



CITY COUNCIL
March 15, 2021
7:00 P.M.

- I. CALL MEETING TO ORDER:**
- II. ROLL CALL:**
- III. PLEDGE TO 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
- IV. OPEN FORUM:** 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 the opportunity to speak, there is a three-minute limitation 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.
- V. CONSENT ITEMS:** All matters listed as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.
 - A. Acceptance of the February 2021 Financial Report.
 - B. Acceptance of the February 1, 22, and March 1, 2021 City Council Meeting minutes.
- VI. NEW BUSINESS:**
 - A. Discuss, consider, and act on a resolution of the City Council of the City of New Fairview, Texas, accepting a petition to create the Shoop Ranch Public Improvement District No. 1; calling for a public hearing to consider the feasibility and advisability of establishing the district; authorizing and directing the publication and mailing of notices of the public hearing; and providing an effective date.
 - B. Discuss, consider, and act on a resolution of the City Council of the City of New Fairview, Texas, accepting a petition to create the Shoop Ranch Authorized Services Public

Improvement District No. 1; calling for a public hearing to consider the feasibility and advisability of establishing the district; authorizing and directing the publication and mailing of notices of the public hearing; and providing an effective date.

- C. Discuss, consider, and act on a resolution of the City Council of the City of New Fairview, Texas, authorizing the City Administrator to enter into an agreement with SPI, Inc. to complete an application for the City of New Fairview to establish a Certificate of Convenience and Need (CCN) for a water and wastewater system and resolving other matters incident and related thereto.
- D. Discuss, consider, and act on a resolution authorizing the City Administrator to enter into an agreement with ETC, Inc. to conduct a citizen survey.

VII. WORK SESSION: No action will be taken during the work session; the work session provides the Council an opportunity to discuss consent items, receive and provide information regarding regular agenda items, and presentations from staff.

- A. Discuss with staff a Social Media Policy.
- B. Discuss with staff options regarding dark sky initiatives.
- C. Discuss with staff options a public debate for the May 2021 election.

VIII. EXECUTIVE SESSION: The Council will conduct a closed session pursuant to Texas Government Code, annotated, Chapter 551, Subchapter D for the following:

- A. The Council will conduct a closed session pursuant to Texas Government Code, annotated, Chapter 551, Subchapter D for the following: Section 551.087 - Deliberation Regarding Economic Development Negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1) for the following: Shoop Ranch
- B. Section 551.074 - Personnel Matters; (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee; (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing: Mayor Joe Max Wilson and Place 3 Steve Misner

IX. CONSIDER/TAKE ACTION ON MATTERS DISCUSSED IN THE EXECUTIVE SESSION.

- X. **ADJOURN:** 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 said notice posted this 12th day of March 2021 at 7:00 PM at least 72 hours proceeding the meeting time.

Monica Rodriguez, City Secretary

SEAL:

This facility is wheelchair accessible; parking spaces are available. Requests for accommodations 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 Council Agenda March 15, 2021

Agenda Item:

(Consent Item)

Agenda Description:

The attached financial report shows the revenues and expenditures for February 2021.

Background Information:

The Council adopted a budget in September 2020 and this report reflects the estimated revenues and expenditures as appropriated in the adopted budget. For reference, the current fiscal year is approximately forty-two percent (42%) complete.

Our current revenues of approximately \$602K represents 58.6% of our estimated revenues for the fiscal year. In large part, this is due to receipt of just under 70% of the property tax and 45% of the building permit revenues respectively.

Our current expenditures of approximately \$295K represents just under 37% of the budgeted expenditures for the fiscal year.

Financial Information:

N/A

City Contact and Recommendation:

Ben Nibarger, City Administrator
Staff recommends approval as submitted.

Attachments:

February 2021 Financial Report



**City Council Agenda
March 15, 2021**

Agenda Item:

(Consent Item)

Agenda Description:

Acceptance of the February 1, 22, and March 1, 2021 City Council Meeting minutes.

Background Information:

N/A

Financial Information:

N/A

City Contact and Recommendation:

Ben Nibarger, City Administrator
Staff recommends approval as submitted.

Attachments:

February 1, 2021 City Council Minutes
February 22, 2021 City Council Minutes
March 1, 2021 City Council Minutes



**CITY COUNCIL MINUTES
March 1, 2021**

**STATE OF TEXAS
COUNTY OF WISE
CITY OF NEW FAIRVIEW**

THE CITY COUNCIL CONVENED INTO A CITY COUNCIL MEETING THE SAME BEING OPEN TO THE PUBLIC THE 1ST DAY OF MARCH IN THE NEW FAIRVIEW CITY HALL AND NOTICE OF SAID MEETING GIVING THE TIME PLACE AND SUBJECT THEREFORE HAVING BEEN POSTED AS PRESCRIBED BY ARTICLE 5 OF THE TEXAS GOVERNMENT CODE WITH THE FOLLOWING MEMBERS PRESENT:

CITY COUNCIL

**MAYOR PRO TEM PATRICK GUNTER
COUNCILMAN WALTER CLEMENTS
COUNCILWOMAN JULIE BURGER
COUNCILMAN STEVE MISNER**

ABSENT

MAYOR JOE MAX WILSON

PRESENT

**CITY ADMINISTRATOR BEN NIBARGER
CITY SECRETARY MONICA RODRIGUEZ
CITY CLERK BROOKE BOLLER
CITY ATTORNEY BRADLEY ANDERLE**

ITEM NUMBER 1. CALL MEETING TO ORDER:

Mayor Pro Tem Gunter called the meeting to order at 7:00p.m.

ITEM NUMBER II. ROLL CALL:

Roll call with the above-mentioned names present

ITEM NUMBER III. PLEDGE TO FLAGS

United States of America Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible

ITEM NUMBER IV. OPEN FORUM: 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 the opportunity to speak, there is a three-minute limitation 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.

Julie Ivy lives on Pioneer Rd. Been there 5yrs and the road is horrible. She is requesting that the city improve Pioneer Rd.

City Administrator Nibarger told her that gravel has been ordered. We are looking for alternatives to get some equipment out here. The engineering and design is almost done on Pioneer Rd. Fairview Meadows will be discussed on the agenda soon.

ITEM NUMBER V. CONSENT ITEMS: All matters listed as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

A. Acceptance of the January 2021 Financial Report. Councilman Clements made a motion to accept the January 2021 Financial Report as presented. Motion seconded by councilman Misner. Motion passed unanimously. Councilman way

B. Acceptance of the February 1, 2021 City Council Meeting minutes. Due to technical difficulties meetings were not completed.

C. Acceptance of the amendments made to the New Fairview City Council Procedures and Decorum Policy. Councilwoman Burger made a motion to approve the amendments made to the New Fairview City Council Procedures and Decorum Policy. Motion seconded by Councilman Clements. Motion passed unanimously.

ITEM NUMBER VI. NEW BUSINESS:

- A. Discuss, consider, and act on a resolution appointing five commissioners and two alternate commissioners to the Planning and Zoning Co**
- B. Discuss, consider, and act on a resolution authorizing the City Administrator to expend funds not to exceed \$10,000 to conduct activities, enter into agreements, and resolve other matters incident and related to the creation of a Municipal Development District (MDD).**
- C. Discuss, consider, and act on a resolution approving the recommendation of the Selection Review Committee to award (insert name of engineering firm) for engineering services for the City's 2021-2022 Texas Department of Agriculture,**

Texas Community Development Block Grant (TxCDBG) to provide application assistance and project implementation, if awarded.

A. Discuss, consider, and act on a resolution authorizing 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 said notice posted this 26th day of February 2021 at

B.

Councilwoman Burger made a motion to approve a Resolution authorizing t

ITEM NUMBER VII. WORK SESSION: No action will be taken during the work session; the work session provides the Council an opportunity to discuss consent items, receive and provide information regarding regular agenda items, and presentations from staff.

improvement district (PID), and a development agreement that will be presented to the Council in future meetings for input and possible action.

Financial Information:

N/A

City Contact and Recommendation:

Ben Nibarger, City Administrator

Staff recommends that Council approve the resolution.

Attachments: *The attachments to this document are for reference only; the official documents will be executed and delivered to the City Hall no later than Monday, March 15th, 2021.*

Petition

Resolution

Opinion of Probable Costs

PETITION FOR THE CREATION OF A
PUBLIC IMPROVEMENT DISTRICT WITHIN THE
CORPORATE LIMITS OF NEW FAIRVIEW, TEXAS

This petition (the “Petition”) is submitted and filed with the City Secretary of the City of New Fairview, Texas (the “City”), by: (1) Glenn and Louise Shoop Family Limited Partnership, Ltd., (2) The Merilou Shoop Love Trust, (3) The Nancy Shoop Caver Trust, (4) The Aaron Paul Shoop Appointive Trust, (5) The Matthew Tyler Shoop Appointive Trust, (6) The Taylor Eastland Shoop Appointive Trust, (7) The Evan Alexandra Shoop Appointive Trust, (8) The Madison Lee Shoop Appointive Trust, and (9) The Logan Thomas Shoop Appointive Trust (collectively, the “Owners”), acting pursuant to the provisions of Chapter 372, Texas Local Government Code, as amended (the “Act”), requesting that the City create a public improvement district (the “District”) to include property owned by the Owner and located within the corporate limits of the City (the “Property”), more particularly described in Exhibit A and depicted in Exhibit B. In support of this Petition, the Owners present the following:

Section 1. General Nature of the Authorized Capital Improvements. The purposes of the District include the design, acquisition, construction, and improvement of public improvement projects authorized by §372.003(b) of the Act that are necessary for the development of the Property, which public improvements may include, but not be limited to: (1) design, construction and other allowed costs related to street and roadway improvements, including related earthwork, sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, and rights-of-way; (2) design, construction and other allowed costs related to storm drainage improvements (3) design, construction and other allowed costs related to water, wastewater and drainage (including detention) improvements and facilities; (4) design, construction and other allowed costs related to erection of fountains, distinctive lighting and signs, and acquisition and installation of pieces of art; (5) design, construction and other allowed costs related to parks, open space, and recreational improvements, including trails, landscaping, and irrigation related thereto; (6) design, construction and other allowed costs related to off-street parking facilities, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage and rights-of-way; (7) design, construction and other allowed costs related to projects similar to those listed in subsections (1) - (6) above authorized by the Act, including similar off-site projects that provide a benefit to the Property within the District; (8) payment of expenses related to the establishment of the District; (9) payment of expenses related to the collection of the assessments, including annual installments thereof; and (10) payment of expenses related to financing items (1) through (9), which may include, but are not limited to, costs associated with issuance and sale of revenue bonds secured by assessments levied against the Property, (items (1) through (10) are collectively defined as the “Authorized Capital Improvements”). These Authorized Capital Improvements shall promote the interests of the City and confer a special benefit on the Property.

Section 2. Estimated Cost of the Authorized Capital Improvements. The Owners estimate that the total cost of the Authorized Capital Improvements is \$297,082,298.

Section 3. Boundaries of the Proposed District. The District is proposed to include the Property.

Section 4. Proposed Method of Assessment. The City shall levy assessments on each lot within the District to pay the cost of the Authorized Capital Improvements in a manner that results in imposing equal shares of the cost on property similarly benefited. Each assessment may be paid in full (including accrued and unpaid interest) without penalty at any time or may be paid in annual installments (including interest and principal). If paid in annual installments, such installments must be paid in amounts necessary to meet annual costs for the Authorized Capital Improvements and must continue for a period necessary to retire any indebtedness on the Authorized Capital Improvements. Notwithstanding the foregoing, annual

installments for the Authorized Capital Improvements expressed as a tax rate equivalent shall not exceed \$1.00 per \$100 of assessed value for each residential lot within the District.

Section 5. Proposed Apportionment of Cost between the District and the City. The City shall not be obligated to provide any funds to finance the Authorized Capital Improvements. The cost of the Authorized Capital Improvements will be paid from the assessments and from other sources of funds, if any, available to the Owners.

Section 6. Management of the District. The Owners propose that the District be managed by the City, with the assistance of consultants, who shall, from time to time, advise the City regarding certain operations of the District.

Section 7. Owners Request Establishment of the District. The persons signing this Petition request the establishment of the District.

Section 8. Advisory Board. The Owners propose that the District be established and managed without the creation of an advisory body.

This Petition has been signed by (1) the owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and (2) record owners of real property liable for assessment under the proposal who: (A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or (B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

This Petition may be executed in any number of counterparts, each of which shall be deemed an original, and shall constitute one and the same instrument.

This Petition is hereby filed with the City Secretary of the City in support of the creation of the District by the City Council as herein provided. The undersigned requests that the City Council grant its consent as above stated.

SUBMITTED, on this the 15th day of March, 2021.

[Remainder of page left blank intentionally. Signature pages follow.]

OWNER:

GLENN AND LOUISE SHOOP FAMILY
LIMITED PARTNERSHIP, LTD.

