It is agreed that you will make full payment within thirty (30) days of receiving our statement. We may give notice if an account becomes delinquent, and it is further agreed that any delinquent account must be paid upon the giving of such notice. If the delinquency continues and you do not arrange satisfactory payment terms, we may withdraw from the Representation. However, any termination by either party may be subject to, or controlled by, orders of a court.

Document Retention

We may choose to keep records pertaining to this Matter in partially or exclusively electronic format, and we will bear ordinary costs relating to the treatment and storage of such records as part of the cost of providing legal services to you. Upon completion of our work on this Matter, your file, in the form in which it was maintained, will be made available for transfer to you at our office. As a general rule, we keep client files for five years. If your file has not previously been returned to you before the end of the retention period, our document retention policy directs us to offer the file to you at that time. Original documents (e.g., permits, licenses, deeds, wills and the like), or material that has unique or significant value in the form we originally acquired it, will be returned to you in that original form. We may, however, require you to pay any delivery or shipping expenses associated with delivering your client file and other client property to you at a location other than our office. If you do not indicate a desire to have the file returned to you, the file (both electronic and written) will be destroyed.

Charges for Expenses and Services

Our invoices will include amounts for legal services rendered and for other expenses and services. Examples of other expenses and services include charges for photocopying, facsimile transmissions, long-distance telephone calls, travel and conference expenses, messenger deliveries, computerized research, and other electronic transmissions. In addition, we reserve the right to send to you for direct payment any invoices delivered to us by others, including experts and any vendors.

Rates for our legal services, expenses and charges are subject to change from time to time and will be noted on your bill. In some situations, we can arrange for such services and expenses to be provided by third parties billed through our billings or by direct billing to the client.

Standards of Professionalism and Attorney Complaint Information

Pursuant to rules promulgated by the Texas Supreme Court and the State Bar of Texas, we are to advise our clients to the contents of the Texas Lawyer's Creed, a copy of which is attached. In addition, we are to advise clients that the State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. A brochure entitled *Attorney Complaint Information* is available in our office in Austin and is likewise available upon request. A client that has any questions about the State Bar's disciplinary process should call the Office of the General Counsel of the State Bar of Texas at 1-800-932-1900 toll free.

THE TEXAS LAWYER'S CREED

A Mandate for Professionalism

Promulgated by The Supreme Court of Texas and the Court of Criminal Appeals November 7, 1989

I am a lawyer; I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this Creed when undertaking representation.
2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.
6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.
7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.
8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.
9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.
10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.
11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.
12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.
13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.
14. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement.
15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.
17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.
18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.
19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
2. I will conduct myself in court in a professional manner and demonstrate my respect for the Court and the law.
3. I will treat counsel, opposing parties, witnesses, the Court, and members of the Court staff with courtesy and civility and will not manifest by words or conduct bias or prejudice based on race, color, national origin, religion, disability, age, sex, or sexual orientation.
4. I will be punctual.
5. I will not engage in any conduct which offends the dignity and decorum of proceedings.
6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
7. I will respect the rulings of the Court.
8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.
9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

Order of the Supreme Court of Texas and the Court of Criminal Appeals

The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession's broader duty to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession.

The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics, instead of being part of the solution, have become part of the problem.

The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct.

These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon reenforcement by peer pressure and public opinion, and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence.

These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

We must always be mindful that the practice of law is a profession. As members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt "**The Texas Lawyer's Creed -- A Mandate for Professionalism**" described above.

In Chambers, this 7th day of November, 1989.

The Supreme Court of Texas

Thomas R. Phillips, Chief Justice
Franklin S. Spears, Justice
C. L. Ray, Justice
Raul A. Gonzalez, Justice
Oscar H. Mauzy, Justice
Eugene A. Cook, Justice
Jack Hightower, Justice
Nathan L. Hecht, Justice
Lloyd A. Doggett, Justice

The Court of Criminal Appeals

Michael J. McCormick, Presiding Judge
W. C. Davis, Judge
Sam Houston Clinton, Judge
Marvin O. Teague, Judge
Chuck Miller, Judge
Charles F. (Chuck) Campbell, Judge
Bill White, Judge
M. P. Duncan, III, Judge
David A. Berchelmann, Jr., Judge



**RESOLUTION
202407-02-128**

RESOLUTION OF THE CITY OF NEW FAIRVIEW, TEXAS AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH LLOYD GOSSELINK ROCHELLE AND TOWNSEND, PC FOR LEGAL SERVICES FOR THE WISE COUNTY MAYORS COALITION STEERING COMMITTEE RELATED TO THE CREATION OF A REGIONAL WATER/WASTEWATER UTILITY DISTRICT.

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

WHEREAS, recently, the cities of Aurora, Boyd, New Fairview, Paradise, and Rhome, and Wise County all agreed that it is necessary and proper to seek regional options that can provide reliable long-term solutions for water and wastewater needs. Each of these entities passed a Joint Resolution entering into an Interlocal Agreement formalizing this consensus; and

WHEREAS, on March 18, 2024 the New Fairview City Council approved a Memorandum of Understanding with and between the Cities of Aurora, Boyd, New Fairview, and Rhome, and Wise County, resulting from the Joint Resolution, whereby each party agreed to contribute ten thousand dollars (\$10,000) to cover expenses associated with seeking regional water and wastewater solutions; and

WHEREAS, the Wise County Mayors Coalition Steering Committee (WCMCSC) put out a Request for Proposal (RFP) for legal services related to the creation of a Regional Water/Wastewater Utility District, and three (3) law firms submitted a proposal; and

WHEREAS, the WCMCSC met on May 8, 2024 to evaluate and score the proposals based on the evaluation criteria included in the RFP, and selected Lloyd Gosselink Rochelle and Townsend, PC as the firm they desired to provide legislative services in furtherance of the named Cities' efforts to achieve mutually beneficial regional water and wastewater solutions; and

WHEREAS, the City of New Fairview has agreed to deposit the funds from all the entities into a dedicated financial account, separate and apart from any of the City of New Fairview's funds, and will need to enter into any contracts for professional services to assist with the regional solutions for water and wastewater issues and use these funds to pay for those services.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. That all matters stated in the recitals herein above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Section 2. That the City Administrator be authorized to negotiate and enter into a professional services agreement with Lloyd Gosselink Rochelle and Townsend, PC, on behalf and in furtherance of the of the named cities, for legal and legislative services related to the creation of a Regional Water/Wastewater

District.

Section 3. That only the contributory funds provided pursuant to the Memorandum of Understanding by and between the Cities of Aurora, Boyd, New Fairview, and Rhome, and Wise County, as deposited in the dedicated financial account for the same, and which are separate and apart from any of the City of New Fairview's funds, will be used to pay for these legislative and legal services.

Section 4. That 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 City Council hereby determined that it would have adopted this Resolution without the invalid provision.

Section 5. That this Resolution shall become effective from and after its date of passage.

PRESENTED AND PASSED on the 15th day of July, 2024, at a Regular Meeting of the New Fairview City Council.

APPROVED:

ATTESTED:

John Taylor, Mayor

Susan Greenwood, City Secretary

CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

July 15, 2024

Professional Services Agreement with Westwood Professional Services Inc., for landscape architecture services relating to the awarded 2025 TxDOT Green Ribbon Grant Project

DESCRIPTION:

Receive, consider, and act on a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for landscape architecture services relating to the awarded 2025 TxDOT Green Ribbon Grant Project.

BACKGROUND INFORMATION:

TxDOT recognizes the need for developing highways with acceptable visual quality and has developed several proactive programs that encourage and assist the development of such transportation corridors. These include the Transportation Enhancements Program, Transportation Alternatives Program, Cost Share Program, the Governor's Community Achievement Awards, Green Ribbon Landscape Improvement Program, and Landscape Partnership Program. City staff had been discussing the Governor's Community Achievement Award and the Green Ribbon Program with the Keep New Fairview Beautiful Committee.

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

In order to qualify, cities must attend a mandatory TxDOT workshop, which the City of New Fairview did attend. Cities must be able to provide plans to the TxDOT Area Office at least six months prior to letting in FY25 (September 2024 thru August 2025). Plans must meet all state requirements, and the project must be within the state right-of-way. Cities will be required to sign an Advanced Funding Agreement (AFA) for potential cost overruns. Green Ribbon funds are fixed dollar amounts. Cities will be responsible for the

long-term maintenance of the project and therefore required to sign a Landscape Maintenance Agreement. If no agreement is signed, the project will not let. Those cities that have not received allocations in the recent past (last 2 years) may be given more consideration for funding than those that have had recent projects. TxDOT wants to spread the funding as equitably as possible throughout the District.

Project awards will be limited to a maximum of \$400,000 (including mobilization, barricades, etc.). No match is required for Green Ribbon funding; however, if there is an overrun, the City must pay 100% for overages and any revisions to plan sheets, if needed.

On February 19, 2024, the City Council approved a Professional Services Agreement with Westwood Professional Services Inc., for concept landscape design, and completion and submission of application for the 2025 TxDOT Green Ribbon Grant Program. The location selected for the project is the southbound frontage road of Hwy 287 at FM 407 bridge. This is an area that suffers constant littering and illegal dumping and was the location of the first Keep New Fairview Beautiful (KNFB) Clean Up event last year. Staff have had discussion with the KNFB Committee regarding beautification plans for this location that would assist with the decrease in littering and illegal dumping.