By: _____
Nancy Jeffery, Manager

OWNER:

THE MERILOU SHOOP LOVE TRUST

By: _____
Meri Love, Trustee

OWNER:

THE NANCY SHOOP CAVER TRUST

By: _____
Nancy Jeffery, Trustee

OWNER:

THE AARON PAUL SHOOP APPOINTIVE TRUST

By: _____
Aaron Shoop, Trustee

OWNER:

THE MATTHEW TYLER SHOOP APPOINTIVE TRUST

By:

Matthew Tyler Shoop, Trustee

OWNER:

THE TAYLOR EASTLAND SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

OWNER:

THE EVAN ALEXANDRA SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

OWNER:

THE MADISON LEE SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

OWNER:

THE LOGAN THOMAS SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

METES & BOUNDS DESCRIPTION

BEING A 1807.64 ACRE TRACT OF LAND SITUATED IN THE SMITH COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 744, I. DAVIS SURVEY, ABSTRACT No. 247, J. BEEBE SURVEY, ABSTRACT NO. 56, T. SAMUEL SURVEY, ABSTRACT NO. 757 AND THE J. C. BATEMAN SURVEY, ABSTRACT NO. 1154, WISE COUNTY, TEXAS AND THE T. SAMUEL SURVEY, ABSTRACT NO. 1148, JC BRUMLEY SURVEY, ABSTRACT NO. 1581, M.E.P. & P. RR. CO. SURVEY, ABSTRACT NO. 914, W. CHAMBERS SURVEY, ABSTRACT NO. 1520, AND THE A. PULEN SURVEY, ABSTRACT NO. 1057, DENTON COUNTY, TEXAS, AND BEING ALL OF THOSE TRACTS OF LAND DESCRIBED TO SHOOP TRUST AND GLENN P. SHOOP, TRUSTEE BY DEEDS RECORDED IN VOLUME 502, PAGE 904; VOLUME 530, PAGE 523; VOLUME 1520, PAGE 530; VOLUME 2295, PAGE 213, OFFICIAL PUBLIC RECORDS, WISE COUNTY, TEXAS AND DOCUMENT No. 2018-997; DOCUMENT No. 2018-998, OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS. SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 2" METAL POST FOUND FOR THE WESTERNMOST SOUTHWEST CORNER OF SAID SHOOP TRACT, SAME BEING THE NORTHWEST CORNER OF A TRACT OF LAND DESCRIBED TO RAUL A VARGAS AND D. PAULETTE LAYFIELD BY DEED RECORDED IN VOLUME 1146, PAGE 831 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH 00°08'55" EAST, WITH THE WEST LINE OF SAID SHOOP TRACT, A DISTANCE OF 2,124.09 FEET TO A 2" METAL POST FOUND FOR CORNER, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED TO JOHN EDWARD JUDGE BY DEED RECORDED IN VOLUME 1216, PAGE 415 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH 89°27'04" EAST, WITH THE SOUTH LINE OF SAID JUDGE TRACT, A DISTANCE OF 2,645.43 FEET TO A 2" METAL POST FOUND FOR THE SOUTHEAST CORNER OF SAME;

THENCE NORTH 00°00'20" WEST, WITH THE EAST LINE OF SAID JUDGE TRACT, A DISTANCE OF 1,654.28 FEET TO A 60D NAIL FOUND FOR THE NORTHEAST CORNER OF SAME;

THENCE NORTH 89°46'58" WEST, WITH THE NORTH LINE OF SAID JUDGE TRACT, A DISTANCE OF 2,640.79 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND FOR CORNER;

THENCE NORTH 00°35'10" WEST, A DISTANCE OF 2,323.17 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND FOR CORNER;

THENCE NORTH 00°35'14" WEST, A DISTANCE OF 4,314.65 FEET TO A FENCE POST FOUND FOR THE WESTERNMOST NORTHWEST CORNER OF SAID SHOOP TRACT;

THENCE SOUTH 69°06'23" EAST, A DISTANCE OF 1,665.58 FEET TO A FENCE POST FOUND;

THENCE NORTH 21°11'17" EAST, PASSING A 3/8-INCH IRON ROD FOUND FOR REFERENCE AT 2268.75 FEET, A TOTAL DISTANCE OF 2,401.44 FEET TO THE CENTERLINE OF OLIVER CREEK;

THENCE WITH THE CENTERLINE OF OLIVER CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 40°32'53" WEST, A DISTANCE OF 240.45 FEET;

NORTH 59°40'21" WEST, A DISTANCE OF 118.26 FEET;

NORTH 83°06'23" WEST, A DISTANCE OF 81.10 FEET;

SOUTH 84°58'57" WEST, A DISTANCE OF 82.73 FEET;

THENCE NORTH 04°01'08" EAST, PASSING A 3/8-INCH IRON ROD FOUND FOR REFERENCE AT 92.27 FEET, A TOTAL A DISTANCE OF 1,791.46 FEET TO A 3" CEDAR POST FOUND FOR CORNER;

THENCE SOUTH 69°12'04" EAST, A DISTANCE OF 2,420.84 FEET TO A 3" METAL POST FOUND;

THENCE NORTH 00°11'14" EAST, A DISTANCE OF 1,427.36 FEET TO A MAG-NAIL SET FOR CORNER IN THE

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

RIGHT-OF-WAY OF COUNTY ROAD 4522 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 89°39'43" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 828.76 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE SOUTH 00°51'18" WEST, A DISTANCE OF 1,781.62 FEET TO A 1/2-INCH IRON ROD FOUND FOR THE SOUTH COMMON CORNER OF SAID SHOOP TRACT AND A TRACT OF LAND DESCRIBED TO NEELY TRUST BY DEED RECORDED IN DENTON COUNTY CLERK'S FILE NUMBER 2019-147648;

THENCE NORTH 89°53'03" EAST, WITH THE COMMON LINE OF SAME TRACTS, A DISTANCE OF 1,277.27 FEET TO A FENCE POST FOUND FOR CORNER;

THENCE SOUTH 00°54'20" WEST, A DISTANCE OF 1,423.60 FEET TO A 3/8-INCH IRON ROD FOUND;

THENCE SOUTH 83°27'58" EAST, A DISTANCE OF 47.61 FEET TO A 3/8-INCH IRON ROD FOUND;

THENCE SOUTH 01°57'03" WEST, A DISTANCE OF 151.93 FEET TO A 3/8-INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SCENIC RIDGE ADDITION, AS SHOWN BY PLAT RECORDED IN CABINET V, PAGE 189 OF SAID OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS;

THENCE SOUTH 02°05'11" WEST, WITH THE WEST LINE OF SAID ADDITION, A DISTANCE OF 2,750.79 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND (ILLEGIBLE) FOR THE SOUTHWEST CORNER OF SAME;

THENCE SOUTH 88°09'28" EAST, WITH THE SOUTH LINE OF SAID ADDITION, A DISTANCE OF 2,607.68 FEET TO A 5/8-INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAME;

THENCE WITH THE EASTERLY LINE OF SAID SHOOP TRACTS, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 02°05'20" WEST, A DISTANCE OF 1,239.69 FEET TO A 3/8-INCH IRON ROD FOUND;

NORTH 87°55'48" WEST, A DISTANCE OF 2,607.02 FEET;

NORTH 86°29'00" WEST, A DISTANCE OF 146.47 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND;

SOUTH 00°14'41" WEST, A DISTANCE OF 1,262.59 FEET TO A 1/2-INCH IRON ROD FOUND;

SOUTH 00°03'27" EAST, A DISTANCE OF 1,026.40 FEET TO A 3/8-INCH IRON ROD FOUND;

SOUTH 89°28'32" EAST, A DISTANCE OF 990.21 FEET TO A 3/8-INCH IRON ROD FOUND;

SOUTH 09°34'29" WEST, A DISTANCE OF 2,364.53 FEET TO A 60D NAIL FOUND;

SOUTH 89°01'10" EAST, A DISTANCE OF 423.02 FEET TO A FENCE POST FOUND;

SOUTH 00°36'25" EAST, A DISTANCE OF 3,083.82 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING" IN THE RIGHT-OF-WAY OF B. JUDGE LANE (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE SOUTH 89°54'39" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 1,019.80 FEET TO A 1/2-INCH IRON ROD FOUND IN THE RIGHT-OF-WAY OF COUNTY LINE ROAD (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 00°13'30" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 3,795.83 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND;

THENCE NORTH 88°59'01" WEST, A DISTANCE OF 1,881.59 FEET TO A 1-INCH IRON ROD FOUND IN CONCRETE;

THENCE SOUTH 00°32'27" EAST, A DISTANCE OF 1,023.70 FEET TO A 2-INCH IRON PIPE FOUND;

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

THENCE NORTH 87°07'08" WEST, A DISTANCE OF 498.85 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "TED WARD" FOUND;

THENCE SOUTH 00°00'56" WEST, A DISTANCE OF 1,010.24 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND IN THE RIGHT-OF-WAY OF BROCK LANE (A 60-FOOT-WIDE RIGHT-OF-WAY);

THENCE SOUTH 89°47'41" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 347.85 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE SOUTH 00°02'52" WEST, A DISTANCE OF 656.49 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 89°48'21" WEST, A DISTANCE OF 55.44 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 00°41'20" EAST, A DISTANCE OF 2,659.86 FEET TO A 60D NAIL FOUND ON THE NORTH RIGHT-OF-WAY LINE OF FM HIGHWAY NO. 407 (A 90-FOOT-WIDE RIGHT-OF-WAY);

THENCE SOUTH 89°47'35" WEST, WITH SAID RIGHT-OF-WAY LINE A DISTANCE OF 1,026.82 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE NORTH 00°41'56" WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 2,672.91 FEET TO A 1-1/4-INCH IRON PIPE FOUND;

THENCE NORTH 89°31'32" WEST, A DISTANCE OF 1,024.14 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 00°43'37" EAST, A DISTANCE OF 2,682.56 FEET TO A 60D NAIL IN A 10-INCH POST FOUND FOR CORNER ON THE NORTH RIGHT-OF-WAY LINE OF SAID F.M. HIGHWAY No. 407;

THENCE NORTH 89°56'34" WEST, WITH SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 1,423.86 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE NORTH 00°37'26" WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1,859.32 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 89°08'33" WEST, A DISTANCE OF 620.07 FEET TO THE **POINT OF BEGINNING** AND CONTAINING A CALCULATED AREA OF 1,807.639 ACRES (78,740,760 SQ. FEET) OF LAND.

**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION NO. __**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, ACCEPTING A PETITION TO CREATE THE SHOOP RANCH PUBLIC IMPROVEMENT DISTRICT NO. 1; CALLING FOR A PUBLIC HEARING TO CONSIDER THE FEASIBILITY AND ADVISABILITY OF ESTABLISHING THE DISTRICT; AUTHORIZING AND DIRECTING THE PUBLICATION AND MAILING OF NOTICES OF THE PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 372 of the Texas Local Government Code (the “*Act*”) authorizes the creation of public improvement districts; and

WHEREAS, on March 15, 2021, the owners of real property delivered to the City of New Fairview, Texas (the “*City*”) a petition (the “*Petition*”, which is attached as **Exhibit A** and incorporated herein for all purposes) meeting the requirements of the Act and indicating: (i) the owners of more than fifty percent (50%) of the appraised value of the taxable real property liable for assessment, and (ii) the owners of more than fifty percent (50%) of the area of all taxable real property liable for assessment within the District have executed the Petition requesting that the City Council create the Shoop Ranch Public Improvement District No. 1 (the “*District*”); and

WHEREAS, the Act states that the Petition is sufficient if signed by owners of more than fifty percent (50%) of the taxable real property, according to appraised value, and either of the following: more than fifty percent (50%) of the area of all taxable real property liable for assessment under the proposal, or more than fifty percent (50%) of all record owners of property liable for assessment; and

WHEREAS, the Act further requires that prior to the adoption of the resolution creating the District, the City Council must hold a public hearing on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City and to give notice of such public hearing to the property owners within the boundaries of the proposed District in the time, form, and manner provided by law.

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

Section 1. The findings set forth in the recitals of this Resolution are found to be true and correct.

Section 2. City staff reviewed the Petition and determined that same complied with the requirements of the Act and the City Council accepts the Petition. The Petition is filed with the office of the City Secretary and is available for public inspection.

Section 3. The City Council calls a public hearing to be scheduled at or after 7:00 p.m. on April 5, 2021, to be held at the regular meeting place of the City Council in the New Fairview City Hall located at 999 Illinois Lane, New Fairview, Texas on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City. Attached hereto as **Exhibit B** is a form of the Notice of Public Hearing, the form and substance of which is hereby adopted and approved. All residents and property owners within the District, and all other persons, are hereby invited to appear in person, or by their attorney, and speak on the creation of the District.

Section 4. The City Council hereby authorizes and directs the City Secretary, on or before March 19, 2021, in accordance with the Act, to: (a) publish notice of the public hearing in a newspaper of general circulation in the City and in the extraterritorial jurisdiction in which the proposed District is to be located; and (b) mail notice of the public hearing to the current addresses of the owners, as reflected on the tax rolls, of property subject to assessment under the proposed District and to address such notices to the “Property Owner.”

Section 5. This Resolution shall become effective from and after the date of its passage in accordance with law.

[Remainder of page left blank intentionally.]

**DULY RESOLVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
NEW FAIRVIEW THIS THE 15th DAY OF MARCH, 2021.**

CITY OF NEW FAIRVIEW

Joe Max Wilson, Mayor

ATTEST:

Monica Rodriguez, City Secretary

EXHIBIT A PETITION FOR CREATION

PETITION FOR THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT WITHIN THE CORPORATE LIMITS OF NEW FAIRVIEW, TEXAS

This petition (the "Petition") is submitted and filed with the City Secretary of the City of New Fairview, Texas (the "City"), by: (1) Glenn and Louise Shoop Family Limited Partnership, Ltd., (2) The Merilou Shoop Love Trust, (3) The Nancy Shoop Caver Trust, (4) The Aaron Paul Shoop Appointive Trust, (5) The Matthew Tyler Shoop Appointive Trust, (6) The Taylor Eastland Shoop Appointive Trust, (7) The Evan Alexandra Shoop Appointive Trust, (8) The Madison Lee Shoop Appointive Trust, and (9) The Logan Thomas Shoop Appointive Trust (collectively, the "Owners"), acting pursuant to the provisions of Chapter 372, Texas Local Government Code, as amended (the "Act"), requesting that the City create a public improvement district (the "District") to include property owned by the Owner and located within the corporate limits of the City (the "Property"), more particularly described in Exhibit A and depicted in Exhibit B. In support of this Petition, the Owners present the following:

Section 1. General Nature of the Authorized Capital Improvements. The purposes of the District include the design, acquisition, construction, and improvement of public improvement projects authorized by §372.003(b) of the Act that are necessary for the development of the Property, which public improvements may include, but not be limited to: (1) design, construction and other allowed costs related to street and roadway improvements, including related earthwork, sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, and rights-of-way; (2) design, construction and other allowed costs related to storm drainage improvements (3) design, construction and other allowed costs related to water, wastewater and drainage (including detention) improvements and facilities; (4) design, construction and other allowed costs related to erection of fountains, distinctive lighting and signs, and acquisition and installation of pieces of art; (5) design, construction and other allowed costs related to parks, open space, and recreational improvements, including trails, landscaping, and irrigation related thereto; (6) design, construction and other allowed costs related to off-street parking facilities, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage and rights-of-way; (7) design, construction and other allowed costs related to projects similar to those listed in subsections (1) - (6) above authorized by the Act, including similar off-site projects that provide a benefit to the Property within the District; (8) payment of expenses related to the establishment of the District; (9) payment of expenses related to the collection of the assessments, including annual installments thereof; and (10) payment of expenses related to financing items (1) through (9), which may include, but are not limited to, costs associated with issuance and sale of revenue bonds secured by assessments levied against the Property, (items (1) through (10) are collectively defined as the "Authorized Capital Improvements"). These Authorized Capital Improvements shall promote the interests of the City and confer a special benefit on the Property.

Section 2. Estimated Cost of the Authorized Capital Improvements. The Owners estimate that the total cost of the Authorized Capital Improvements is \$297,082,298.

Section 3. Boundaries of the Proposed District. The District is proposed to include the Property.

Section 4. Proposed Method of Assessment. The City shall levy assessments on each lot within the District to pay the cost of the Authorized Capital Improvements in a manner that results in imposing equal shares of the cost on property similarly benefited. Each assessment may be paid in full (including accrued and unpaid interest) without penalty at any time or may be paid in annual installments (including interest and principal). If paid in annual installments, such installments must be paid in amounts necessary to meet annual costs for the Authorized Capital Improvements and must continue for a period necessary to retire any indebtedness on the Authorized Capital Improvements. Notwithstanding the foregoing, annual

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**EXHIBIT A
PETITION FOR CREATION**

installments for the Authorized Capital Improvements expressed as a tax rate equivalent shall not exceed \$1.00 per \$100 of assessed value for each residential lot within the District.

Section 5. Proposed Apportionment of Cost between the District and the City. The City shall not be obligated to provide any funds to finance the Authorized Capital Improvements. The cost of the Authorized Capital Improvements will be paid from the assessments and from other sources of funds, if any, available to the Owners.

Section 6. Management of the District. The Owners propose that the District be managed by the City, with the assistance of consultants, who shall, from time to time, advise the City regarding certain operations of the District.

Section 7. Owners Request Establishment of the District. The persons signing this Petition request the establishment of the District.

Section 8. Advisory Board. The Owners propose that the District be established and managed without the creation of an advisory body.

This Petition has been signed by (1) the owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and (2) record owners of real property liable for assessment under the proposal who: (A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or (B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

This Petition may be executed in any number of counterparts, each of which shall be deemed an original, and shall constitute one and the same instrument.

This Petition is hereby filed with the City Secretary of the City in support of the creation of the District by the City Council as herein provided. The undersigned requests that the City Council grant its consent as above stated.

SUBMITTED, on this the 15th day of March, 2021.

[Remainder of page left blank intentionally. Signature pages follow.]

**EXHIBIT A
PETITION FOR CREATION**

OWNER:

GLENN AND LOUISE SHOOP FAMILY
LIMITED PARTNERSHIP, LTD.

By: _____
Nancy Jeffery, Manager

**EXHIBIT A
PETITION FOR CREATION**

OWNER:

THE MERILOU SHOOP LOVE TRUST

By: _____
Meri Love, Trustee

**EXHIBIT A
PETITION FOR CREATION**

OWNER:

THE NANCY SHOOP CAVER TRUST

By: _____
Nancy Jeffery, Trustee

**EXHIBIT A
PETITION FOR CREATION**

OWNER:

THE AARON PAUL SHOOP APPOINTIVE TRUST

By: _____
Aaron Shoop, Trustee

EXHIBIT A
PETITION FOR CREATION

OWNER:

THE MATTHEW TYLER SHOOP APPOINTIVE TRUST

By: _____
Matthew Tyler Shoop, Trustee

**EXHIBIT A
PETITION FOR CREATION**

OWNER:

THE TAYLOR EASTLAND SHOOP APPOINTIVE TRUST

By: _____
Lee Menning Shoop, Trustee

EXHIBIT A
PETITION FOR CREATION

OWNER:

THE EVAN ALEXANDRA SHOOP APPOINTIVE TRUST

By: _____
Lee Menning Shoop, Trustee

**EXHIBIT A
PETITION FOR CREATION**

OWNER:

THE MADISON LEE SHOOP APPOINTIVE TRUST

By: _____
Lee Menning Shoop, Trustee

**EXHIBIT A
PETITION FOR CREATION**

OWNER:

THE LOGAN THOMAS SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

**EXHIBIT A
PETITION FOR CREATION**

**EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)**

METES & BOUNDS DESCRIPTION

BEING A 1807.64 ACRE TRACT OF LAND SITUATED IN THE SMITH COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 744, I. DAVIS SURVEY, ABSTRACT No. 247, J. BEEBE SURVEY, ABSTRACT NO. 56, T. SAMUEL SURVEY, ABSTRACT NO. 757 AND THE J. C. BATEMAN SURVEY, ABSTRACT NO. 1154, WISE COUNTY, TEXAS AND THE T. SAMUEL SURVEY, ABSTRACT NO. 1148, JC BRUMLEY SURVEY, ABSTRACT NO. 1581, M.E.P. & P. RR. CO. SURVEY, ABSTRACT NO. 914, W. CHAMBERS SURVEY, ABSTRACT NO. 1520, AND THE A. PULEN SURVEY, ABSTRACT NO. 1057, DENTON COUNTY, TEXAS, AND BEING ALL OF THOSE TRACTS OF LAND DESCRIBED TO SHOOP TRUST AND GLENN P. SHOOP, TRUSTEE BY DEEDS RECORDED IN VOLUME 502, PAGE 904; VOLUME 530, PAGE 523; VOLUME 1520, PAGE 530; VOLUME 2295, PAGE 213, OFFICIAL PUBLIC RECORDS, WISE COUNTY, TEXAS AND DOCUMENT No. 2018-997; DOCUMENT No. 2018-998, OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS. SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 2" METAL POST FOUND FOR THE WESTERNMOST SOUTHWEST CORNER OF SAID SHOOP TRACT, SAME BEING THE NORTHWEST CORNER OF A TRACT OF LAND DESCRIBED TO RAUL A VARGAS AND D. PAULETTE LAYFIELD BY DEED RECORDED IN VOLUME 1146, PAGE 831 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH 00°08'55" EAST, WITH THE WEST LINE OF SAID SHOOP TRACT, A DISTANCE OF 2,124.09 FEET TO A 2" METAL POST FOUND FOR CORNER, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED TO JOHN EDWARD JUDGE BY DEED RECORDED IN VOLUME 1216, PAGE 415 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH 89°27'04" EAST, WITH THE SOUTH LINE OF SAID JUDGE TRACT, A DISTANCE OF 2,645.43 FEET TO A 2" METAL POST FOUND FOR THE SOUTHEAST CORNER OF SAME;

THENCE NORTH 00°00'20" WEST, WITH THE EAST LINE OF SAID JUDGE TRACT, A DISTANCE OF 1,654.28 FEET TO A 60D NAIL FOUND FOR THE NORTHEAST CORNER OF SAME;

THENCE NORTH 89°46'58" WEST, WITH THE NORTH LINE OF SAID JUDGE TRACT, A DISTANCE OF 2,640.79 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND FOR CORNER;

THENCE NORTH 00°35'10" WEST, A DISTANCE OF 2,323.17 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND FOR CORNER;

THENCE NORTH 00°35'14" WEST, A DISTANCE OF 4,314.65 FEET TO A FENCE POST FOUND FOR THE WESTERNMOST NORTHWEST CORNER OF SAID SHOOP TRACT;

THENCE SOUTH 69°06'23" EAST, A DISTANCE OF 1,665.58 FEET TO A FENCE POST FOUND;

THENCE NORTH 21°11'17" EAST, PASSING A 3/8-INCH IRON ROD FOUND FOR REFERENCE AT 2268.75 FEET, A TOTAL DISTANCE OF 2,401.44 FEET TO THE CENTERLINE OF OLIVER CREEK;

THENCE WITH THE CENTERLINE OF OLIVER CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 40°32'53" WEST, A DISTANCE OF 240.45 FEET;

NORTH 59°40'21" WEST, A DISTANCE OF 118.26 FEET;

NORTH 83°06'23" WEST, A DISTANCE OF 81.10 FEET;

SOUTH 84°58'57" WEST, A DISTANCE OF 82.73 FEET;

THENCE NORTH 04°01'08" EAST, PASSING A 3/8-INCH IRON ROD FOUND FOR REFERENCE AT 92.27 FEET, A TOTAL A DISTANCE OF 1,791.46 FEET TO A 3" CEDAR POST FOUND FOR CORNER;

THENCE SOUTH 69°12'04" EAST, A DISTANCE OF 2,420.84 FEET TO A 3" METAL POST FOUND;

THENCE NORTH 00°11'14" EAST, A DISTANCE OF 1,427.36 FEET TO A MAG-NAIL SET FOR CORNER IN THE

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EXHIBIT A
PETITION FOR CREATION

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

RIGHT-OF-WAY OF COUNTY ROAD 4522 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 89°39'43" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 828.76 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE SOUTH 00°51'18" WEST, A DISTANCE OF 1,781.62 FEET TO A 1/2-INCH IRON ROD FOUND FOR THE SOUTH COMMON CORNER OF SAID SHOOP TRACT AND A TRACT OF LAND DESCRIBED TO NEELY TRUST BY DEED RECORDED IN DENTON COUNTY CLERK'S FILE NUMBER 2019-147648;

THENCE NORTH 89°53'03" EAST, WITH THE COMMON LINE OF SAME TRACTS, A DISTANCE OF 1,277.27 FEET TO A FENCE POST FOUND FOR CORNER;

THENCE SOUTH 00°54'20" WEST, A DISTANCE OF 1,423.60 FEET TO A 3/8-INCH IRON ROD FOUND;

THENCE SOUTH 83°27'58" EAST, A DISTANCE OF 47.61 FEET TO A 3/8-INCH IRON ROD FOUND;

THENCE SOUTH 01°57'03" WEST, A DISTANCE OF 151.93 FEET TO A 3/8-INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SCENIC RIDGE ADDITION, AS SHOWN BY PLAT RECORDED IN CABINET V, PAGE 189 OF SAID OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS;

THENCE SOUTH 02°05'11" WEST, WITH THE WEST LINE OF SAID ADDITION, A DISTANCE OF 2,750.79 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND (ILLEGIBLE) FOR THE SOUTHWEST CORNER OF SAME;

THENCE SOUTH 88°09'28" EAST, WITH THE SOUTH LINE OF SAID ADDITION, A DISTANCE OF 2,607.68 FEET TO A 5/8-INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAME;

THENCE WITH THE EASTERLY LINE OF SAID SHOOP TRACTS, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 02°05'20" WEST, A DISTANCE OF 1,239.89 FEET TO A 3/8-INCH IRON ROD FOUND;

NORTH 87°55'48" WEST, A DISTANCE OF 2,607.02 FEET;

NORTH 86°29'00" WEST, A DISTANCE OF 146.47 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND;

SOUTH 00°14'41" WEST, A DISTANCE OF 1,262.59 FEET TO A 1/2-INCH IRON ROD FOUND;

SOUTH 00°03'27" EAST, A DISTANCE OF 1,026.40 FEET TO A 3/8-INCH IRON ROD FOUND;

SOUTH 89°28'32" EAST, A DISTANCE OF 990.21 FEET TO A 3/8-INCH IRON ROD FOUND;

SOUTH 09°34'29" WEST, A DISTANCE OF 2,364.53 FEET TO A 60D NAIL FOUND;

SOUTH 89°01'10" EAST, A DISTANCE OF 423.02 FEET TO A FENCE POST FOUND;

SOUTH 00°36'25" EAST, A DISTANCE OF 3,083.82 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING" IN THE RIGHT-OF-WAY OF B. JUDGE LANE (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE SOUTH 89°54'39" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 1,019.80 FEET TO A 1/2-INCH IRON ROD FOUND IN THE RIGHT-OF-WAY OF COUNTY LINE ROAD (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 00°13'30" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 3,795.83 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND;

THENCE NORTH 88°59'01" WEST, A DISTANCE OF 1,881.59 FEET TO A 1-INCH IRON ROD FOUND IN CONCRETE;

THENCE SOUTH 00°32'27" EAST, A DISTANCE OF 1,023.70 FEET TO A 2-INCH IRON PIPE FOUND;

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EXHIBIT A
PETITION FOR CREATION

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

THENCE NORTH 87°07'08" WEST, A DISTANCE OF 498.85 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "TED WARD" FOUND;

THENCE SOUTH 00°00'56" WEST, A DISTANCE OF 1,010.24 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND IN THE RIGHT-OF-WAY OF BROCK LANE (A 60-FOOT-WIDE RIGHT-OF-WAY);

THENCE SOUTH 89°47'41" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 347.85 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE SOUTH 00°02'52" WEST, A DISTANCE OF 656.49 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 89°48'21" WEST, A DISTANCE OF 55.44 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 00°41'20" EAST, A DISTANCE OF 2,659.86 FEET TO A 60D NAIL FOUND ON THE NORTH RIGHT-OF-WAY LINE OF FM HIGHWAY NO. 407 (A 90-FOOT-WIDE RIGHT-OF-WAY);

THENCE SOUTH 89°47'35" WEST, WITH SAID RIGHT-OF-WAY LINE A DISTANCE OF 1,026.82 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE NORTH 00°41'56" WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 2,672.91 FEET TO A 1-1/4-INCH IRON PIPE FOUND;

THENCE NORTH 89°31'32" WEST, A DISTANCE OF 1,024.14 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 00°43'37" EAST, A DISTANCE OF 2,682.56 FEET TO A 60D NAIL IN A 10-INCH POST FOUND FOR CORNER ON THE NORTH RIGHT-OF-WAY LINE OF SAID F.M. HIGHWAY No. 407;

THENCE NORTH 89°56'34" WEST, WITH SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 1,423.86 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