The City received notice from TxDOT that our application was approved for the proposed project on US 287 at the intersection of FM 407 for a total of \$376,000. Staff will bring the Council the Advanced Funding Agreement and the Landscape Maintenance Agreement that will be required by TxDOT. In a conference call with TxDOT and the City we received information on the process that must be followed, beginning with the submission of 60% landscape and project design plans to TxDOT by September 1 for their review.

Staff received a proposal (attached) from Westwood for the landscape architecture services needed to prepare the plans for submission to TxDOT and coordination for the awarded 2025 Green Ribbon Grant Project.

Staff recommend approval of the Resolution.

FINANCIAL CONSIDERATION:

Consulting fees by Westwood would be approximately \$36,200 which includes the scope of work in Exhibit 'A' to the Resolution. If electrical or structural engineering services are desired, this would be a separate cost of \$3,400 and \$3,100 respectively as shown in Exhibit 'B' to the Resolution.

Basic Services

A. Project Management, Coordination & Submittals	\$ 4,000.00
B. Supplemental Design Requirements	\$12,000.00
C. Landscape Planting Plans	\$ 6,200.00
D. Landscape Irrigation Plans	\$ 5,800.00
E. TxDOT Environmental Documents	\$ 3,000.00
F. Reimbursable Expenses (Cost + 10% with documentation)	\$ 1,200.00 (NTE)
G. Limited Landscape Bid & Construction Administration	\$ 4,000.00 (Hourly, NTE)

TOTAL **\$36,200.00**

Special Services

H. Electrical Engineering	\$ 3,400.00
I. Structural Engineering	\$ 3,100.00

There are currently some funds left in the Code Enforcement/Health Department budget that have been identified for this project. The remaining amount will need to be included in the FY 2024-25 Budget.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for landscape architecture services relating to the awarded 2025 TXDOT Green Ribbon Grant Project.

ATTACHMENT(S):

1. Resolution 202407-03-129



**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION No. 202407-03-129**

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH WESTWOOD PROFESSIONAL SERVICES INC FOR LANDSCAPE ARCHITECTURE SERVICES RELATED TO THE AWARDED 2025 TXDOT GREEN RIBBON GRANT PROJECT; AND PROVIDE AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, on February 19, 2024, the City Council approved a Professional Services Agreement with Westwood Professional Services Inc. for the landscape design, application completion, and submittal for the 2025 TXDOT Green Ribbon Program; and

WHEREAS, the City received notice from TxDOT that our application was approved for the proposed project on US 287 at the intersection of FM 407 for a total of \$376,000, the City must submit landscape and project design plans to TxDOT by September 1 for their review; and

WHEREAS, the City Council is interested in working with a consultant for the landscape and project design plans, and coordination with TXDOT required for the 2025 TXDOT Green Ribbon Program.

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

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

SECTION 2. The City Council approves a Professional Services Agreement (Exhibit 'A') with Westwood Professional Services Inc. for the landscape and project design plans, and coordination with TXDOT on the awarded 2025 Green Ribbon Project.

SECTION 3. The City Council does authorize the City Administrator to direct and work with Westwood Professional Services Inc. to prepare and execute the necessary plans and coordinate with TXDOT on the awarded 2025 Green Ribbon Project.

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 15th day of July, 2024, at a Regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

SUSAN GREENWOOD, City Secretary

General Conditions of Agreement Westwood Professional Services, Inc.

This document, together with the attached **Scope of Work and Fee Proposal (“Proposal”) for the New Fairview FY25 Green Ribbon Project dated June 18, 2024** (the “Project”), is an agreement (the “Agreement”) between **City of New Fairview (“Client”)**, located at 999 Illinois Lane, New Fairview, Texas 76078 and **Westwood Professional Services, Inc., (“Westwood”)**, located at **4060 Bryant Irvin Road, Fort Worth, Texas 76109**.

1.01 Basic Agreement

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

2.01 Scope of Services

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

3.01 Payment Procedures

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

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

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

Client shall provide written notification to Westwood within fifteen (15) days of receipt of the invoice should Client object to all or any part of charges appearing on the invoice. Such written notice shall set forth, at a minimum, the specific portion of the invoice disputed, the amount disputed, and the alleged factual and legal basis for the dispute. The portion of the invoice not in to the Client within thirty (30) days receipt of said invoice.

Payment for Services. Client shall pay Westwood as follows:

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

4.01 Additional Services

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

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

5.01 Termination

This Agreement may be terminated for cause:

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

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

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

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

6.01 Successors, Assigns, and Beneficiaries

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

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

7.01 General Considerations

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

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

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

8.01 Hazardous Environmental Conditions

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

- Allocation of Risks
 - To the fullest extent permitted by law, Westwood shall indemnify and hold harmless Client, Client's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and reasonable charges of consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent caused in whole or in part by the negligent acts or omissions, intentional tort or failure to pay a subconsultant of Westwood or Westwood's officers, directors, partners, employees, and Westwood's consultants in the performance and furnishing of Westwood's services under this Agreement.
 - To the fullest extent permitted by the laws of the State of Texas, Client shall indemnify and hold harmless Westwood, Westwood's officers, directors, partners, employees, and Westwood's consultants from and against any and all claims, demands, costs, losses, and damages (including but not limited to all fees and charges of consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) and liabilities that Westwood may incur or suffer which arise out of or relate to: (i) the negligent acts or omissions of Client or Client's officers, directors, partners, employees, and Client's consultants with respect to this Agreement or the Project; and

(ii) Client's breach of or failure to perform any of its obligations of this Agreement or a Proposal.

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

10.1 Force Majeure

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

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

11.01 Coronavirus Pandemic Impact

Client acknowledges and agrees that due to the dynamic and fluid nature of the coronavirus pandemic (COVID-19) (the "Coronavirus Pandemic"), Westwood may face uncertainty regarding its ability to perform the work contemplated by the Agreement in accordance with the schedule and contracted price. As a result of the Coronavirus Pandemic, the schedule, and related scope and fee, provided in the Agreement may be impacted due to issues outside of Westwood's control including, but not limited to, the following: (a) shortages in labor (including employees and consultants); (b) direction or guidance from any applicable governmental authority or applicable law that renders Westwood's or its subconsultants' performance impossible, impracticable, or contrary to such direction or guidance; (c) delays in governmental approvals; and (d) other causes beyond Westwood's reasonable control, regardless of whether such impacts are direct or indirect.

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

12.01 Right of Entry

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

13.01 No Third-Party Rights

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

14.01 Total Agreement

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective on the latest date indicated below.

CLIENT:
City of New Fairview

WESTWOOD:
Westwood Professional Services, Inc.

By: _____

By: _____

Name: John Cabrales Jr.

Name: _____

Title: City Administrator

Title: _____

Date Signed: _____

Date Signed: _____

Address/Contact for giving notices:

Address/Contact for giving notices:

City of New Fairview

Westwood Professional Services, Inc.

City Hall

C/O General Counsel

999 Illinois Lane

2805 North Dallas Parkway, Suite 150

New Fairview, Texas 76078

Plano, Texas 75093

- Exhibits:
- A Scope of Services
 - B Compensation & Method of Payment
 - C Insurance
 - D Location Map

EXHIBIT A SCOPE OF SERVICES

NEW FAIRVIEW FY25 GREEN RIBBON

PROJECT DESCRIPTION:

It is our understanding the project consists of landscape planting and irrigation plans for the award of \$376,000 in TxDOT Green Ribbon funding to be used along US287 at the intersection of FM407.

ASSUMPTIONS AND EXCLUSIONS:

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

1. Assumptions:
 - Area of work is as shown in "Exhibit D" attached.
 - Project budget is \$376,000.00.
 - The design will be based on the concept used for the green ribbon application, consisting of planting and irrigation items only based on TxDOT's Green Ribbon Project.
 - No survey will be done for this project. The project limits and area of work will be based on Google Earth aeriels, Lidar data available, existing plans available, and City staff knowledge of the area.

2. Exclusions:
 - Multiple design alternatives
 - Site signage and/or signs for buildings and vehicular circulation.
 - Site and/or ornamental lighting.
 - Site walls.

BASIC SERVICES:

- A. Project Management, Coordination & Submittals Westwood will attend meetings and or presentations to coordinate with other team members and the owner during the design phase and submit plans for formal TxDOT review as required.
 1. Included in this item:
 - Up to four (4) meetings with the CLIENT and/or TxDOT to coordinate the design and submittals.
 - Formal review submittals and responses to TxDOT at 60%, 90%, and final plans

B. Supplemental Design Requirements

Westwood will prepare additional files and standard plan sheets to complete TxDOT's PS&E process for a state let.

1. Included in this item:

- Base file creation in absence of design survey data. Develop a schematic working base file from Lidar, digital CAD data, aerial photos and pdf document available.
- Site visit to verify conditions at locations subject to improvements.
- General notes related to demolition activities and TxDOT specification standards.
- One (1) Epic Sheet and one (1) Grading and Drainage Plan if required showing the location of sediment controls.
- Standard TxDOT plans and details to include: one (1) Cover Page, one (1) Index of Sheets, one (1) Estimates and Quantities, one (1) Quantity Summary, Traffic Control Plan Standards and Traffic Standards (Electrical) if required.
- Standard TxDOT PS&E forms and coordination in TxDOT Connect.

C. Landscape Planting Plans

Westwood will provide a Landscape Planting Plan that consists of selection and location of ornamental plantings, trees, turf, mulches, and associated items.

1. Included in this item:

- Construction documents per the concept approved and included in the Green Ribbon Grant Application to a level sufficient to demonstrate design intent and allow the construction thereof, including material and quantity schedules, notes and technical details.
- One (1) 22"x34" Plan submittal meeting TxDOT requirements as previously described at 60%, 90% and final plans.

D. Landscape Irrigation Plans

Westwood will provide a Landscape Irrigation Plan that consists of a fully automated irrigation system to service plantings on the site as required. This scope of work assumes that Westwood will design the irrigation system as a completely integrated system, including tanks, pumps, filters and associated equipment to irrigate the site using non-potable water source.

1. Included in this item:

- Construction documents to include irrigation plans to a level sufficient to demonstrate design intent and allow the construction thereof, including materials and quantity schedules, pipe sizing, notes and technical installation details.
- One (1) 22"x34" Plan submittal meeting TxDOT requirements as previously described at 60%, 90% and Final plans.
- Coordination with the Electrical Engineer providing power source for the pump systems and controllers.

- Coordination with Structural Engineer related to allowable irrigation adjacent to structural footings and slabs or for holding tank slabs.

E. TxDOT Environmental Documents

Westwood will manage environmental documents in accordance with TxDOT guidelines.

1. Included in this item:

- Prepare the necessary documentation to obtain blanket categorical exclusion for environmental clearance through TxDOT.

F. Reimbursable Expenses

Included in this item are usual and customary expenses normally incurred during this type of project. These could include travel expenses, courier delivery charges, overnight delivery charges, copies of existing plans and/or maps, photocopies, printing and reproduction (either in-house or by reproduction company). Application, review and filing fees are not included in this item. These services will be billed at cost +10%, with documentation provided, and are shown as a not to exceed (NTE) cost in the Compensation section.

G. Limited Landscape Bid & Construction Administration

During the Bid and Construction Phase, Westwood will be available to provide coordination as required with prospective bidders and selected contractors at hourly rates as requested by the Client.

This shall not be construed as performing continuous construction inspection. Please note the following:

- Westwood shall not at any time supervise or have authority over any Contractor work or jobsite management procedures, nor shall Westwood have authority over or be responsible for the means and methods, or procedures of construction selected or used by the Contractor.
- Westwood neither guarantees the performance of the Contractor nor assumes responsibility for the Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- Westwood shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- Westwood shall not be responsible for the acts or omissions of the Contractor or for any decision or interpretation of the Contract Documents made by the Contractor.
- While at the Site, Westwood's employees and representatives shall comply with the specific applicable requirements of the Contractor's and Owner's safety programs of which Westwood has been informed in writing.

SPECIAL SERVICES:

H. Electrical Engineering

Westwood will contract with a sub consultant to provide electrical engineering services as they relate to irrigation system and water tank foundation.

I. Structural Engineering

Westwood will contract with a sub consultant to provide limited structural engineering services as they relate to the irrigation system and water tank. This does not include the design of wet pits or wells.

Services not included in this contract:

- Construction inspection services.
- As-builts of the constructed improvements.
- Public hearings or City Council/Commission meetings.
- Utility coordination meeting(s) to start relocation process with affected franchise utilities
- Floodplain studies and permitting
- Boundary and topographic surveying
- Traffic and parking studies
- Storm Water Pollution Prevention Plans (SWPPP)
- Demolition plan
- Drainage Plan
- Hardscape Plan
- Site Lighting Plan
- Design of walls, light pole bases, transformer or generator pads, hardscape features, pavers and/or site signage
- Graphic representation documents.
- Geotechnical investigation.
- Environmental investigation beyond what is shown above.
- Services associated with filing of the "Notice of Intent" form (NOI) to the Texas Commission on Environmental Quality (TCEQ) for the proposed construction activities.
- Reclaimed Water Irrigation Design
- Wetlands determination and permitting.
- Coordination of gas, electric, telephone and cable television services
- Dedication of easements and/or right-of-way be separate instrument

END OF EXHIBIT 'A'

EXHIBIT B - COMPENSATION AND METHOD OF PAYMENT

NEW FAIRVIEW FY25 GREEN RIBBON

COMPENSATION:

For all professional services included in EXHIBIT 'A', Scope of Services, Westwood shall be compensated a lump sum fee of \$36,200.00 as summarized below. The total lump sum fee shall be considered full compensation for the services described in EXHIBIT 'A', including all labor materials, supplies, and equipment necessary to deliver the services.

Basic Services

A. Project Management, Coordination & Submittals	\$ 4,000.00
B. Supplemental Design Requirements	\$12,000.00
C. Landscape Planting Plans	\$ 6,200.00
D. Landscape Irrigation Plans	\$ 5,800.00
E. TxDOT Environmental Documents	\$ 3,000.00
F. Reimbursable Expenses (Cost + 10% with documentation)	\$ 1,200.00 (NTE)
G. Limited Landscape Bid & Construction Administration	\$ 4,000.00 (Hourly, NTE)

TOTAL **\$36,200.00**

Special Services

H. Electrical Engineering	\$ 3,400.00
I. Structural Engineering	\$ 3,100.00

METHOD OF PAYMENT:

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

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

END OF EXHIBIT 'B'

EXHIBIT C – INSURANCE

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

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

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

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

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

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

END OF EXHIBIT 'C'

Westwood

June 18, 2024
Project No.: 0057243.00

Mr. John Cabrales, Jr.
City Administrator
CITY OF NEW FAIRVIEW
999 Illinois Lane
New Fairview, Texas 76078

Re: Professional Landscape Architecture Services
NEW FAIRVIEW FY25 GREEN RIBBON
New Fairview, Wise County, Texas

Dear Mr. Cabrales:

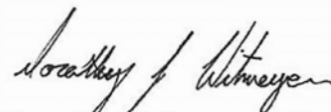
Westwood Professional Services, Inc. is pleased to submit this proposal to provide professional landscape architecture services relating to the referenced project. It is our understanding the project consists of landscape planting and irrigation plans for the award of \$376,000 in TxDOT Green Ribbon funding to be used along US287 at the intersection of FM407.

Based on our preliminary discussions and the information received to date, our perception of the project is described in the attached documents:

- General Conditions;
- Exhibit A – Scope of Services;
- Exhibit B – Compensation and Method of Payment;
- Exhibit C – Insurance; and
- Exhibit D – Location Map

Westwood Professional Services, Inc. is pleased to have this opportunity to submit this proposal and look forward to working with you on this project. If the proposed agreement is acceptable to you as presented, please execute one copy of the agreement form and return one original copy to our office. If you have any questions or would like any additional information, please do not hesitate to call us at your convenience.

Sincerely,



Dorothy J. Witmeyer, P.L.A.

DJW/aew

General Conditions of Agreement

Westwood Professional Services, Inc.

This document, together with the attached **Scope of Work and Fee Proposal (“Proposal”) for the New Fairview FY25 Green Ribbon Project** dated **June 18, 2024** (the “Project”), is an agreement (the “Agreement”) between **City of New Fairview (“Client”)**, located at 999 Illinois Lane, New Fairview, Texas 76078 and **Westwood Professional Services, Inc., (“Westwood”)**, located at **4060 Bryant Irvin Road, Fort Worth, Texas 76109**.

1.01 Basic Agreement

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

2.01 Scope of Services

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

3.01 Payment Procedures

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

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

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

Client shall provide written notification to Westwood within fifteen (15) days of receipt of the invoice should Client object to all or any part of charges appearing on the invoice. Such written notice shall set forth, at a minimum, the specific portion of the invoice disputed, the amount disputed, and the alleged factual and legal basis for the dispute. The portion of the invoice not in dispute shall be paid by Client within thirty (30) days receipt of said invoice.

Payment for Services. Client shall pay Westwood as follows:

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

4.01 Additional Services

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

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

5.01 Termination

This Agreement may be terminated for cause:

- A. By either party upon thirty (30) days written notice in the event of failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as a result of a failure to perform in accordance with the Agreement if the party receiving a notice of failure to perform begins within seven (7) days of receipt of such notice to correct its failure and proceeds diligently to cure such failure within thirty (30) days of receipt of notice; provided, however, that if and to the extent such failure cannot be reasonably cured within such thirty (30) day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.
- B. By Westwood:
 - 1) Upon seven (7) days written notice if Westwood believes that Westwood is being requested by Client to furnish or perform services contrary to Westwood's responsibilities as a licensed professional; or
 - 2) Upon seven (7) days written notice if Westwood's Services for the Project are delayed or suspended for more than ninety (90) days for reasons beyond Westwood's control.