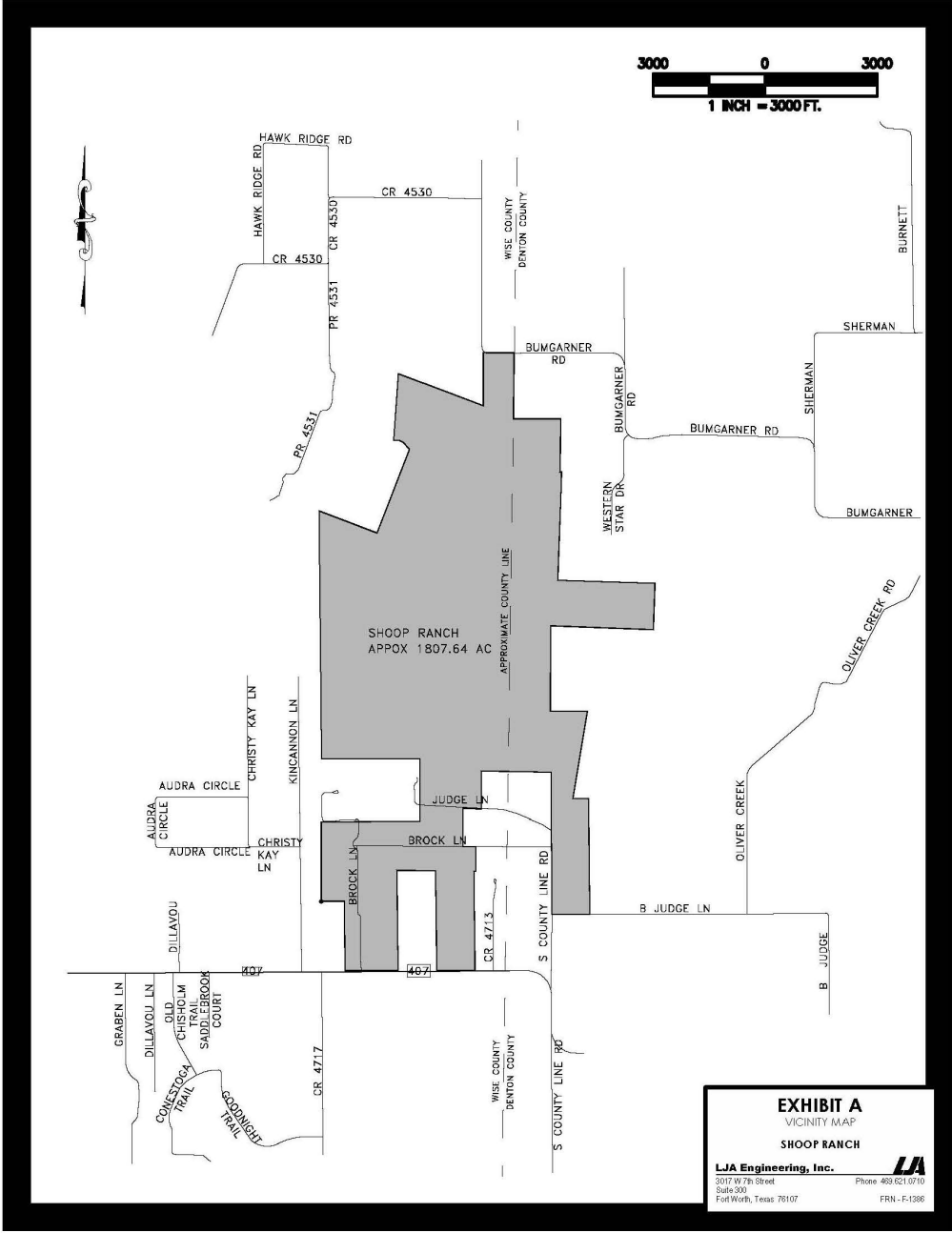
THENCE NORTH 00°37'26" WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1,859.32 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 89°08'33" WEST, A DISTANCE OF 620.07 FEET TO THE **POINT OF BEGINNING** AND CONTAINING A CALCULATED AREA OF 1,807.639 ACRES (78,740,760 SQ. FEET) OF LAND.

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EXHIBIT A PETITION FOR CREATION

EXHIBIT B Depiction of the Property



1952.010/94985.6

EXHIBIT B

CITY OF NEW FAIRVIEW, TEXAS NOTICE OF PUBLIC HEARING REGARDING THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT

Pursuant to Section 372.009(c) and (d) of the Texas Local Government Code, as amended, notice is hereby given that the City Council of the City of New Fairview, Texas (“City”), will hold a public hearing to accept public comments and discuss the petition (the “Petition”), filed by: (1) Glenn and Louise Shoop Family Limited Partnership, Ltd., (2) The Merilou Shoop Love Trust, (3) The Nancy Shoop Caver Trust, (4) The Aaron Paul Shoop Appointive Trust, (5) The Matthew Tyler Shoop Appointive Trust, (6) The Taylor Eastland Shoop Appointive Trust, (7) The Evan Alexandra Shoop Appointive Trust, (8) The Madison Lee Shoop Appointive Trust, and (9) The Logan Thomas Shoop Appointive Trust (collectively, the “Petitioners”), requesting that the City create the Shoop Ranch Public Improvement District No. 1 (the “District”) to include property owned by the Petitioner.

Time and Place of the Hearing. The public hearing will start at or after **7:00 p.m. on April 5, 2021** at the regular meeting place of the City Council in the New Fairview City Hall located at 999 Illinois Lane, New Fairview, Texas.

General Nature of the Proposed Authorized Capital Improvements. The purposes of the District include the design, acquisition, construction, and improvement of public improvement projects authorized by the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code, as amended (the “Act”), that are necessary for the development of the property within the District, which public improvements will include, but not be limited to: (1) design, construction and other allowed costs related to street and roadway improvements, including related earthwork, sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, and rights-of-way; (2) design, construction and other allowed costs related to storm drainage improvements (3) design, construction and other allowed costs related to water, wastewater and drainage (including detention) improvements and facilities; (4) design, construction and other allowed costs related to erection of fountains, distinctive lighting and signs, and acquisition and installation of pieces of art; (5) design, construction and other allowed costs related to parks, open space, and recreational improvements, including trails, landscaping, and irrigation related thereto; (6) design, construction and other allowed costs related to off-street parking facilities, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage and rights-of-way; (7) design, construction and other allowed costs related to projects similar to those listed in subsections (1) - (6) above authorized by the Act, including similar off-site projects that provide a benefit to the Property within the District; (8) payment of expenses related to the establishment of the District; (9) payment of expenses related to the collection of the assessments, including annual installments thereof; and (10) payment of expenses related to financing items (1) through (9), which may include, but are not limited to, costs associated with issuance and sale of revenue bonds secured by assessments levied against the Property, (items (1) through (10) are collectively defined as the “Authorized Capital Improvements”). These Authorized Capital Improvements shall promote the interests of the City and confer a special benefit on the Property.

Estimated Cost of the Authorized Capital Improvements. The Petitioners estimate that the total cost of the Authorized Capital Improvements, is \$297,082,298.

Proposed District Boundaries. The District is proposed to include approximately 1,807.46 acres of land generally located on the north side of FM 407 at the intersection with County Line Road in the City of New Fairview, Texas; and, as more particularly described by a metes and bounds description available at New Fairview City Hall located at 999 Illinois Lane, New Fairview, Texas and available for public inspection during regular business hours.

Proposed Method of Assessment. City shall levy assessments on each parcel within the District in a manner that results in imposing equal shares of the costs on property similarly benefited. Each assessment may be paid in full at any time (including accrued and unpaid interest), and certain assessments may be paid in annual installments (including interest and debt). If an assessment is allowed to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those Authorized Capital Improvements financed by the assessments and must continue for a period necessary to retire the indebtedness issued to finance or refinance those Authorized Capital Improvements (including interest).

Proposed Apportionment of Cost between the District and City. City will not be obligated to provide any funds to finance the Authorized Capital Improvements. The cost of the Authorized Capital Improvements will be paid from the assessments and from other sources of funds, if any, available to the developer of the property within the District.

3/11/2021

4000 Lots

Shoop Ranch Public Improvement District No. 1 - Authorized Improvements

	Description of Improvements	Quantity	Offsite Improvements	Major Onsite Improvements	Neighborhood Improvements	Total	Per Lot
1	Streets and Roadway improvements		\$ 6,254,750	\$ 29,095,955	\$ 40,764,130	\$ 76,114,835	\$ 19,029
2	Drainage		\$ -	\$ 6,600,000	\$ 19,211,350	\$ 25,811,350	\$ 6,453
3	Potable Water		\$ 28,230,000	\$ 4,757,294	\$ 13,050,100	\$ 46,037,394	\$ 11,509
4	Wastewater		\$ 18,600,000	\$ 4,300,000	\$ 13,619,850	\$ 36,519,850	\$ 9,130
5	Landscape, Entrys & Parks			\$ 16,000,000	\$ 16,000,000	\$ 32,000,000	\$ 8,000
6	Soft Costs (engineering, permitting, fees)		\$ 6,370,170	\$ 7,290,390	\$ 12,317,452	\$ 25,978,011	\$ 6,495
7	District Formation & Bond Issuance Costs				\$ -	\$ -	\$ -
8	Contingency (20%)		\$ 10,616,950	\$ 12,150,650	\$ 20,529,086	\$ 43,296,686	\$ 10,824
	Total Costs		\$ 70,071,870	\$ 80,194,289	\$ 135,491,968	\$ 285,758,126	\$ 71,440

Expanded Description of Improvements

- 1 Street and Roadway improvements include design and related earthwork, sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, and rights-of-way.
- 2 Drainage improvements include design, construction and other allowed costs related to storm drainage, detention, retention and water quality improvements.
- 3 Potable Water improvements include design, construction and other allowed costs related to water improvements and ancillary facilities.
- 4 Wastewater improvements include design, construction and other allowed costs related to wastewater improvements and ancillary facilities.
- 5 Landscape, Entrys & Parks improvements include design, construction and other allowed costs related to erection of fountains, distinctive lighting and signs, acquisition and installation of pieces of art, parks, open space, recreational improvements, trails, landscaping, and irrigation related thereto.
- 6 Soft Costs include surveying, platting, engineering, development fees, permitting fees, City consultant fees and other costs related to the administration of the project.
- 7 District Formation and Bond Issuance Costs include all consulting, legal, administrative and financial consulting fees as necessary for the formation, operation and maintenance of the improvement district and for the issuance of a series of bonds to finance construction costs and to reimburse construction costs.
- 8 Contingency includes a percentage of all costs appropriate for this level of due diligence and investigation.

Further, staff is asking for the authorization of the Council to enter into negotiations regarding the Shoop Ranch development, including: a planned district zoning ordinance (PD), a public improvement district (PID), and a development agreement that will be presented to the Council in future meetings for input and possible action.

Financial Information:

N/A

City Contact and Recommendation:

Ben Nibarger, City Administrator

Staff recommends that Council approve the agreement.

Attachments:

Petition

Resolution

PETITION FOR THE CREATION OF A
PUBLIC IMPROVEMENT DISTRICT FOR AUTHORIZED SERVICES
WITHIN THE CORPORATE LIMITS OF NEW FAIRVIEW, TEXAS

This petition (the “Petition”) is submitted and filed with the City Secretary of the City of New Fairview, Texas (the “City”), by: (1) Glenn and Louise Shoop Family Limited Partnership, Ltd., (2) The Merilou Shoop Love Trust, (3) The Nancy Shoop Caver Trust, (4) The Aaron Paul Shoop Appointive Trust, (5) The Matthew Tyler Shoop Appointive Trust, (6) The Taylor Eastland Shoop Appointive Trust, (7) The Evan Alexandra Shoop Appointive Trust, (8) The Madison Lee Shoop Appointive Trust, and (9) The Logan Thomas Shoop Appointive Trust (collectively, the “Owners”), acting pursuant to the provisions of Chapter 372, Texas Local Government Code, as amended (the “Act”), requesting that the City create a public improvement district (the “District”) to include property owned by the Owner and located within the corporate limits of the City (the “Property”), more particularly described in Exhibit A and depicted in Exhibit B. In support of this Petition, the Owners present the following:

Section 1. General Nature of the Authorized Services. The purpose of the District is to provide special supplemental services for improvement and promotion of the District which may include, but not be limited to: (1) payment of annual service costs related to the operation of the District exclusively consisting of: (a) the costs of a third-party operator for the water and wastewater services for the District and the Constellation Lakes residential development (“Constellation Lakes”) with such costs to be allocated as between the District and Constellation Lakes based on water and wastewater usage, and (b) actual annual costs incurred for maintenance of parks, open space, and recreational improvements financed by assessments levied on property within the District, including from the proceeds of revenue bonds secured by assessments levied on property within the District; (2) payment of expenses related to the establishment of the District, and (3) payment of expenses related to the collection of the annual assessments (the “Authorized Services”). These Authorized Services shall promote the interests of the City and confer a special benefit on the Property.

Section 2. Estimated Cost of the Authorized Services. The Owners estimate the cost of the Authorized Services for the first year of the District's operation will be \$175,000. The cost of the Authorized Services for subsequent years will be determined in the annual update to the service plan approved by the City each year in accordance with Section 372.013 of the Act.

Section 3. Boundaries of the Proposed District. The District is proposed to include the Property.

Section 4. Proposed Method of Assessment. The City shall levy an annual assessment on each lot within the District to pay the costs of the Authorized Services in a manner that results in imposing equal shares of the costs on property similarly benefited. Each assessment may be paid in full (including accrued and unpaid interest) without penalty at any time. Each annual assessment must be paid in amounts necessary to meet annual costs for the Authorized Services. Notwithstanding the foregoing, annual assessments for the Authorized Services shall be limited to the actual costs of such Authorized Services.

Section 5. Proposed Apportionment of Cost between the District and the City. The City shall not be obligated to provide any funds to finance the Authorized Services. The cost of the Authorized Services will be paid from the assessments and from other sources of funds, if any, available to the Owners.

Section 6. Management of the District. The Owners propose that the District be managed by the City, with the assistance of a consultant, who shall, from time to time, advise the City regarding certain operations of the District.

Section 7. Owners Request Establishment of the District. The persons signing this Petition request the establishment of the District. This petition may be signed in multiple counterparts which, when taken together, shall be deemed one original.

Section 8. Advisory Board. The Owners propose that the District be established and managed without the creation of an advisory body.

This Petition has been signed by (1) the owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and (2) record owners of real property liable for assessment under the proposal who: (A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or (B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

This Petition may be executed in any number of counterparts, each of which shall be deemed an original, and shall constitute one and the same instrument.

This Petition is hereby filed with the City Secretary of the City in support of the creation of the District by the City Council as herein provided. The undersigned requests that the City Council grant its consent as above stated.

SUBMITTED, on this the 15th day of March, 2021.

[Remainder of page left blank intentionally. Signature pages follow.]

OWNER:

GLENN AND LOUISE SHOOP FAMILY
LIMITED PARTNERSHIP, LTD.