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

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

6.01 Successors, Assigns, and Beneficiaries

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

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

7.01 General Considerations

- A. The standard of care for all professional consulting and related services performed or furnished by Westwood under this Agreement will be the care and skill ordinarily used by members of Westwood's profession practicing under similar circumstances at the same time and in the same locality. Except as expressly set forth in Paragraph 6.01B, Westwood makes no warranties, express or implied, under this Agreement or otherwise, in connection with Westwood's Services and Deliverables. Westwood and its consultants may use or rely upon the design services of Client and others, including, but not limited to, contractors, manufacturers, and suppliers.
- B. If Client notifies Westwood of a deficiency, or if Westwood determines there is a deficiency, within sixty (60) days after delivery of a Deliverable to Client, as Client's sole and exclusive remedy, Westwood shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Client-furnished information.
- C. Client shall be responsible for, and Westwood may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Client to Westwood pursuant to this Agreement. Westwood may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.
- D. Westwood neither guarantees the performance of any third party, including contractors, using the Deliverables or Services nor assumes responsibility for any third party's failure to furnish and perform any work that uses the Deliverables or Services.
- E. Westwood shall not be responsible for the acts or omissions of any contractor(s), subcontractor(s) or supplier(s), or of any of the contractor's agents or employees or any other persons (except Westwood's own employees) furnishing or performing any of the contractor's work; or for any decision made on interpretations or clarifications of Deliverables without consultation and advice of Westwood.
- F. It is understood and agreed that if Westwood's services under this Agreement do not include construction phase services, and that such services will be provided by Client, then Client assumes all responsibility for interpretation of Deliverables and for construction observation or review and waives any claims against Westwood that may be in any way connected thereto.

- G. Westwood shall be the owner of all right, title, and interest in and to any and all Deliverables, together with any and all related rights of copyright, patent, trade secret, trademark and service mark, and all other proprietary rights of any kind whatsoever. Subject to the provisions herein and upon Westwood's receipt of full payment therefore, Westwood hereby grants to Client, and Client accepts: (i) a nonexclusive, nontransferable, without the right to sublicense, royalty-free license to use the Deliverables for the sole purpose of constructing the Project; and (ii) the right to reproduce applicable portions of the Deliverables for Client's contractors, consultants, and suppliers solely for use in construction of the Project, provided Client reproduces on such copies the copyright notice and other proprietary legends that were on the original Deliverable. Deliverables are not intended or represented to be suitable and are not licensed to Client for reuse by Client or others on extensions of the Project or on any other project. Upon termination of this Agreement by Westwood pursuant to paragraph 4.01, the license granted herein shall terminate. Any unauthorized use of the Deliverables will be at Client's sole risk and without liability to Westwood or to Westwood's consultants.
- H. This Agreement is to be governed by the laws of the State in which the Project is located.
- I. All express indemnifications or limitations of liability included in this Agreement will survive its completion or termination for any reason.
- J. Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon Client and Westwood.
- K. Nothing contained herein shall be construed to mean that Westwood and Client are engaging in a joint venture or partnership.
- L. Westwood shall maintain insurances during the term of this Agreement as indicated in the attached **Exhibit C** to this Agreement.
- M. If either party hereto shall commence any action or proceeding against the other in connection with the terms, conditions, or obligations under this Agreement, the prevailing party shall be entitled to recovery of its reasonable attorney's fees and costs incurred herein.
- N. In the event the terms of these General Conditions conflict with the Proposal or other contract documents, these General Conditions shall control.

8.01 Hazardous Environmental Conditions

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

9.01 Allocation of Risks

- A. To the fullest extent permitted by law, Westwood shall indemnify and hold harmless Client, Client's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and reasonable charges of consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent caused in whole or in part by the negligent acts or omissions, intentional tort or failure to pay a subconsultant of Westwood or Westwood's officers, directors, partners, employees, and Westwood's consultants in the performance and furnishing of Westwood's services under this Agreement.
- B. To the fullest extent permitted by the laws of the State of Texas, Client shall indemnify and hold harmless Westwood, Westwood's officers, directors, partners, employees, and Westwood's consultants from and against any and all claims, demands, costs, losses, and damages (including but not limited to all fees and charges of consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) and liabilities that Westwood may incur or suffer which arise out of or relate to: (i) the negligent acts or omissions of Client or Client's officers, directors, partners, employees, and Client's consultants with respect to this Agreement or the Project; and (ii) Client's breach of or failure to perform any of its obligations of this Agreement or a Proposal.
- C. To the fullest extent permitted by laws of the State of Texas, and to the extent a claimant is not otherwise barred from recovery, Westwood's total liability to Client and anyone claiming by, through, or under Client for any cost, loss, or damages shall not exceed Westwood's respective percentage of responsibility for such cost, loss, or damage. Westwood shall not be liable for any incidental, consequential, indirect, or punitive damages arising out of this Agreement or Westwood's provision of the Services or the Deliverables, even if Westwood has been advised of the possibilities of such damages. In no event shall Westwood's total liability in connection with this Agreement exceed the amounts paid by Client to Westwood under this Agreement.

10.1 Force Majeure

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

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

11.01 Coronavirus Pandemic Impact

Client acknowledges and agrees that due to the dynamic and fluid nature of the coronavirus pandemic (COVID-19) (the "Coronavirus Pandemic"), Westwood may face uncertainty regarding its ability to perform the work contemplated by the Agreement in accordance with the schedule and contracted price. As a result of the Coronavirus Pandemic, the schedule, and related scope and fee, provided in the Agreement may be impacted due to issues outside of Westwood's control including, but not limited to, the following: (a) shortages in labor (including employees and consultants); (b) direction or guidance from any applicable governmental authority or applicable law that renders Westwood's or its subconsultants' performance impossible, impracticable, or contrary to such direction or guidance; (c) delays in governmental approvals; and (d) other causes beyond Westwood's reasonable control, regardless of whether such impacts are direct or indirect.

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

12.01 Right of Entry

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

13.01 No Third Party Rights

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

14.01 Total Agreement

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective on the latest date indicated below.

CLIENT:
City of New Fairview

WESTWOOD:
Westwood Professional Services, Inc.

By: _____

By: _____

Name: _____
(PRINT/TYPE)

Name: _____
(PRINT/TYPE)

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

Address/Contact for giving notices:

Address/Contact for giving notices:

Westwood Professional Services, Inc.
C/O General Counsel
2805 North Dallas Parkway, Suite 150
Plano, Texas 75093
Email: legal@westwoodps.com

- Exhibits: A Scope of Services
 B Compensation & Method of Payment
 C Insurance
 D Location Map

EXHIBIT A to Agreement between the City of New Fairview, Texas (“Client”) and Westwood Professional Services, Inc., (“Westwood”) for Consulting Services

EXHIBIT ‘A’ – SCOPE OF SERVICES

NEW FAIRVIEW FY25 GREEN RIBBON

PROJECT DESCRIPTION:

It is our understanding the project consists of landscape planting and irrigation plans for the award of \$376,000 in TxDOT Green Ribbon funding to be used along US287 at the intersection of FM407.

ASSUMPTIONS AND EXCLUSIONS:

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

1. Assumptions:

- Area of work is as shown in “Exhibit D” attached.
- Project budget is \$376,000.00.
- The design will be based on the concept used for the green ribbon application, consisting of planting and irrigation items only based on TxDOT's Green Ribbon Project.
- No survey will be done for this project. The project limits and area of work will be based on Google Earth aerials, Lidar data available, existing plans available, and City staff knowledge of the area.

2. Exclusions:

- Multiple design alternatives
- Site signage and/or signs for buildings and vehicular circulation.
- Site and/or ornamental lighting.
- Site walls.

BASIC SERVICES:

- A. Project Management, Coordination & Submittals
Westwood will attend meetings and or presentations to coordinate with other team members and the owner during the design phase and submit plans for formal TxDOT review as required.

1. Included in this item:

- Up to four (4) meetings with the CLIENT and/or TxDOT to coordinate the design and submittals.
- Formal review submittals and responses to TxDOT at 60%, 90%, and final plans.

EXHIBIT A to Agreement between the City of New Fairview, Texas (“Client”) and Westwood Professional Services, Inc., (“Westwood”) for Consulting Services

- B. Supplemental Design Requirements
Westwood will prepare additional files and standard plan sheets to complete TxDOT's PS&E process for a state let.
1. Included in this item:
 - Base file creation in absence of design survey data. Develop a schematic working base file from Lidar, digital CAD data, aerial photos and pdf document available.
 - Site visit to verify conditions at locations subject to improvements.
 - General notes related to demolition activities and TxDOT specification standards.
 - One (1) Epic Sheet and one (1) Grading and Drainage Plan if required showing the location of sediment controls.
 - Standard TxDOT plans and details to include: one (1) Cover Page, one (1) Index of Sheets, one (1) Estimates and Quantities, one (1) Quantity Summary, Traffic Control Plan Standards and Traffic Standards (Electrical) if required.
 - Standard TxDOT PS&E forms and coordination in TxDOT Connect.
- C. Landscape Planting Plans
Westwood will provide a Landscape Planting Plan that consists of selection and location of ornamental plantings, trees, turf, mulches, and associated items.
1. Included in this item:
 - Construction documents per the concept approved and included in the Green Ribbon Grant Application to a level sufficient to demonstrate design intent and allow the construction thereof, including material and quantity schedules, notes and technical details.
 - One (1) 22"x34" Plan submittal meeting TxDOT requirements as previously described at 60%, 90% and final plans.
- D. Landscape Irrigation Plans
Westwood will provide a Landscape Irrigation Plan that consists of a fully automated irrigation system to service plantings on the site as required. This scope of work assumes that Westwood will design the irrigation system as a completely integrated system, including tanks, pumps, filters and associated equipment to irrigate the site using non-potable water source.
1. Included in this item:
 - Construction documents to include irrigation plans to a level sufficient to demonstrate design intent and allow the construction thereof, including materials and quantity schedules, pipe sizing, notes and technical installation details.
 - One (1) 22"x34" Plan submittal meeting TxDOT requirements as previously described at 60%, 90% and Final plans.
 - Coordination with the Electrical Engineer providing power source for the pump systems and controllers.
 - Coordination with Structural Engineer related to allowable irrigation adjacent to structural footings and slabs or for holding tank slabs.

EXHIBIT A to Agreement between the City of New Fairview, Texas (“Client”) and Westwood Professional Services, Inc., (“Westwood”) for Consulting Services

- E. TxDOT Environmental Documents
Westwood will manage environmental documents in accordance with TxDOT guidelines.
1. Included in this item:
 - Prepare the necessary documentation to obtain blanket categorical exclusion for environmental clearance through TxDOT.
- F. Reimbursable Expenses
Included in this item are usual and customary expenses normally incurred during this type of project. These could include travel expenses, courier delivery charges, overnight delivery charges, copies of existing plans and/or maps, photocopies, printing and reproduction (either in-house or by reproduction company). Application, review and filing fees are not included in this item. These services will be billed at cost +10%, with documentation provided, and are shown as a not to exceed (NTE) cost in the Compensation section.
- G. Limited Landscape Bid & Construction Administration
During the Bid and Construction Phase, Westwood will be available to provide coordination as required with prospective bidders and selected contractors at hourly rates as requested by the Client.

This shall not be construed as performing continuous construction inspection. Please note the following:

- Westwood shall not at any time supervise or have authority over any Contractor work or jobsite management procedures, nor shall Westwood have authority over or be responsible for the means and methods, or procedures of construction selected or used by the Contractor.
- Westwood neither guarantees the performance of the Contractor nor assumes responsibility for the Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- Westwood shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- Westwood shall not be responsible for the acts or omissions of the Contractor or for any decision or interpretation of the Contract Documents made by the Contractor.
- While at the Site, Westwood's employees and representatives shall comply with the specific applicable requirements of the Contractor's and Owner's safety programs of which Westwood has been informed in writing.

SPECIAL SERVICES:

- H. Electrical Engineering
Westwood will contract with a sub consultant to provide electrical engineering services as they relate to irrigation system and water tank foundation.

EXHIBIT A to Agreement between the City of New Fairview, Texas (“Client”) and Westwood Professional Services, Inc., (“Westwood”) for Consulting Services

- I. Structural Engineering
Westwood will contract with a sub consultant to provide limited structural engineering services as they relate to the irrigation system and water tank. This does not include the design of wet pits or wells.

Services not included in this contract:

- *Construction inspection services.*
- *As-builts of the constructed improvements.*
- *Public hearings or City Council/Commission meetings.*
- *Utility coordination meeting(s) to start relocation process with affected franchise utilities*
- *Floodplain studies and permitting*
- *Boundary and topographic surveying*
- *Traffic and parking studies*
- *Storm Water Pollution Prevention Plans (SWPPP)*
- *Demolition plan*
- *Drainage Plan*
- *Hardscape Plan*
- *Site Lighting Plan*
- *Design of walls, light pole bases, transformer or generator pads, hardscape features, pavers and/or site signage*
- *Graphic representation documents.*
- *Geotechnical investigation.*
- *Environmental investigation beyond what is shown above.*
- *Services associated with filing of the “Notice of Intent” form (NOI) to the Texas Commission on Environmental Quality (TCEQ) for the proposed construction activities.*
- *Reclaimed Water Irrigation Design*
- *Wetlands determination and permitting.*
- *Coordination of gas, electric, telephone and cable television services*
- *Dedication of easements and/or right-of-way be separate instrument*

END OF EXHIBIT ‘A’

EXHIBIT B to Agreement between the City of New Fairview, Texas (“Client”) and Westwood Professional Services, Inc., (“Westwood”) for Consulting Services

EXHIBIT ‘B’ – COMPENSATION AND METHOD OF PAYMENT

NEW FAIRVIEW FY25 GREEN RIBBON

COMPENSATION:

For all professional services included in EXHIBIT ‘A’, Scope of Services, Westwood shall be compensated a lump sum fee of \$36,200.00 as summarized below. The total lump sum fee shall be considered full compensation for the services described in EXHIBIT ‘A’, including all labor materials, supplies, and equipment necessary to deliver the services.

Basic Services

A. Project Management, Coordination & Submittals	\$ 4,000.00
B. Supplemental Design Requirements	\$12,000.00
C. Landscape Planting Plans	\$ 6,200.00
D. Landscape Irrigation Plans	\$ 5,800.00
E. TxDOT Environmental Documents	\$ 3,000.00
F. Reimbursable Expenses (Cost + 10% with documentation)	\$ 1,200.00 (NTE)
G. Limited Landscape Bid & Construction Administration	\$ <u>4,000.00</u> (Hourly, NTE)

TOTAL

\$36,200.00

Special Services

H. Electrical Engineering	\$ 3,400.00
I. Structural Engineering	\$ 3,100.00

METHOD OF PAYMENT:

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

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

END OF EXHIBIT ‘B’

EXHIBIT C to Agreement between the City New Fairview, Texas (“Client”) and Westwood Professional Services, Inc., (“Westwood”) for Consulting Services

EXHIBIT C – INSURANCE

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

1. Commercial General Liability (occurrence form not less than):
 - \$2,000,000 General Liability
 - \$2,000,000 Products and Completed Operations Aggregate
 - \$1,000,000 Personal and Advertising Injury
 - \$1,000,000 Each Occurrence
 - \$10,000 Medical Expense
2. Commercial Automobile Liability (all scheduled auto, hired and non-owned autos):
 - \$1,000,000 Combined Single Limit
3. Umbrella
 - \$5,000,000 Aggregate
 - \$5,000,000 Each Occurrence
4. Workers Compensation
 - \$1,000,000 Each Accident
 - \$1,000,000 Policy Limit
 - \$1,000,000 Each Employee

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

END OF EXHIBIT ‘C’

EXHIBIT D to Agreement between the City New Fairview, Texas (“Client”) and Westwood Professional Services, Inc., (“Westwood”) for Consulting Services

EXHIBIT D – LOCATION MAP



LOCATION MAP

CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

July 15, 2024

Interlocal Agreement with the Texas Municipal League Intergovernmental Risk Pool for continued Cyber Liability and Data Breach Response Coverage

DESCRIPTION:

Receive, consider, and act on an Interlocal Agreement with the Texas Municipal League Intergovernmental Risk Pool for continued Cyber Liability and Data Breach Response Coverage.

BACKGROUND INFORMATION:

The City receives liability coverage from the Texas Municipal League Intergovernmental Risk Pool (TMLIRP), including Cyber Liability and Data Breach Response Coverage. In June TMLIRP sent notice to cities their Board of Trustees recently created a new Cyber Fund and approved changes to the Pool's coverage structure, effective October 1, 2024. This is a result of cyber claims increasing significantly in frequency and severity.

We currently receive Core+ level coverage with the Pool, which means we received \$1,000,000 in limited data and network liability as seen in the chart.

The City has taken steps to protect our data and network including firewall protection by our contract tech company Accoona, and cyber security training of staff. However, liability coverage is still necessary and recommended.

	Core	Core+
Tower 1 - Limit of Liability*	\$500,000	\$1,000,000
Data & Network and Media Liability Aggregate Limit of Liability	\$500,000	\$1,000,000
Retention	\$0	\$0
Tower 2 - Limit of Liability	\$100,000	\$250,000
<u>First Party Loss</u>		
Business Interruption Aggregate Sublimit	\$20,000	\$50,000
Cyber Extortion Loss Aggregate Sublimit	\$25,000	\$50,000
Data Recovery Costs Aggregate Sublimit	\$20,000	\$50,000
Reputational Loss Aggregate Sublimit	\$5,000	\$10,000
Retention (other than Business Interruption)	\$0	\$5,000
Income Loss Retention under Business Interruption	\$5,000	\$5,000
<u>Third Party Loss</u>		
Regulatory Defense and Penalties Aggregate Sublimit	\$25,000	\$75,000
Payment Card Liabilities & Costs Aggregate Sublimit	\$10,000	\$25,000
Retention	\$0	\$5,000
<u>eCrime</u>		
Fraudulent Instruction Aggregate Sublimit	\$25,000	\$50,000
Funds Transfer Aggregate Sublimit	\$25,000	\$50,000
Telephone Fraud Aggregate Sublimit	\$25,000	\$50,000
Criminal Reward	\$2,500	\$2,500
Retention (other than Criminal Reward)	\$2,500	\$5,000
Retention Criminal Reward	\$0	\$0
Tower 3 - Limit of Liability	\$100,000	\$150,000
Breach Response Aggregate Limit of Liability Beazley Response Services	\$100,000	\$150,000
Retention	\$0	\$0
New 2024-25 Annual Contribution	\$1,000	\$1,250
<i>Previous 2023-24 Contribution</i>	<i>\$175</i>	<i>\$247.24</i>

**The Tower 1 Limit of Liability changed from \$1 million to \$500,000 for Core limits and from \$2 million to \$1 million for Core+ limits. All other limits remained unchanged.*

If the City wishes to continue Cyber Coverage we must complete and return the Cyber Liability and Data Breach Response Interlocal Agreement to TMLIRP by September 30, 2024. Since this is an Interlocal Agreement the City Council must approve it before it can be executed.