By:

Nancy Jeffery, Manager

OWNER:

THE MERILOU SHOOP LOVE TRUST

By: _____
Meri Love, Trustee

OWNER:

THE NANCY SHOOP CAVER TRUST

By: _____
Nancy Jeffery, Trustee

OWNER:

THE AARON PAUL SHOOP APPOINTIVE TRUST

By: _____
Aaron Shoop, Trustee

OWNER:

THE MATTHEW TYLER SHOOP APPOINTIVE TRUST

By:

_____ Matthew Tyler Shoop, Trustee

OWNER:

THE TAYLOR EASTLAND SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

OWNER:

THE EVAN ALEXANDRA SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

OWNER:

THE MADISON LEE SHOOP APPOINTIVE TRUST

By: _____
Lee Menning Shoop, Trustee

OWNER:

THE LOGAN THOMAS SHOOP APPOINTIVE TRUST

By:

Lee Menning Shoop, Trustee

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

METES & BOUNDS DESCRIPTION

BEING A 1807.64 ACRE TRACT OF LAND SITUATED IN THE SMITH COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 744, I. DAVIS SURVEY, ABSTRACT No. 247, J. BEEBE SURVEY, ABSTRACT NO. 56, T. SAMUEL SURVEY, ABSTRACT NO. 757 AND THE J. C. BATEMAN SURVEY, ABSTRACT NO. 1154, WISE COUNTY, TEXAS AND THE T. SAMUEL SURVEY, ABSTRACT NO. 1148, JC BRUMLEY SURVEY, ABSTRACT NO. 1581, M.E.P. & P. RR. CO. SURVEY, ABSTRACT NO. 914, W. CHAMBERS SURVEY, ABSTRACT NO. 1520, AND THE A. PULEN SURVEY, ABSTRACT NO. 1057, DENTON COUNTY, TEXAS, AND BEING ALL OF THOSE TRACTS OF LAND DESCRIBED TO SHOOP TRUST AND GLENN P. SHOOP, TRUSTEE BY DEEDS RECORDED IN VOLUME 502, PAGE 904; VOLUME 530, PAGE 523; VOLUME 1520, PAGE 530; VOLUME 2295, PAGE 213, OFFICIAL PUBLIC RECORDS, WISE COUNTY, TEXAS AND DOCUMENT No. 2018-997; DOCUMENT No. 2018-998, OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS. SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 2" METAL POST FOUND FOR THE WESTERNMOST SOUTHWEST CORNER OF SAID SHOOP TRACT, SAME BEING THE NORTHWEST CORNER OF A TRACT OF LAND DESCRIBED TO RAUL A VARGAS AND D. PAULETTE LAYFIELD BY DEED RECORDED IN VOLUME 1146, PAGE 831 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH 00°08'55" EAST, WITH THE WEST LINE OF SAID SHOOP TRACT, A DISTANCE OF 2,124.09 FEET TO A 2" METAL POST FOUND FOR CORNER, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED TO JOHN EDWARD JUDGE BY DEED RECORDED IN VOLUME 1216, PAGE 415 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH 89°27'04" EAST, WITH THE SOUTH LINE OF SAID JUDGE TRACT, A DISTANCE OF 2,645.43 FEET TO A 2" METAL POST FOUND FOR THE SOUTHEAST CORNER OF SAME;

THENCE NORTH 00°00'20" WEST, WITH THE EAST LINE OF SAID JUDGE TRACT, A DISTANCE OF 1,654.28 FEET TO A 60D NAIL FOUND FOR THE NORTHEAST CORNER OF SAME;

THENCE NORTH 89°46'58" WEST, WITH THE NORTH LINE OF SAID JUDGE TRACT, A DISTANCE OF 2,640.79 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND FOR CORNER;

THENCE NORTH 00°35'10" WEST, A DISTANCE OF 2,323.17 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND FOR CORNER;

THENCE NORTH 00°35'14" WEST, A DISTANCE OF 4,314.65 FEET TO A FENCE POST FOUND FOR THE WESTERNMOST NORTHWEST CORNER OF SAID SHOOP TRACT;

THENCE SOUTH 69°06'23" EAST, A DISTANCE OF 1,665.58 FEET TO A FENCE POST FOUND;

THENCE NORTH 21°11'17" EAST, PASSING A 3/8-INCH IRON ROD FOUND FOR REFERENCE AT 2268.75 FEET, A TOTAL DISTANCE OF 2,401.44 FEET TO THE CENTERLINE OF OLIVER CREEK;

THENCE WITH THE CENTERLINE OF OLIVER CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 40°32'53" WEST, A DISTANCE OF 240.45 FEET;

NORTH 59°40'21" WEST, A DISTANCE OF 118.26 FEET;

NORTH 83°06'23" WEST, A DISTANCE OF 81.10 FEET;

SOUTH 84°58'57" WEST, A DISTANCE OF 82.73 FEET;

THENCE NORTH 04°01'08" EAST, PASSING A 3/8-INCH IRON ROD FOUND FOR REFERENCE AT 92.27 FEET, A TOTAL A DISTANCE OF 1,791.46 FEET TO A 3" CEDAR POST FOUND FOR CORNER;

THENCE SOUTH 69°12'04" EAST, A DISTANCE OF 2,420.84 FEET TO A 3" METAL POST FOUND;

THENCE NORTH 00°11'14" EAST, A DISTANCE OF 1,427.36 FEET TO A MAG-NAIL SET FOR CORNER IN THE

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

RIGHT-OF-WAY OF COUNTY ROAD 4522 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 89°39'43" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 828.76 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE SOUTH 00°51'18" WEST, A DISTANCE OF 1,781.62 FEET TO A 1/2-INCH IRON ROD FOUND FOR THE SOUTH COMMON CORNER OF SAID SHOOP TRACT AND A TRACT OF LAND DESCRIBED TO NEELY TRUST BY DEED RECORDED IN DENTON COUNTY CLERK'S FILE NUMBER 2019-147648;

THENCE NORTH 89°53'03" EAST, WITH THE COMMON LINE OF SAME TRACTS, A DISTANCE OF 1,277.27 FEET TO A FENCE POST FOUND FOR CORNER;

THENCE SOUTH 00°54'20" WEST, A DISTANCE OF 1,423.60 FEET TO A 3/8-INCH IRON ROD FOUND;

THENCE SOUTH 83°27'58" EAST, A DISTANCE OF 47.61 FEET TO A 3/8-INCH IRON ROD FOUND;

THENCE SOUTH 01°57'03" WEST, A DISTANCE OF 151.93 FEET TO A 3/8-INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SCENIC RIDGE ADDITION, AS SHOWN BY PLAT RECORDED IN CABINET V, PAGE 189 OF SAID OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS;

THENCE SOUTH 02°05'11" WEST, WITH THE WEST LINE OF SAID ADDITION, A DISTANCE OF 2,750.79 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND (ILLEGIBLE) FOR THE SOUTHWEST CORNER OF SAME;

THENCE SOUTH 88°09'28" EAST, WITH THE SOUTH LINE OF SAID ADDITION, A DISTANCE OF 2,607.68 FEET TO A 5/8-INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAME;

THENCE WITH THE EASTERLY LINE OF SAID SHOOP TRACTS, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 02°05'20" WEST, A DISTANCE OF 1,239.69 FEET TO A 3/8-INCH IRON ROD FOUND;

NORTH 87°55'48" WEST, A DISTANCE OF 2,607.02 FEET;

NORTH 86°29'00" WEST, A DISTANCE OF 146.47 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND;

SOUTH 00°14'41" WEST, A DISTANCE OF 1,262.59 FEET TO A 1/2-INCH IRON ROD FOUND;

SOUTH 00°03'27" EAST, A DISTANCE OF 1,026.40 FEET TO A 3/8-INCH IRON ROD FOUND;

SOUTH 89°28'32" EAST, A DISTANCE OF 990.21 FEET TO A 3/8-INCH IRON ROD FOUND;

SOUTH 09°34'29" WEST, A DISTANCE OF 2,364.53 FEET TO A 60D NAIL FOUND;

SOUTH 89°01'10" EAST, A DISTANCE OF 423.02 FEET TO A FENCE POST FOUND;

SOUTH 00°36'25" EAST, A DISTANCE OF 3,083.82 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING" IN THE RIGHT-OF-WAY OF B. JUDGE LANE (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE SOUTH 89°54'39" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 1,019.80 FEET TO A 1/2-INCH IRON ROD FOUND IN THE RIGHT-OF-WAY OF COUNTY LINE ROAD (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 00°13'30" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 3,795.83 FEET TO A 1/2-INCH CAPPED IRON ROD FOUND;

THENCE NORTH 88°59'01" WEST, A DISTANCE OF 1,881.59 FEET TO A 1-INCH IRON ROD FOUND IN CONCRETE;

THENCE SOUTH 00°32'27" EAST, A DISTANCE OF 1,023.70 FEET TO A 2-INCH IRON PIPE FOUND;

EXHIBIT A
Metes and Bounds Description of the Property
(approximately 1,807.64 acres)

THENCE NORTH 87°07'08" WEST, A DISTANCE OF 498.85 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "TED WARD" FOUND;

THENCE SOUTH 00°00'56" WEST, A DISTANCE OF 1,010.24 FEET TO A 1/2-INCH CAPPED IRON ROD STAMPED "OWEN SURV 5560" FOUND IN THE RIGHT-OF-WAY OF BROCK LANE (A 60-FOOT-WIDE RIGHT-OF-WAY);

THENCE SOUTH 89°47'41" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 347.85 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE SOUTH 00°02'52" WEST, A DISTANCE OF 656.49 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 89°48'21" WEST, A DISTANCE OF 55.44 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 00°41'20" EAST, A DISTANCE OF 2,659.86 FEET TO A 60D NAIL FOUND ON THE NORTH RIGHT-OF-WAY LINE OF FM HIGHWAY NO. 407 (A 90-FOOT-WIDE RIGHT-OF-WAY);

THENCE SOUTH 89°47'35" WEST, WITH SAID RIGHT-OF-WAY LINE A DISTANCE OF 1,026.82 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE NORTH 00°41'56" WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 2,672.91 FEET TO A 1-1/4-INCH IRON PIPE FOUND;

THENCE NORTH 89°31'32" WEST, A DISTANCE OF 1,024.14 FEET TO A 1/2-INCH IRON ROD FOUND;

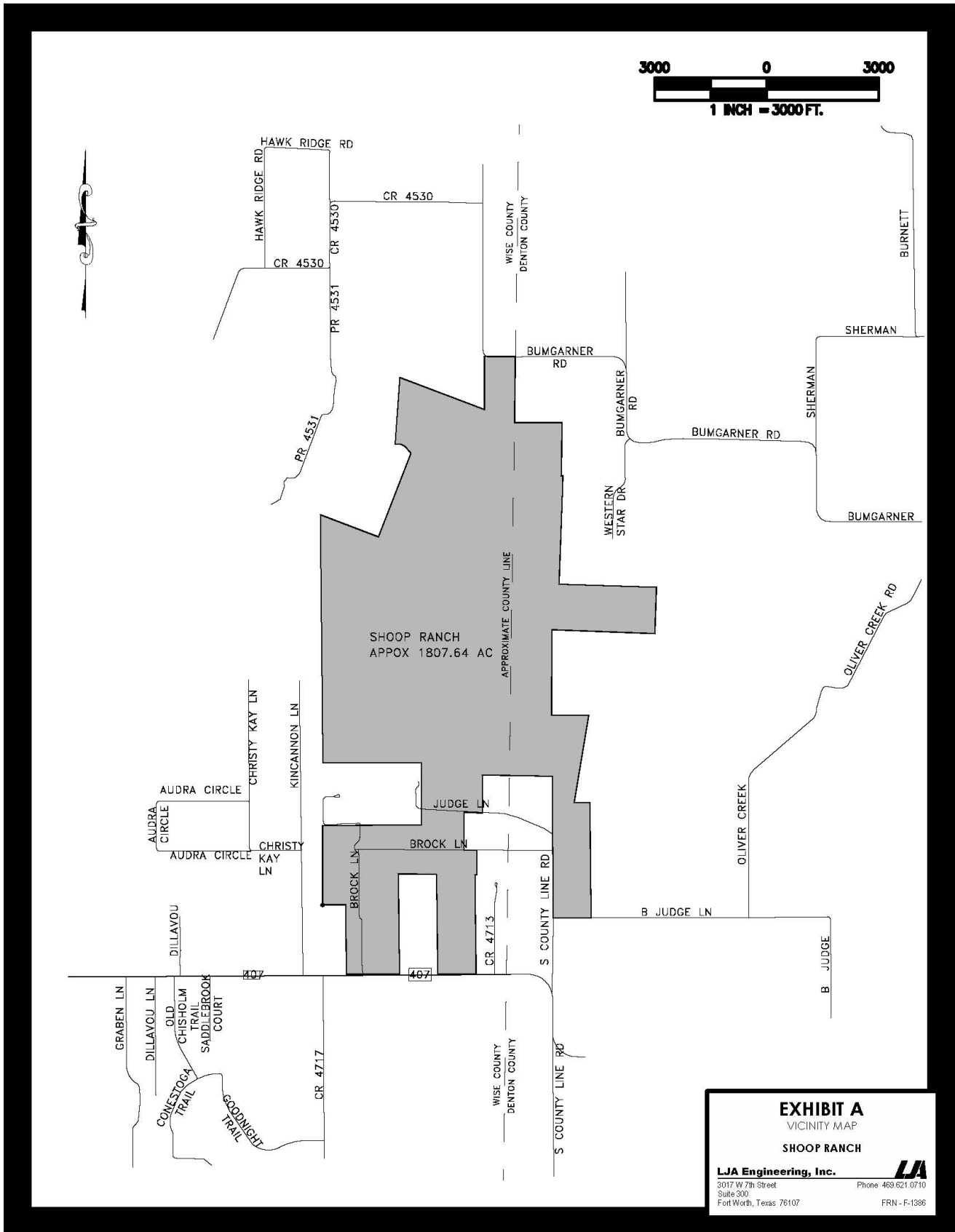
THENCE SOUTH 00°43'37" EAST, A DISTANCE OF 2,682.56 FEET TO A 60D NAIL IN A 10-INCH POST FOUND FOR CORNER ON THE NORTH RIGHT-OF-WAY LINE OF SAID F.M. HIGHWAY No. 407;

THENCE NORTH 89°56'34" WEST, WITH SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 1,423.86 FEET TO A 5/8-INCH IRON ROD SET WITH CAP STAMPED "LJA SURVEYING";

THENCE NORTH 00°37'26" WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1,859.32 FEET TO A 1/2-INCH IRON ROD FOUND;

THENCE SOUTH 89°08'33" WEST, A DISTANCE OF 620.07 FEET TO THE **POINT OF BEGINNING** AND CONTAINING A CALCULATED AREA OF 1,807.639 ACRES (78,740,760 SQ. FEET) OF LAND.

EXHIBIT B Depiction of the Property



**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION NO. __**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, ACCEPTING A PETITION TO CREATE THE SHOOP RANCH AUTHORIZED SERVICES PUBLIC IMPROVEMENT DISTRICT NO. 1; CALLING FOR A PUBLIC HEARING TO CONSIDER THE FEASIBILITY AND ADVISABILITY OF ESTABLISHING THE DISTRICT; AUTHORIZING AND DIRECTING THE PUBLICATION AND MAILING OF NOTICES OF THE PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 372 of the Texas Local Government Code (the “*Act*”) authorizes the creation of public improvement districts; and

WHEREAS, on March 15, 2021, the owners of real property delivered to the City of New Fairview, Texas (the “*City*”) a petition (the “*Petition*”, which is attached as **Exhibit A** and incorporated herein for all purposes) meeting the requirements of the Act and indicating: (i) the owners of more than fifty percent (50%) of the appraised value of the taxable real property liable for assessment, and (ii) the owners of more than fifty percent (50%) of the area of all taxable real property liable for assessment within the District have executed the Petition requesting that the City Council create the Shoop Ranch Authorized Services Public Improvement District No. 1 (the “*District*”); and

WHEREAS, the Act states that the Petition is sufficient if signed by owners of more than fifty percent (50%) of the taxable real property, according to appraised value, and either of the following: more than fifty percent (50%) of the area of all taxable real property liable for assessment under the proposal, or more than fifty percent (50%) of all record owners of property liable for assessment; and

WHEREAS, the Act further requires that prior to the adoption of the resolution creating the District, the City Council must hold a public hearing on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City and to give notice of such public hearing to the property owners within the boundaries of the proposed District in the time, form, and manner provided by law.