FINANCIAL CONSIDERATION:

The City currently has Core + Cyber Coverage with the TML Risk Pool. We pay approximately \$247.24 annually for this coverage. Under the new Cyber Fund coverage, the City will pay approximately \$1,250 annually for the same coverage.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** an Interlocal Agreement with the Texas Municipal League Intergovernmental Risk Pool for continued Cyber Liability and Data Breach Response Coverage.

ATTACHMENT(S):

1. TML Cyber Liability and Data Breach Response Interlocal Agreement



WORKERS' COMPENSATION • PROPERTY • LIABILITY

CRITICAL ALERT:
Cyber Liability and Data Breach Response Coverage

DATE: June 7, 2024
TO: All Members with Core + (Band 1) Cyber Coverage
RE: 2024-2025 *Cyber Liability and Data Breach Response Coverage* Updates

Dear Valued Member:

Since 2016, when the TML Risk Pool first began offering *Cyber Liability and Data Breach Response Coverage* ("*Cyber Coverage*"), cyber claims have exponentially increased in both frequency and severity.

Future cybercriminal activity is impossible to predict, which means neither the Pool nor any other insurer can rely on past patterns and trends to predict future losses. That's why the Board of Trustees recently created a new Cyber Fund and approved changes to the Pool's Coverage structure, effective on October 1, 2024. *Members must elect to continue coverage or "opt-in" by completing and returning the Cyber Interlocal Agreement to participate in the newly-created Cyber Fund.*

MEMBERS THAT DON'T FOLLOW THE OPT-IN PROCEDURES WILL LOSE THEIR EXISTING CYBER COVERAGE EFFECTIVE AT MIDNIGHT ON SEPTEMBER 30, 2024.

Included in this packet are:

1. A two-page flyer **explaining the updated Cyber Coverage and why the Pool made certain adjustments to ensure the viability of the program.**
2. A **Limits Page** for the updated Cyber Coverage and a link to the updated Cyber Coverage Document, which shows the contribution increases and available limits.
3. A **new, separate Interlocal Agreement (contract)** to join the Pool's new Cyber Fund.

Please review the above information.

If your entity wishes to continue Cyber Coverage, simply review, complete and sign, and return the completed Cyber Fund Interlocal Agreement as soon as possible but no later than September 30, 2024. (Each Member must follow their own statutory and local policies related to contract approval prior to signing.) You can either scan and return the completed and signed agreement by email to underwriting@tmlirp.org or mail or ship it to Cyber Coverage, c/o TML Intergovernmental Risk Pool, P.O. Box 149194, Austin, Texas 78714. To change the Core or Core+ limit selection, simply include that request with the Interlocal Agreement. An executed copy of the agreement will be returned to you.

REMEMBER – THE INTERLOCAL AGREEMENT MUST BE RETURNED BY SEPTEMBER 30, 2024, IN ORDER FOR COVERAGE TO CONTINUE.

TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL

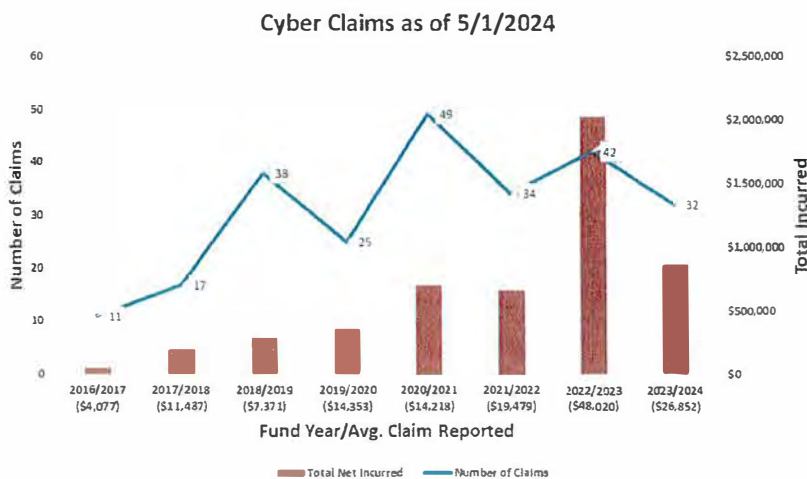
P.O. Box 149194 • Austin, Texas 78714-9194 • www.tmlirp.org

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CRITICAL ALERT: The Pool's NEW Cybersecurity Fund

Introduction

In 2016, the Pool recognized its Members' growing cyber liability exposure. Starting that year, complimentary coverage was provided to all Members with either General Liability or Real & Personal Property Coverage. Later, as the exposure increased, the Pool began charging a minimal amount for the coverage. As shown by the chart below, cyber claims have exponentially increased in both frequency and severity since that time.



Future cybercriminal activity is impossible to predict, which means neither the Pool nor any other insurer can rely on past patterns and trends to predict future losses. That's why the Board of Trustees recently approved the Pool's formation of a new Cyber Fund and updated *Cyber Liability and Data Breach Response Coverage* ("Cyber Coverage"), effective October 1, 2024, for those Members who opt-in and sign the **Cyber Liability Interlocal Agreement**. Read on for details.

Of course, nothing can cover every possible scenario. That's why each Member *must* take steps to protect themselves, and we can help you do so (regardless of whether you choose our cyber coverage). **Most cyberattacks are preventable, and local officials should implement basic policies, train on them, and follow them.** (See the final section below on loss prevention to learn more.)

The New Cyber Fund – Ensuring the Viability of the Pool's Cyber Coverage

Cyberattacks are becoming more common, more sophisticated, and more expensive. In fact, the Pool's cyber claims have increased exponentially since 2016. Right now, if every Member of the Pool was hit by a coordinated attack, the Pool's *total exposure is in the billions of dollars*. Thankfully, that hasn't happened. But the Pool is updating its Cyber Coverage to ensure that it never does.

The following is a brief overview of the changes:

- The Pool is creating a **separate Cyber Fund** – each Member that wants to continue coverage **must sign a new, separate interlocal agreement (contract) to join the Fund**.
- The Pool's **total annual payout** for cyber claims will be **capped at \$25 million** – should criminals execute a widespread attack, the Pool's Board of Trustees would decide how to allocate those funds.
- The limit for third party liability has been reduced to **\$500,000** or **\$1,000,000**, depending on whether Core or Core+ option is selected.
- **Cyber coverage contributions (premiums) will increase** based on a Member's elected limits. The new contribution ranges from \$1,000 to \$1,850 depending on Member type and coverage level (unless a Member chooses a different coverage level, the current level will roll over). Suggestion: Coverage will be renewed at the current elected limit.

The Coverage: What You Get

Some of the worst news a local official can receive is that they have fallen victim to a cyberattack. Whether criminals lock up your data and ask you for a ransom to restore it, they trick you into sending money to a fraudulent account and steal it, or whatever the form of an attack, the Pool's coverage provides, among other things:

- **Breach response**, which includes access to computer experts, public relations specialists, attorneys, negotiators, and others with experience responding to cyberattacks – these experts help you lessen the damage from an attack.
- **Network business interruption**, which can help cover the loss of income and extra expenses (for a limited period) caused by an attack.
- **Cyber extortion**, which can help with ransom payments to recover data.
- **Data recovery costs**, which can help with costs to restore data that was damaged, corrupted, and/or deleted.
- **Fraud protection**, which can help (if certain conditions are met) with costs related to – for example – when an employee is tricked into sending money to a cybercriminal.

The above provides only a very basic overview of the coverage. Every claim is unique, and reading the above isn't a substitute for carefully reviewing the terms of the new interlocal agreement and coverage document. Please refer to the enclosed outline of the coverages, limit, and sublimit.

What You Need to Do to Continue Coverage

To continue coverage, simply review, complete and sign, and return the Cyber Fund Interlocal Agreement. (Each Member **must follow their own statutory and local policies related to contract approval prior to signing.**) To change the Core or Core+ limit selection, simply include that request with the Interlocal Agreement.

As part of this process, we encourage you to review the 2024-2025 Cyber Liability and Data Breach Response Coverage Document that is stored on the Pool's Member Portal, which you can access from the Pool's website at www.tmlirp.org.

That's it! You'll be billed later for the costs of all your coverages, including the cyber coverage.

REMEMBER – THE INTERLOCAL AGREEMENT MUST BE RETURNED BY SEPTEMBER 30, 2024, IN ORDER FOR COVERAGE TO CONTINUE.

Risk Management and Loss Prevention

As mentioned above, the best way to deal with a cyberattack is to avoid it altogether. The Pool has a dedicated Cyber Risk Services Manager – Ryan Burns (rburns@tmlirp.org) – who can assist any Member with loss prevention, including individual review of Member exposures and transfer of risk via contracts provisions, loss prevention efforts, appropriate coverage, and more.

Additional Resources

The Pool provides prevention education in various ways. The easiest to access are short podcast episodes and YouTube videos. For example, any local official who wants to know just how painful a cyberattack can be should listen to Episode 9c of the "Local Officials: *Stronger, Together* Podcast."

In the eye-opening episode, Scott interviews City of Tomball Assistant City Manager Jessica Rogers. Cyber-criminals hacked Tomball at the end of 2022, and the city is still — one year later — dealing with the aftermath. In this episode — which should be required listening for every city official in Texas (and beyond) — Jessica explains exactly what it's like to have essentially every computer system go down, including 9-1-1 dispatch, utility metering and billing, permitting, and everything in between. She also describes the long road to getting everything up and running. Don't miss our chance to learn from this chill-inducing story. (To listen, go to www.tmlirp.org, click on the "STP Podcast" link at the top of the page, and scroll down to Episode 9c.)

LIMIT PAGE

Your entity currently has **Core + Cyber Coverage** with the Pool. The following is an abbreviated description of the Core and Core+ limit structure beginning October 1, 2024. The Coverage Document can be accessed at <https://members.tmlirp.org/downloads> (this link will ask you to log into the Member Portal for access).

*A limit of \$25,000,000 is shared by all **Members** for aggregate losses occurring within the Fund Year as defined in the Cyber Liability and Data Breach Response Interlocal Agreement.*

	Core	Core+
Tower 1 - Limit of Liability*	\$500,000	\$1,000,000
Data & Network and Media Liability Aggregate Limit of Liability	\$500,000	\$1,000,000
Retention	\$0	\$0
Tower 2 - Limit of Liability	\$100,000	\$250,000
First Party Loss		
Business Interruption Aggregate Sublimit	\$20,000	\$50,000
Cyber Extortion Loss Aggregate Sublimit	\$25,000	\$50,000
Data Recovery Costs Aggregate Sublimit	\$20,000	\$50,000
Reputational Loss Aggregate Sublimit	\$5,000	\$10,000
Retention (other than Business Interruption)	\$0	\$5,000
Income Loss Retention under Business Interruption	\$5,000	\$5,000
Third Party Loss		
Regulatory Defense and Penalties Aggregate Sublimit	\$25,000	\$75,000
Payment Card Liabilities & Costs Aggregate Sublimit	\$10,000	\$25,000
Retention	\$0	\$5,000
eCrime		
Fraudulent Instruction Aggregate Sublimit	\$25,000	\$50,000
Funds Transfer Aggregate Sublimit	\$25,000	\$50,000
Telephone Fraud Aggregate Sublimit	\$25,000	\$50,000
Criminal Reward	\$2,500	\$2,500
Retention (other than Criminal Reward)	\$2,500	\$5,000
Retention Criminal Reward	\$0	\$0
Tower 3 - Limit of Liability	\$100,000	\$150,000
Breach Response Aggregate Limit of Liability Beazley Response Services	\$100,000	\$150,000
Retention	\$0	\$0
New 2024-25 Annual Contribution	\$1,000	\$1,250
<i>Previous 2023-24 Contribution</i>	<i>\$175</i>	<i>\$247.24</i>

**The Tower 1 Limit of Liability changed from \$1 million to \$500,000 for Core limits and from \$2 million to \$1 million for Core+ limits. All other limits remained unchanged.*

Texas Municipal League Intergovernmental Risk Pool

1821 Rutherford Lane, First Floor • Austin, Texas 78754

CYBER LIABILITY AND DATA BREACH RESPONSE INTERLOCAL AGREEMENT

This Contract and Interlocal Agreement is entered into by and between political subdivisions of this state (hereinafter referred to as "Pool Members") to form a joint self-insurance pool to be named the Texas Municipal League Joint Cyber Liability and Data Breach Response Self-Insurance Fund (hereinafter referred to as the "Fund") for the purpose of providing coverages against risks which are inherent in operating a political subdivision.

WITNESSETH:

The undersigned Pool Member, in accordance with Chapter 2259, Texas Government Code, the Interlocal Cooperation Act, Tex. Gov't Code § 791.001, et seq., and the interpretation thereof by the Attorney General of the State of Texas (Opinion #MW-347, May 29, 1981), and in consideration of other political subdivisions executing like agreements, does hereby agree to become one of the Pool Members of this self-insured pool. The conditions of membership agreed upon by and between the parties are as follows:

1. Definitions of terms used in this Interlocal Agreement.
 - a. Board. Refers to the Board of Trustees of the Fund.
 - b. Fund Year. 12:01 a.m. October 1 through 12:01 a.m. the following October 1.
 - c. Manual Rates. The basic rates applicable to each cyber liability and data breach response classification promulgated by the Insurance Service Office or the Board.
 - d. Texas Municipal League Cyber Liability and Data Breach Response Self-Insurance Plan. The Cyber Liability and Data Breach Response Coverage Document that sets forth in exact detail the coverages provided as part of the overall plan.
 - e. Adjustments. Refers to any offsets to manual premium that may result from the Pool Member's election of deductibles, loss experience, or Fund Modifier which reflects the savings to the Pool Member by entering into this Interlocal Agreement.
 - f. Premium and Contribution. Used interchangeably in some parts of this Interlocal Agreement. Any reference at any time in this Interlocal Agreement to an insurance term not ordinarily a part of self-insurance shall be deemed for convenience only and is not construed as being contrary to the self-insurance concept except where the context clearly indicates no other possible interpretation such as but not limited to the reference to "reinsurance."
 - g. Reimbursable Deductible. The amount that was chosen by this Pool Member to be applicable to the first monies paid by the Fund to effect judgment or settlement of any claim or suit. The Pool Member, upon notification of the action taken, shall promptly reimburse the Fund for all or such part of the deductible amount as has been paid by the Fund. Further, however, the Fund's obligation to pay damages shall be subject to the limits of liability stated in the Declarations of Coverage or Endorsements to this Interlocal Agreement less the stated deductible amount.
 - h. Fund Modifier. A percentage figure that is applied to the manual rates by the Fund to reflect the savings to the Pool Member by entering into this Interlocal Agreement.
 - i. Agreement Period. The continuous period since the Pool Member first became a member of this Fund excluding, however, any period or periods of time therein that the member did not participate as a member of the Pool.
 - j. Declarations of Coverage. The specific indication of the coverages, limits, deductibles, contributions, and special provisions elected by each individual Pool Member. The Declarations of Coverages may be modified by Endorsement.
2. The Board, acting through its agents and Fund staff, is responsible for the administration of all Fund business on behalf of the Pool Members.
3. In consideration of the execution of this Interlocal Agreement by and between the Pool Member and the Fund and of the contributions of the Pool Member, the coverage elected by the Pool Member is afforded according to the terms of the Texas Municipal League Cyber Liability and Data Breach Response Self-Insurance Plan. The affirmative declaration of contributions and limits of liability in the Declarations of Coverage and Endorsements determine the applicability of the Self-Insurance Plan.

Each Pool Member agrees to adopt and accept the coverages, provisions, terms, conditions, exclusions, and limitations as further provided for in the Texas Municipal League Cyber Liability and Data Breach Response Self-Insurance Plan or as specifically modified by the Pool Member's Declarations of Coverage. This Interlocal Agreement shall be construed to incorporate the Texas Municipal League Cyber Liability and Data Breach Response Self-Insurance Plan, Declarations of Coverage, and Endorsements and addenda whether or not physically attached hereto.

4. It is understood that by participating in this risk sharing mechanism to cover cyber liability and data breach response exposures, the Pool Member does not intend to waive any of the immunities that its officers or its employees now possess. The Pool Member recognizes the Texas Tort Claims Act and its limitations to certain governmental functions as well as its monetary limitations and that by executing this Interlocal Agreement does not agree to expand those limitations.
5. The term of this Interlocal Agreement and the self-insurance provided to the Pool Member shall be continuous commencing 12:01 a.m. on the date designated in this Interlocal Agreement until terminated as provided below. Although the self-insurance provided for in this Interlocal Agreement shall be continuous until terminated, the limit of liability of the Fund under the coverages that the Pool Member elects shall be limited during any Fund Year to the amount stated in the Declarations of Coverage for that Fund Year.

This Interlocal Agreement may be terminated by either party giving to the other sixty (60) days' prior written notice of intent to terminate except the Pool Member may terminate this Interlocal Agreement and its coverages thereunder without giving the sixty (60) days' notice if the reason is because of a change by the Fund in the Pool Member's contribution, coverage, or other change in the limits of liability, terms, conditions, exclusions, and limitations provided for in the Texas Municipal League Cyber Liability and Data Breach Response Self-Insurance Plan provided that no termination by the Member shall be effective prior to the date that written notice of termination is actually received in the offices of the Fund and provided that the Pool Member agrees to and shall pay the applicable premium and contribution for those coverages it is terminating until the date the notice of termination is actually received by the Fund.

The Fund shall provide the Pool Member with Declarations of Coverage and any Endorsements that determine the applicability of the Texas Municipal League Cyber Liability and Data Breach Response Self-Insurance Plan annually by December 1. Such Declarations of Coverage shall include, but not be limited to, the coverage period which shall be the applicable Fund Year, limits, deductibles, contributions, special provisions, and limitations. Changes made during the Fund Year, whether requested by the Pool Member or required by the Fund, will be handled by Endorsement.