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

Section 1. The findings set forth in the recitals of this Resolution are found to be true and correct.

Section 2. City staff reviewed the Petition and determined that same complied with the requirements of the Act and the City Council accepts the Petition. The Petition is filed with the office of the City Secretary and is available for public inspection.

Section 3. The City Council calls a public hearing to be scheduled at or after 7:00 p.m. on April 5, 2021, to be held at the regular meeting place of the City Council in the New Fairview City Hall located at 999 Illinois Lane, New Fairview, Texas on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City. Attached hereto as **Exhibit B** is a form of the Notice of Public Hearing, the form and substance of which is hereby adopted and approved. All residents and property owners within the District, and all other persons, are hereby invited to appear in person, or by their attorney, and speak on the creation of the District.

Section 4. The City Council hereby authorizes and directs the City Secretary, on or before March 19, 2021, in accordance with the Act, to: (a) publish notice of the public hearing in a newspaper of general circulation in the City and in the extraterritorial jurisdiction in which the proposed District is to be located; and (b) mail notice of the public hearing to the current addresses of the owners, as reflected on the tax rolls, of property subject to assessment under the proposed District and to address such notices to the "Property Owner. "

Section 5. This Resolution shall become effective from and after the date of its passage in accordance with law.

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**DULY RESOLVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
NEW FAIRVIEW THIS THE 15th DAY OF MARCH, 2021.**

CITY OF NEW FAIRVIEW

Joe Max Wilson, Mayor

ATTEST:

Monica Rodriguez, City Secretary

EXHIBIT A
PETITION FOR CREATION

EXHIBIT B

CITY OF NEW FAIRVIEW, TEXAS NOTICE OF PUBLIC HEARING REGARDING THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT FOR AUTHORIZED SERVICES

Pursuant to Section 372.009(c) and (d) of the Texas Local Government Code, as amended, notice is hereby given that the City Council of the City of New Fairview, Texas (“City”), will hold a public hearing to accept public comments and discuss the petition (the “Petition”), filed by: (1) Glenn and Louise Shoop Family Limited Partnership, Ltd., (2) The Merilou Shoop Love Trust, (3) The Nancy Shoop Caver Trust, (4) The Aaron Paul Shoop Appointive Trust, (5) The Matthew Tyler Shoop Appointive Trust, (6) The Taylor Eastland Shoop Appointive Trust, (7) The Evan Alexandra Shoop Appointive Trust, (8) The Madison Lee Shoop Appointive Trust, and (9) The Logan Thomas Shoop Appointive Trust (collectively, the “Petitioners”), requesting that the City create the Shoop Ranch Authorized Services Public Improvement District No. 1 (the “District”) to include property owned by the Petitioner.

Time and Place of the Hearing. The public hearing will start at or after 7:00 p.m. on April 5, 2021 at the regular meeting place of the City Council in the New Fairview City Hall located at 999 Illinois Lane, New Fairview, Texas.

General Nature of the Proposed Authorized Services. The purpose of the District is to provide special supplemental services for improvement and promotion of the District authorized by the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code, as amended (the “Act”), which may include, but not be limited to: (1) payment of annual service costs related to the operation of the District exclusively consisting of: (a) the costs of a third-party operator for the water and wastewater services for the District and the Constellation Lakes residential development (“Constellation Lakes”) with such costs to be allocated as between the District and Constellation Lakes based on water and wastewater usage, and (b) actual annual costs incurred for maintenance of parks, open space, and recreational improvements financed by assessments levied on property within the District, including from the proceeds of revenue bonds secured by assessments levied on property within the District; (2) payment of expenses related to the establishment of the District, and (3) payment of expenses related to the collection of the annual assessments (the “Authorized Services”). These Authorized Services shall promote the interests of the City and confer a special benefit on the Property.

Estimated Cost of the Authorized Services. The Owners estimate the estimated cost of the Authorized Services for the first year of the District's operation will be \$175,000. The cost of the Authorized Services for subsequent years will be determined in the annual update to the service plan approved by the City each year in accordance with Section 372.013 of the Act.

Proposed District Boundaries. The District is proposed to include approximately 1,807.46 acres of land generally located on the north side of FM 407 at the intersection with County Line Road in the City of New Fairview, Texas; and, as more particularly described by a metes and bounds description available at New Fairview City Hall located at 999 Illinois Lane, New Fairview, Texas and available for public inspection during regular business hours.

Proposed Method of Assessment. The City shall levy an annual assessment on each lot within the District to pay the costs of the Authorized Services in a manner that results in imposing equal shares of the costs on property similarly benefited. Each assessment may be paid in full (including accrued and unpaid interest) without penalty at any time. Each annual assessment must be paid in amounts necessary to meet annual costs for the Authorized Services. Notwithstanding the foregoing, annual assessments for the Authorized Services shall be limited to the actual costs of such Authorized Services.

Proposed Apportionment of Cost between the District and City. City will not be obligated to provide any funds to finance the Authorized Services. The cost of the Authorized Services will be paid from the assessments and from other sources of funds, if any, available to the developer of the property within the District.



City Council Agenda
March 15, 2021

Agenda Item: Resolution (Action Item)

Agenda Description:

Discuss, consider, and act on a resolution authorizing the City Administrator to enter into an agreement with SPI, Inc. to complete an application for the City of New Fairview to establish a Certificate of Convenience and Need (CCN) for a water and wastewater system and resolving other matters incident and related thereto.

Background Information:

The Council received the report findings and presentation in the March 1, 2021 Council meeting and directed staff to bring forward an item to start the CCN application process. Staff obtained quotes from Pacheco Koch, TOASE, and SPI. SPI just completed the water/wastewater study for the City and provided a quote with the best value.

Further, the Bloomfield and Rockhill development teams have agreed to fund the cost of the CCN application. Staff is working to update the reimbursement agreements to include a \$20,000 additional contribution towards the legal and consulting fees for the CCN application.

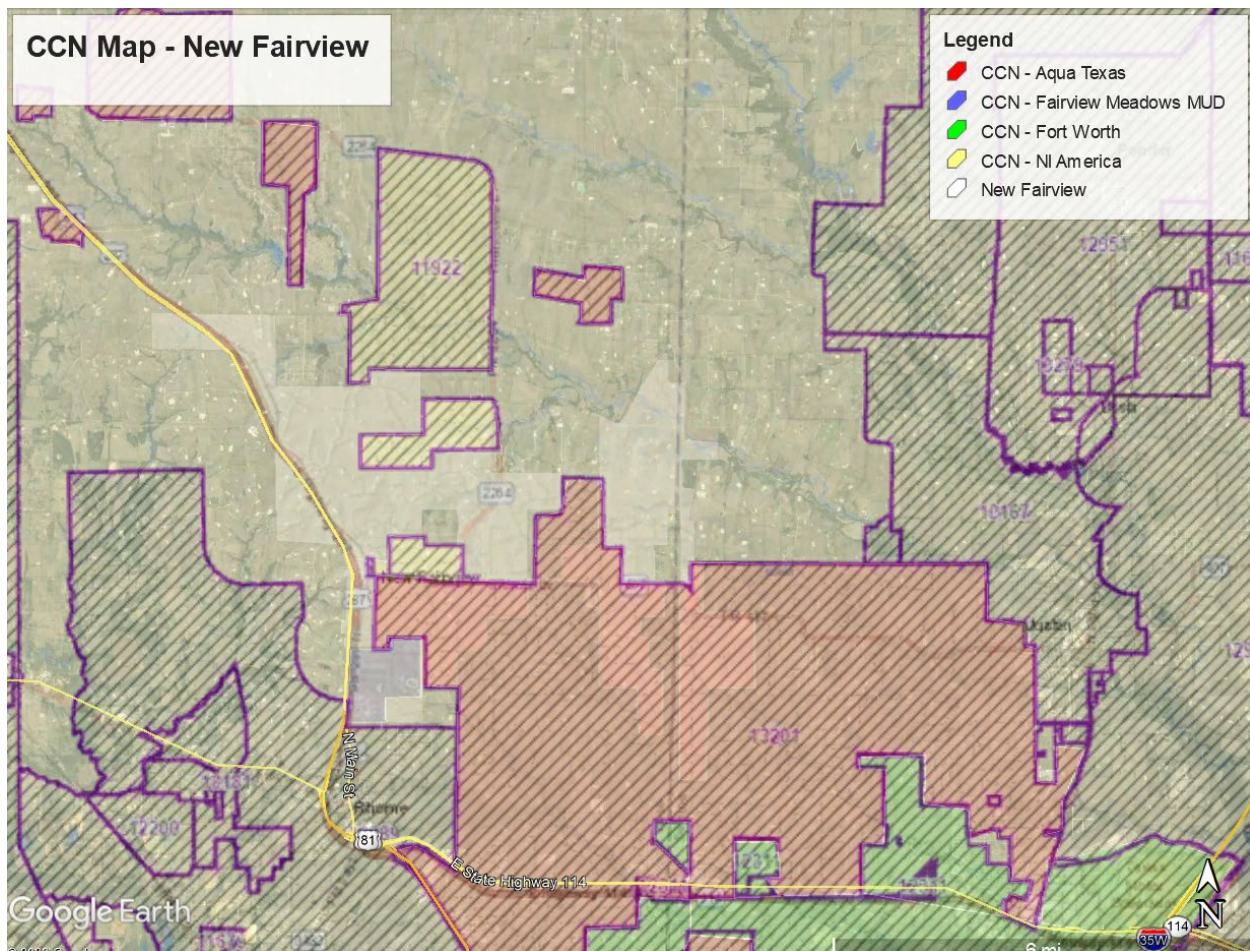
Additional Background:

Approximately six-months ago, the City Council asked the City Administrator and staff to research and come back with a study on water in the region. The Texas Water Development Board (TWDB) conducted an Aquifer Study and released a report in 2016 that outlines the major and minor sources of water in the state. The findings will show significant impact on New Fairview directly as well as the entire DFW area.

The TWDB study found that “the greatest water-level declines are in the Trinity Aquifer, focused in the Dallas-Fort worth and Waco Areas” (1) with water levels dropping 450 feet in the Paluxy aquifer over the last 100 years (2) while the number of wells being drilled have tripled within the last decade (3). An article in the Dallas Morning News discussed the booming drilling activity with a third-generation water well drilling company. The driller states that the massive development activity in the region is

impacting established functioning wells, “at one time there’s plenty of water, then a development pops up next door and pulls water out from underneath the old well...it’s happening in a lot of places and everyone is having to dig deeper (3).”

Currently, there are three different entities providing water within the City limits and many more in close proximity. If the City decides to continue with the status quo, ceding control of this critical infrastructure, it is likely we will have several more over the coming years as well as increasing amounts of wells going dry. You can visit the [Public Utility Commission’s website](#) to view the interactive map that shows the geographic coverage of these entities.



- (1) [TWDB Texas Aquifer Study](#)
- (2) [Water-Level Declines in the...Aquifers of North-Central Texas](#)
- (3) [Dallas Morning New Article](#)

In September, 2020 the City Council approved a feasibility study to bring public water (surface water) and wastewater service to New Fairview. Staff partnered with two local developers,

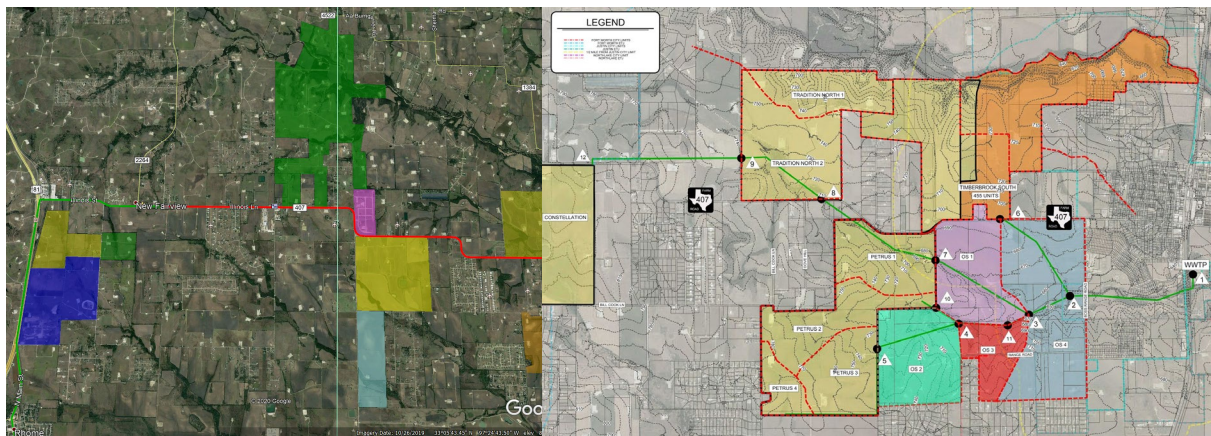
Bloomfield Homes (Constellation Lake) and Rockhill Investment & Capital (Shoop Ranch) to fund the feasibility study. The draft report was delivered to staff last week for comments.

Scope of the Feasibility Study

Schaumburg & Polk, Inc (SPI) was selected to conduct the feasibility study, which included investigating all available options and cost estimates for establishing a public water and wastewater system in New Fairview. Further, they were asked to review the possibility of a regional solution for the southwest corner of Wise County and southeast corner of Denton County.

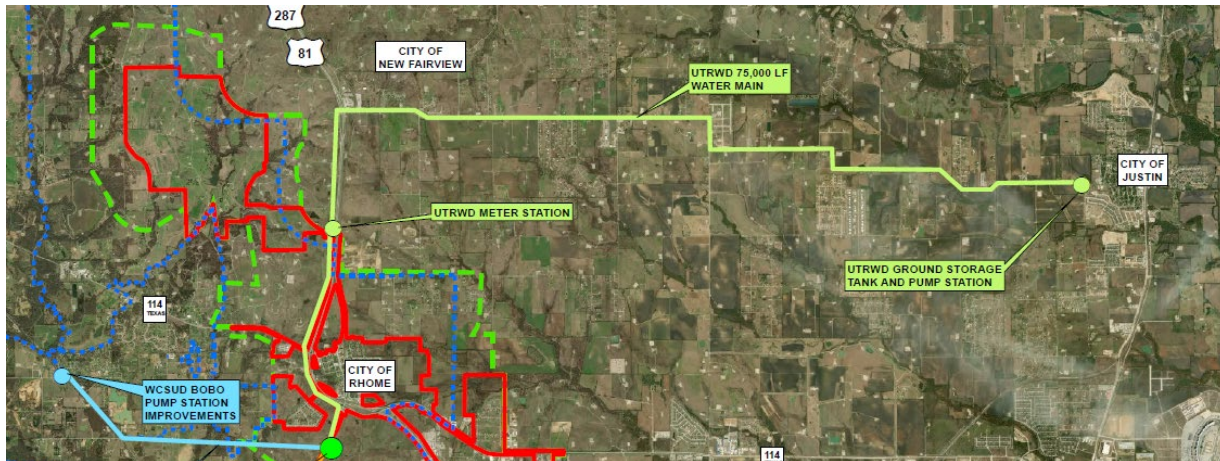
Initial Findings of the Feasibility Study

In summary, the City of New Fairview is in a unique position to establish these systems with multiple partners at this time, which will drastically reduce the cost of extending the water lines as well as implementing a wastewater system. This is due to the fact that FM 407 has significant development east of New Fairview to Justin. Further, New Fairview currently has two large development projects that require both water and wastewater services, as well as the City of Rhome needing to establish a new source of water for their existing system. The confluence of these events is not likely to occur again in the future and creates this unique opportunity.



Residential Development Activity on FM 407 from New Fairview to Justin

Staff obtained the recently completed water study conducted by Rhome and is going to implement additional factors into our feasibility study. Further, staff met with the developers in New Fairview to share the draft report and receive input prior to the February 15th City Council worksession. We should have a final report completed and submitted to the Council in March.



Proposed Water Main Map from the City of Rhome Water Study

Feasible sources for surface water include the City of Fort Worth and the Upper Trinity Regional Water District. The cost of the line extension and distribution network is conservatively estimated to be around \$70 million from either source, while the wastewater treatment system is estimated to be around \$35 million.

Staff is still in conversation with the developers and the potential water providers to determine the best path forward. Staff is reviewing the options of obtaining surface water from both sources to provide a portion of the city's demand and establishing redundancy in our water network, improving our overall infrastructure.

Financial Information:

Staff anticipates that the total cost of the application will be approximately \$40,000; SPI represents \$29,000 as a lump-sum agreement; the balance will be legal and consulting fees; Rockhill and Bloomfield have both agreed to amend their agreements to cover the cost of this application.

City Contact and Recommendation:

Ben Nibarger, City Administrator

Staff recommends that Council approve the agreement.

Attachments:

Resolution

Agreement



**City of New Fairview, Texas
Resolution No. 202103-19-161**

A RESOLUTION OF THE CITY OF NEW FAIRVIEW, TX APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH SCHAUMBERG & POLK, INC. TO COMPLETE AND SUBMIT AN APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NEED (CCN); AUTHORIZING THE CITY ADMINISTRATOR TO AMEND THE REIMBURSEMENT AGREEMENTS WITH THE BLOOMFIELD AND SHOOP RANCH DEVELOPMENTS TO INCLUDE \$20,000 CONTRIBUTIONS TOWARDS THE COMPLETION OF THE CCN APPLICATION; AUTHORIZING THE CITY ADMINISTRATOR TO EXPEND FUNDS TO COMPLETE THE APPLICATION NOT TO EXCEED \$40,000.

WHEREAS, the City of Fairview is an incorporated city in the State of Texas; and

WHEREAS, the City of New Fairview is a General Law city as classified by the Texas Municipal Code; and

WHEREAS, the City desires to obtain a Certificate of Convenience and Need (CCN) to provide water and wastewater services; and

WHEREAS, the Constellation Lake and Shoop Ranch developments desire to see the City provide these services; and

WHEREAS, the developers of Constellation lake and Shoop Ranch have agreed to provide \$20,000 in funding for the application; and

WHEREAS, Schaumberg & Polk, Inc., has the experience and ability to complete the necessary applications and engineering required for the submittal.

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

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.

2. That the City Council does hereby authorize the City Administrator to amend and execute the reimbursement agreements to include the \$40,000 contribution with the developers for Constellation Lake and Shoop Ranch.
3. That the City Council does hereby approve the professional services agreement with Schaumberg & Polk, Inc., for a lump-sum fee of \$29,000.
4. That the City Council does hereby authorize the City Administrator to direct and work with the city's consultants to prepare the necessary documents and submittals to successfully submit the CCN application, authorizing the City Administrator to expend no more than \$40,000.
5. 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 Council hereby determined that it would have adopted this Resolution without the invalid provision.
6. That this Resolution shall become effective from and after its date of passage.

PRESENTED AND PASSED on this **15th day of March, 2021**, at a meeting of the New Fairview City Council.

APPROVED:

Joe Max Wilson
Mayor

ATTESTED:

Monica Rodriguez
City Secretary

February 25, 2021

Mr. Ben Nibarger, City Administrator (sent by email only: cityadministrator@newfairview.org)
City of New Fairview, Texas
999 Illinois Lane
New Fairview, TX 76078

Re: **Engineering Cost Proposal and Scope of Work**
CCN Application Process – Water and Wastewater Systems for New Fairview

Mr. Nibarger,

Schaumburg & Polk, Inc. (SPI) is pleased to provide this proposal for professional services to assist the City of New Fairview in the acquisition of a water and a wastewater Certificate of Convenience and Necessity (CCN) to serve the City of New Fairview. SPI will also act on the City's behalf to register the City with the Texas Commission on Environmental Quality (TCEQ) as a Public Water System (PWS).

New Fairview at present does not own and operate a water or wastewater system. Water is currently provided to residents by private water supply corporations or through use of privately owned groundwater wells. The water supply corporations are unable to accommodate the growth of the community. Sanitary sewer is mostly treated on-site by individual home-owners and businesses. A municipal wastewater treatment system is needed for development and growth of the community and surrounding area. A separate water CCN and wastewater CCN will be required by the Public Utility Commission (PUC) for the purposes of outlining the properties and regions served by the City of New Fairview. Registration as a Public Water System (PWS) is required concurrently by the TCEQ with the application for a water CCN and will allow the City of New Fairview to begin water sales.

SPI's services will include the following:

- A. New Fairview Water System CCN
 1. Determine existing CCNs in region.
 2. Determine CCN boundaries and locations, both inside and outside city limits.
 3. Prepare CCN and PWS registration forms with PUC and TCEQ.
 4. Prepare GIS and related mapping of all proposed CCN boundaries, properties, and locations.
 5. Advise on overlapping and concurrent CCNs with existing water suppliers in region.
 6. Prepare a Professional Engineering Report for submittal to TCEQ, outlining the necessity of a city-owned Public Water Supply.

- B. New Fairview Wastewater System CCN
 1. Determine existing wastewater CCNs in region.
 2. Determine wastewater CCN boundaries, both inside city limits and outside, as necessary.
 3. Prepare CCN registration forms with PUC
 4. Prepare GIS and related mapping of all CCN boundaries, properties, and locations.

SPI proposes to provide the scope of services indicated above for a lump sum fee amount of **\$29,200**. SPI can begin work on the Study within five (5) business days following a Notice to Proceed from the City. SPI anticipates 6-8 months to submit applications and required data necessary to obtain a water CCN and a wastewater CCN on behalf of the City. An Engineering Agreement is enclosed for your consideration and execution if deemed acceptable to you.

LIMITATIONS OF PROPOSAL

1. This proposal excludes legal counsel regarding acquisition of, or negotiating with other water, wastewater, and associated utility entities.
2. This proposal excludes environmental assessments/studies/evaluations. These services can be provided upon request as a subsequent phase or task.
3. This proposal excludes preparation and handling of any financial reporting as required by the Public Utility Commission of Texas.

Thank you for the opportunity to provide this proposal to you. Do not hesitate to call if you have any questions or concerns regarding this proposal or the planned development.

Schaumburg & Polk, Inc.

Franklin Stephens, P.E.

Franklin Stephens, P.E.
Terrell Branch Office Manager

Enclosures: Engineering Agreement

Cc: Jeremy Buechter, Executive Vice-President (by email only)

**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of **March 1, 2021** ("Effective Date") between **the City of New Fairview, Texas** ("Owner") and **Schaumburg & Polk, Inc.** ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: **CCN Acquisition for Water and Wastewater Systems in New Fairview, TX** ("Project").

Engineer's Services under this Agreement are generally identified as follows:

Engineering services as further described in attached *Engineering Cost Proposal and Scope of Work*, and which *Engineering Cost Proposal and Scope of Work* is hereby incorporated as a binding part of this agreement.

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above. Owner shall pay Engineer for its services as set forth in Paragraphs 7.01.
- B. Engineer shall complete its services within a reasonable time, or within the following specific time period: **Deliver completed CCN applications within 6 months following NTP from the City.**
- C. If the Project includes construction-related professional services, then Engineer's time for completion of services is conditioned on the time for Owner and its contractors to complete construction not exceeding **N/A** months. If the actual time to complete construction exceeds the number of months indicated, then Engineer's period of service and its total compensation shall be appropriately adjusted.

2.01 *Payment Procedures*

- A. *Invoices*: Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension. Payments will be credited first to interest and then to principal.

3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:
 - 1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
- b. By Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed for more than 90 days for reasons beyond Engineer's control.

Engineer shall have no liability to Owner on account of a termination by Engineer under Paragraph 3.01.A.1.b.

- c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 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, 60 days after the date of receipt of the notice.

- 2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.
 - B. The terminating party under Paragraph 3.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
 - C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer 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 restricted 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.

- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.
- C. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.
- D. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract

between Owner and such contractor. Engineer is not responsible for variations between actual construction bids or costs and Engineer's opinions or estimates regarding construction costs.

- E. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by Engineer.
- F. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless the parties agree otherwise.
- G. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its

officers, directors, members, partners, agents, employees, and consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.
- I. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer 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 Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then

the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

7.01 *Basis of Payment—Lump Sum*

- A. Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer lump sum fee amount as follows:
1. CCN Acquisition for Water and Wastewater amount of \$ 29,200.00
 2. **Total Fee Amount** **\$ 29,200.00**
- B. The portion of the compensation amount billed monthly for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

By: _____

Title: _____

Date Signed: _____

Address for giving notices:

City of New Fairview, Texas

Attn: Ben Nibarger, City Administrator

999 Illinois Lane

New Fairview, TX 76078

ENGINEER:

By: Franklin Stephens, P.E.

Title: Vice-President

Date Signed: February 25, 2021

Engineer License or Firm's Certificate
Number: F-000520

State of: Texas

Address for giving notices:

SPI Terrell

Attn: Franklin Stephens, P.E.

P. O. Box 1028 (200 S. Virginia – physical address)

Terrell, TX 75160



City Council Agenda March 15, 2021

Agenda Item: **Presentation** **(Discussion)**

Agenda Description:

Discuss, consider, and act on a resolution authorizing the City Administrator to enter into an agreement with ETC, Inc. to conduct a citizen survey.

Background Information:

Following the March 1, 2021 Council meeting, staff continued discussions with the ETC Institute to complete a citizen survey. They feel confident that we can obtain sufficient responses to provide statistically significant data. Further, staff was able to adjust the services and negotiate a new price of \$7,500 to complete the citizen survey.

Additional Background: The Council and staff have been in discussion regarding the desires of the community and the best way to determine if we are receiving input from the whole community or just a vocal minority. Staff recommended that the Council consider conducting an annual or semi-annual citizen survey that can scientifically assess our residents' satisfaction with existing services, identify areas where they wish to see improvement, and ensure that we are including input from a representative sample of the whole community.

Staff has worked with both of these vendors previously and each has some pros and cons. Both vendors conduct these types of surveys for hundreds of cities around the country. ETC's approach is more customizable and the development of the questionnaire is largely driven by us, while Polco focuses more on a standardized questionnaire. Each vendor has a large database to provide benchmarking data for comparison purposes. Polco has recently included a "snap" survey tool that allows for short surveys to be completed throughout the year, while ETC focuses on longitudinal data collection that provides trends, as well as identifying focus areas that are most likely to improve the residents overall satisfaction and experience. Initial quotes were:

ETC - Approximately \$9,000
Polco - Approximately \$13,000

Financial Information:

\$7,500 with no contractual obligation for future services

City Contact and Recommendation:

Ben Nibarger, City Administrator

Attachments:

Resolution

Updated ETC Proposal



**City of New Fairview, Texas
Resolution No. 202103-20-162**

A RESOLUTION OF THE CITY OF NEW FAIRVIEW, TX APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ETC INSTITUTE, INC. TO COMPLETE A CITIZEN SURVEY.

WHEREAS, the City of Fairview is an incorporated city in the State of Texas; and

WHEREAS, the City of New Fairview is a General Law city as classified by the Texas Municipal Code; and

WHEREAS, the City desires to conduct a survey of its citizens; and

WHEREAS, ETC Institute has both the ability and experience to successfully conduct the desired survey.

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

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.
2. That the City Council does hereby approve the professional services agreement and authorizes the City Administrator to execute the agreement for \$7,500.
3. 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 Council hereby determined that it would have adopted this Resolution without the invalid provision.
4. That this Resolution shall become effective from and after its date of passage.

PRESENTED AND PASSED on this **15th day of March, 2021**, at a meeting of the New Fairview City Council.

APPROVED:

ATTESTED:

Joe Max Wilson
Mayor

Monica Rodriguez
City Secretary



March 9, 2021

Ben Nibarger
City Administrator
City of New Fairview
817-638-5366

Subject: Proposal to Conduct a Community Survey for the City of New Fairview

Dear Mr. Nibarger:

ETC Institute is pleased to submit a quote to conduct a community survey for the City of New Fairview, Texas. If selected for this project, ETC Institute will provide the following services:

Task 1: Design the Survey and Prepare the Sampling Plan. Task 1 will include the following services:

- Working with City staff to develop the content of the survey. Although ETC Institute will tailor the survey to the City's needs, our firm will provide sample questions from other communities to make the development of the survey instrument as easy as possible. It is anticipated that 3-4 drafts of the survey will be prepared before the survey is approved by the City. The survey will be up to 6 pages in length.
- Participating in meetings by phone to develop the survey.
- Conducting a pilot test of the survey to ensure the questions are understood by residents. Based on the results of the pilot test, ETC Institute will recommend changes (if needed) to the survey.

Deliverable Task 1. ETC Institute will provide a copy of approved survey instrument.