It is the intention of the parties that the Pool Member's coverages under this Interlocal Agreement shall remain in full force and effect from Fund Year to Fund Year, subject to the limits of liability that the Fund can provide each Fund Year and the terms, conditions, and limitations that the Fund may require to protect its solvency and to comply with reinsurance requirements, until notice of termination is given as herein provided. Realizing that the Pool Member needs the earliest possible information concerning the Fund coverages, limits, and exclusions, and the Pool Member's contribution that will be required for any new Fund Year, the Fund will endeavor to provide this information as soon as possible before the beginning of each Fund Year. The parties recognize, however, that conditions in the reinsurance industry are such that the Fund may not be able to provide this information to the Pool Member before the beginning of a Fund Year for various reasons including the failure of the Pool Member to timely submit the appropriate exposure summary or delays on the part of reinsurers in getting information to the Fund, and so, to protect the Pool Member from gaps in its coverage and to protect the solvency of the Fund, the parties agree as follows:

If, for any reason other than the Pool Member's failure to provide the information requested in the exposure summary, the Fund has not been able to provide the Pool Member with information concerning available coverages for a new Fund Year or advise the Pool Member of the amount of its contribution for the new Fund Year by the beginning of the Fund Year, the Fund shall nevertheless continue the Pool Member's coverages at the same limits of liability (if still available and if not, then at the highest limit of liability available for the new Fund Year) so that the Pool Member shall at all times remain covered as herein provided and the Pool Member's initial contributions for the new Fund Year shall be determined by a "tentative contribution" as determined by the Board with the Pool Member's actual annual contribution to be credited by the amount paid in accordance with the tentative contribution and adjusted during the Fund Year. In the event the Pool Member does not wish to have its coverages extended or renewed at the end of any Fund Year, the burden shall be upon the Pool Member to give written notice to the Fund as provided hereinabove and the Pool Member agrees to pay as hereinabove stated all contributions or pro rata contributions until the date such written notice is received in the offices of the Fund or the date of termination of this Interlocal Agreement, whichever is later.

6. Commensurate with the execution of this Interlocal Agreement and annually thereafter, the Pool Member shall complete the appropriate exposure summary and deliver it or cause it to be delivered to the Fund, or, if so instructed, to a designated contractor, no later than September 1 of each year and new annual contributions shall be calculated using manual rates times exposure, less any adjustments. Intentional or reckless misstatements on the exposure summary shall be grounds for cancellation. In the event that the Pool Member fails or refuses to submit the appropriate exposure summary, the Fund reserves the right to terminate such Pool Member by giving thirty (30) days' written notice and to collect any and all contributions that are earned pro rata for the period preceding contract termination.

The Pool Member agrees to pay the annual contribution to the Fund in four (4) equal quarterly installments, in advance, commencing at the beginning of this Interlocal Agreement with subsequent installments due the first quarter thereafter. In the event this Interlocal Agreement is terminated as herein provided, the Fund shall promptly repay to the Pool Member any such unearned annual contribution prorated as of the date of termination and the Pool Member agrees during the term of this Interlocal Agreement to promptly pay all reimbursable deductibles upon receipt of statement.

At the end of each and every Fund Year, the Fund may require the Pool Member to submit the actual data requested on the exposure summary as reflected by the books and records of the Pool Member. The Fund reserves the right to audit the records of any Pool Member and adjust contributions accordingly.

In the event that the Pool Member fails or refuses to make the payments, including accrued interest, as herein provided, the Fund reserves the right to terminate such Pool Member by giving them ten (10) days' written notice and to collect any and all amounts that are earned pro rata for the period preceding contract termination. If the amounts owed, including reimbursable deductibles, must be collected by suit, the Pool Member agrees to pay attorneys' fees and costs incurred in such suit.

7. The Fund shall maintain adequate protection from catastrophic losses to protect its financial integrity. Aggregate protection shall also be maintained. The Member's contributions shall be limited to that amount as calculated under this Interlocal Agreement. Notwithstanding anything to the contrary, the total combined aggregate limit of liability of the Fund for all Pool Members in any Fund Year, regardless of the number of occurrences or claims, shall be limited to the amount of money contained in the Fund. As to the Pool annual aggregate limits or the amount of money in the Fund, the Board of Trustees, in its sole discretion, may determine an allocation methodology among affected Pool Members should the Pool annual aggregate limit be reached, or should the money in the Fund be exhausted.
8. Notwithstanding the provisions of the foregoing paragraph, it is agreed the Board shall have the right to adjust the financial protection outlined above and/or amend coverages as it finds available or deems necessary to maintain the fiscal soundness of the Fund at the beginning of or during any Fund Year.
9. The Fund will make available loss control services to the Pool Members to assist them in following a plan of loss control that may result in reduced losses. The Pool Member agrees that it will cooperate in instituting any and all reasonable loss control recommendations. In the event that the recommendations submitted seem unreasonable, the Pool Member has a right to appeal to the Board. The Board shall hear the objections of the Pool Member at its next regularly scheduled meeting and its decisions will be final and binding on all parties. Any Pool Member who does not agree to follow the decision of the Board shall be withdrawn from the Fund immediately.
10. The Pool Member agrees that it will appoint a contact of department head rank, and the Fund shall not be required to contact any other individual except this one person. Any notice to or any agreements with the contact shall be binding upon the Pool Member. The Pool Member reserves the right to change the contact from time to time by giving written notice to the Fund.
11. The Fund agrees to handle all cyber liability and data breach response claims, and provide a defense for any and all cyber liability and data breach response claims covered under this Interlocal Agreement after prompt notice has been given. The Pool Member hereby appoints the Fund staff and Contractors as its agents to act in all matters pertaining to processing and handling of claims covered under this Interlocal Agreement and shall cooperate fully in supplying any information needed or helpful in settlement or defense of such claims. As respects cyber liability and data breach response claims, the Fund staff and Contractors shall carry on all negotiations with the claimant and his/her attorney, when applicable, and negotiate within authority previously granted by the Fund. If a personal appearance by the Pool Member or an employee is necessary, the expense of this appearance will not be the responsibility of the Fund. With the advice and consent of the Fund, the Fund staff and the Contractors will retain and supervise legal counsel for the prosecution and defense of any litigation. All decisions on individual cases shall be made by the Fund through the Fund staff and the Contractors, which include, but are not limited to, the decision to appeal or not to appeal, settlement negotiations, the decision of whether to settle, and other litigation tactics. However, any Pool Member shall have the right in any case to consult with the Fund on any decision made by the Fund staff or Contractors. The Board shall hear the objections of the Pool Member at its next regularly scheduled meeting and its decision will be final and binding on all parties. Any suit brought or defended by the Fund shall be brought or defended only in the name of the Pool Member and/or its officers or employees. There shall be supplied periodically to each Pool Member a computer printout involving a statement of claims. As respects the Texas Municipal League Cyber Liability and Data Breach Response Self-Insurance Plan, the Fund shall have priority in enforcing its subrogation claims against the claims of Pool Member.
12. The Pool Member acknowledges that it has received a copy of the Bylaws of the Fund and agrees to abide by the Bylaws and any amendments thereto.
13. The Fund agrees that all Fund transactions will be annually audited by a nationally recognized certified public accounting firm.
14. If legally required, the Fund shall cause to be filed the necessary tax forms with the Internal Revenue Service.

15. As the administrators of the Fund, the Board shall primarily and consistently keep foremost in their deliberations and decisions in operating the Fund that each of the participating Pool Members is a "self-insured." At least annually, the Board shall carefully review, study, and consider the actual claims or loss experience (including reserves for future claims payments) of each of the Pool Members, the pro rata savings to the Fund resulting from overall loss experience attributed to each Pool Member, and the pro rata portion of the cost of all catastrophic loss protection and aggregate stop loss protection allocated to each Pool Member as well as the pro rata allocation, as determined by the Board of the other and necessary administrative expenses of the Pool, in order to reasonably determine the actual pro rata cost, expense, and loss experience of each Pool Member in order to maintain as nearly as possible an equitable and reasonable self-insurance administration of the Fund as applied to each Pool Member.

The Fund shall maintain case reserves and supplemental reserves computed in accordance with standard actuarial principles, taking into account historical and other data, designed to measure claims development and claims incurred but not yet reported, so that funds will be available to meet these claims as they become due, subject to paragraph 7 above. The Board has complete authority to determine all matters pertaining to the existence and dissolution of the Fund.

16. Venue of any suit or action arising out of or related to this Interlocal Agreement shall be exclusively in the state and federal courts of Travis County, Texas. The parties agree they shall assume their own expenses for attorney's fees in any suit or action arising out of or related to this Interlocal Agreement.
17. The parties agree this Interlocal Agreement may be executed by original written ink signature on paper documents, an exchange of copies showing the original written ink signature on paper documents, or electronic or digital signature technology in such a manner that the signature is unique and verifiable to the person signing. The use of any one or combination of these methods of execution shall constitute a legally binding and valid signing of this Interlocal Agreement, which may be executed in one or more counterparts, each of which, when duly executed, shall be deemed an original.

EMPLOYER MEMBERS' FUND CONTACT (See Section 10):

Member Name _____

Name of Contact _____ Title _____

Mailing Address _____ Email Address _____

Street Address (if different from above) _____

City _____ Zip _____ Phone _____

SIGNATURE OF AUTHORIZED MEMBER OFFICIAL

 Title _____ Date _____

Member's Federal Tax I.D. Number _____ - _____
This Information is MANDATORY

TO BE COMPLETED BY FUND: (OFFICE USE ONLY)

Date of Adoption of this Agreement _____

Member Name _____

Council Number _____

Signature of Authorized Representative of the Fund _____

Title _____