Task 2: Administer the Survey. Task 2 will include the following services:

- ETC Institute will administer the survey by a combination of mail, Internet and phone.
- ETC Institute will mail the survey and a cover letter (on City letterhead) to all households in the City. Only one survey per household will be sent. Postage-paid envelopes will be provided by ETC Institute for each respondent. The City will provide a cover letter for the mailed survey. The cover letter will contain a link to an online version of the survey.

Residents who receive the survey will have the option of returning the printed survey by mail or completing it on-line.

- The estimated number of households in New Fairview is approximately 500. ETC Institute will do everything possible to collect as many surveys from City residents as possible. Approximately 7-10 days after the surveys are mailed, ETC Institute will follow-up via e-mail and/or phone with households that received a mailed survey. ETC Institute will continue following up with households in an attempt to reach a minimum of 100 completed surveys. A sample of 100 completed surveys will provide results that have a margin of error of +/-8.8% at the 95% level of confidence at the City level. The results would be statistically valid City-wide. Because there are only 500 households in the City, ETC Institute may not reach the minimum goal of 100 completed surveys if residents are not willing to participate. However, ETC Institute will do everything possible to ensure the maximum number of surveys are collected from residents.
- ETC Institute will monitor the distribution of the sample to ensure that the sample reasonably reflects the demographic composition of the City with regard to age, geographic dispersion, gender, race/ethnicity and other factors.

Deliverable Task 2. ETC Institute will provide a copy of the overall results for each question on the survey.

Task 3: Analysis and Final Report. ETC Institute will submit a final report to the City. At a minimum, this report will include the following items:

- Formal report that includes an executive summary of the survey methodology and a description of major findings.
- Charts and graphs that show the overall results of each question on the survey.
- Benchmarking analysis showing how the City compares to residents in other communities.
- Importance-Satisfaction Analysis that will identify the areas where the greatest opportunities exist to enhance overall satisfaction with City services.
- Tabular data that shows the results for each question on the survey, including open ended questions.
- A copy of the survey instrument

Deliverable Task 3: ETC Institute will submit a final report in an electronic format. ETC Institute can also provide the raw data in an Excel database, or other format as requested by the City.

Project Schedule

Listed below is ETC Institute's typical timeline for administering a community survey. Since the surveys will be administered entirely in-house, the completion date for the project is completely within our control. We are available to start at a date most convenient for the City.

- **Month 1**
Design survey instrument
Finalize sampling plan
- **Month 2**
Administer the survey
- **Month 3**
Draft Report Submitted for review
Prepare and Deliver the Final Report

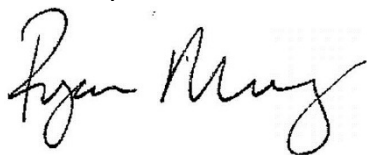
Fee

The table below shows a breakdown of the fees for the services described in this proposal.

ETC Institute Community Survey Fees for New Fairview, Texas	Number of Completed Surveys
at 95% Level of Confidence	100
	+/-8.8%
Design Survey and Prepare Sampling Plan	\$2,000.00
Administration of 15-20 Minute Survey (Up to 6 pages)	\$3,000.00
Formal Report (summary, charts, benchmarking, I-S)	\$2,000.00
Crosstabulations of the results by key demographic variables	\$250.00
GIS Maps showing the results of the survey as maps of the community	\$250.00
TOTAL	\$7,500.00

CLOSING: We appreciate your consideration of this proposal, and look forward to your decision. If you have any questions, please do not hesitate to call me at (816) 809-7640.

Sincerely,



Ryan Murray
Assistant Director of Community Research
ETC Institute

725 W. Frontier Circle
Olathe, KS 66061
(913) 254-4598
Ryan.Murray@etcinstitute.com



**City of New Fairview
Social Media Policy
July 13, 2020**

SOCIAL MEDIA POLICY

PURPOSE

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

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

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

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

GENERAL POLICY

1. The establishment and use by any City department of City social media sites is subject to approval by the City Administrator or his/her designee. All City of New Fairview social media sites shall be administered by City Clerk, department directors, or department director's designee.
2. City social media sites should make clear that they are maintained by the City of New Fairview and that they follow the City's Social Media Policy.
3. Wherever possible, City social media sites should link back to the official City of New Fairview website for forms, documents, online services and other information necessary to conduct business with the City of New Fairview.
4. The City Administrator or designee will monitor content on City social media sites to ensure adherence to both the City's Social Media Policy and the interest and goals of the City of New Fairview.
5. The City reserves the right to restrict or remove content posted by the City of a City social media site. Any content removed must be retained by the City Secretary, including the time, date and identity of the poster, in accordance with the City's records retention schedule.
6. This Social Media Policy must be displayed to users or made available by hyperlink.
7. The City will approach the use of social media tools as consistently as possible, entity wide.

Commented [CW1]: As this is a policy regarding official City of New Fairview Social Media accounts, instead of personnel actions, it should not be in the personnel policy. However, as it is a policy that should be maintained (just outside of the personnel policy), I've made some suggested revisions to same. I've also added a policy regarding employee personal use of social media that is appropriate for this personnel policy.

8. The City of New Fairview's website at www.newfairview.org will remain the City's primary and predominant internet presence.

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

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

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

12. This Social Media Policy may be revised at any time.

COMMENT POLICY

Social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the City or the department where the comment/post is made, that comments will be monitored and that content posted or submitted for posting is subject to public disclosure. In addition, all social media pages should state:

- The City reserves the right to require those who comment on its posts to comply with the Terms of Use of the Social Media site and will report users the City believes to be in violation of the Terms of Use.
- Individuals who post or comment are legally responsible for their comments and/or posts. Comments and/or posts must not breach any law, confidentiality or copyright.

DARK SKY ASSESSMENT GUIDE

A QUICK GUIDE TO LIMITING LIGHT POLLUTION

WHAT IS LIGHT POLLUTION?

Light pollution is “the inappropriate or excessive use of artificial light,” and consists of four factors¹:

1. **Glare:** Excessive brightness that causes visual discomfort
2. **Sky glow:** Brightening of the night sky over inhabited areas
3. **Light trespass:** Light falling where it is not intended or needed
4. **Clutter:** Bright, confusing and excessive groupings of light sources

Light pollution caused by the inappropriate or inefficient use of outdoor lighting is costly, and effects people, wildlife, and outdoor environments—most noticeably, it limits our view of the starry night sky.

HOW DO I USE THIS WORKSHEET & GUIDE?

The initial groundwork for a dark sky designation is establishing the current status. This worksheet guides users through several evaluation methods which could be used for a general assessment of dark sky-friendly lighting. While not all of the included methods are required for a quality assessment, it is recommended that those conducting the assessment use as many methods as appropriate to gain a broader perspective. In addition, the various methods may be adapted for public education and engagement on dark sky issues.

After completing your assessment, you will know the current state of lighting in your town and will have identified key areas for improvement.

For help with this guide, contact the State of Utah's Rural Planning Group: (801) 468-0133, info@ruralplanning.org.

PREPARING FOR YOUR DARK SKY ASSESSMENT

1. Define your purpose

- Who requested the assessment? Who is sponsoring or supporting it?
- What is the goal of your assessment?
- How will you use information gathered during the assessment?
- Will it be the only assessment or will there be more?

2. Identify who should be involved

- List and invite key stakeholders (leaders, active citizens, business owners, etc).
- What do they need to know to support your project and engage in the assessment?
- Who might help you engage with necessary stakeholders and supporters?

3. Design and prepare for the assessment

- Prepare a map of town (can use Google maps, a hand drawn map, or existing city maps).
- Organize where the assessment will begin and end. It may help to divide into different areas, separating commercial districts, residential sectors, or government districts for the purposes of the assessment.
- Walk the route beforehand—are there safety concerns or other considerations that should be acknowledged before conducting an assessment?
- Select areas during the day to take illustrative photos—most SLR cameras can take a good night photo.
- You should try to carry out your assessment on a clear night, with little or no cloud cover. Don't do the assessment when the moon is in the sky.

4. Get the word out

- If not initiated or conducted by the town, notify the town when your assessment will be performed.
- Notify and remind stakeholders.
- Notify the public (fliers, posters, Facebook, etc.); assessments can be helpful and fun for community education (e.g. Our Town Nights, Community Night Connections, etc.).

NOTES

REMEMBER TO TAKE...

- This guide
- Printed map of assessment area
- Pencils / pens / colored markers
- Clipboards
- Measuring tape
- DSLR camera & tripod
- Orange vests / visible clothing / reflective gear
- Comfortable walking shoes

DARK SKY ASSESSMENT GUIDE

TABLE OF CONTENTS

3 DARK SKY LIGHTING BASICS

- Lighting shielding.....3
- Appropriate lighting levels.....3
- Lighting color.....4
- Essential takeaways.....4
- Acceptable lighting types.....5

6 CONDUCTING A FORMAL AUDIT

- Basic audit guidelines.....6
- Example lighting audit log.....6
- Example lighting audit worksheet.....7

8 DIFFERENT ASSESSMENT TOOLS

- Mobile apps and resources.....8
- Who can I contact for help?.....8
- Lighting issue concerns and land use.....9
- Public engagement & education.....9
- Marking a map.....10
- Taking night photos.....10
- Calculate the savings.....11

12 AFTER YOUR ASSESSMENT

- Debrief after the assessment.....12
- Form a local dark skies group.....12
- Pursue Dark Sky Place Certification.....12
- Plan action.....12

13 ADDITIONAL RESOURCES

- General resources.....13
- Recreation Lighting.....13
- Flag Lighting.....13
- Illumination standards.....13

GENERAL LIGHTING TERMS

CLUTTER: Bright, confusing and excessive groupings of light sources.

COLOR SPECTRUM: Refers to the portion of the electromagnetic spectrum that is visible to the human eye.

CORRELATED COLOR TEMPERATURE (CCT): Specifies the color appearance of light emitted by a lamp.

DARK SKY: Denoting or located in a place where the darkness of the night sky is relatively free of interference from artificial light.

DSLR CAMERA: “Digital single-lens reflex” or DSLR cameras are versatile cameras with changeable lenses that produce high-quality photos.

FOOTCANDLE (fc): Illuminance produced on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

FULLY SHIELDED: A fixture that allows no emission above a horizontal plane passing through the lowest light-emitting or light-reflecting part of the fixture.

GLARE: Excessive brightness that causes visual discomfort.

KELVIN: A measurement unit for light’s “warmness” or “coolness.”

KILOWATT (Kw): A measure equal to 1,000 watts of electrical power.

KILOWATT HOUR (kWh): A measure of electrical energy equivalent to a power consumption of 1,000 watts for 1 hour.

LIGHT TRESPASS: Light falling where it is not intended or needed.

LUMEN: A measurement unit for the brightness from a light source.

LUMINAIRE: A complete lighting unit that usually includes the fixture, ballasts, and lamps.

LUX: One lumen per square meter. Unit of illuminance.

REFLECTION: Light redirected back into the sky off of surfaces that are being illuminated.

SKYGLOW: Brightening of the night sky over inhabited areas.

WATT: The standard unit of power in the International System of Units (SI).

DARK SKY ASSESSMENT GUIDE

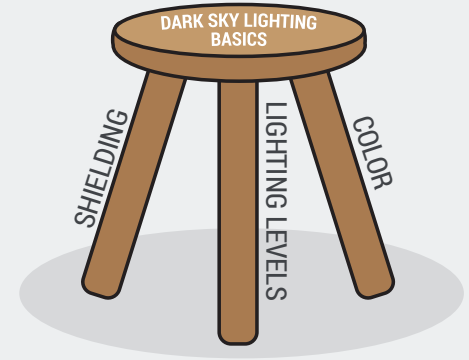


DARK SKY LIGHTING BASICS: THE “THREE-LEGGED STOOL”

We need lighting for safety at night. However, many city lights are undirected and waste energy while causing light pollution. Proper lighting begins with proper lighting design standards which form a proverbial “three-legged stool”. The legs of the stool are:

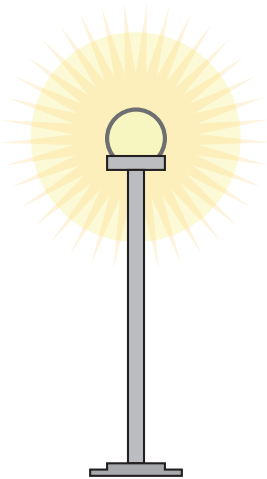
1. **Shielding**
2. **Appropriate lighting levels**
3. **Lighting color**

These three basic design principals form the basis for good lighting design, and when applied correctly, will reduce light pollution.

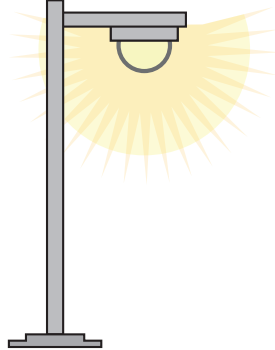


1. LIGHTING SHIELDING

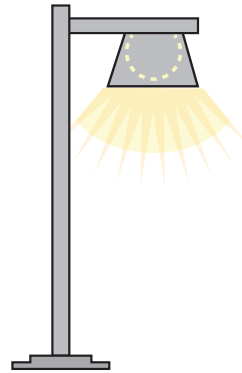
UNSHIELDED



PARTIALLY SHIELDED



FULLY SHIELDED



Outdoor lighting should be “fully shielded,” meaning no light above a 90-degree angle. The goal of fully shielded light fixtures is to prevent:

- **Light trespass** is light falling where it is not wanted or needed. Light trespass can create problems for neighboring and distant properties.
- **Glare** is intense and blinding light that can cause discomfort and temporary blindness.
- **Skyglow** reduces our ability to view celestial objects due to scattered light from sources on the ground.

The more light is directed towards the intended subject, the better. Fully shielded lighting can be purchased or retrofitted.

2. APPROPRIATE LIGHTING LEVELS

Outdoor lighting can easily become excessive or “cluttered.” Appropriate lighting levels means practically managing the amount of outdoor lighting in terms of duration and illuminated area. Ordinances that support appropriate lighting levels will specify the acceptable amount of lumens within an area (such as lumens per acre). Many municipalities use illumination guidelines established by the [Illuminating Engineering Society \(IES\)](#) to set lighting levels in their ordinances. In addition municipalities will remove lights no longer in use or needed. Note that International Dark Sky Association (IDA) standards are more strict than IES standards.

- **Lumens** are a measurement unit of the brightness from a light source.
- **Clutter** is excessive groupings of light sources that create a bright and confusing environment.
- **Reflection** off of what is being illuminated causes light to be redirected back into the sky, contributing to sky glow.

Timers, motion sensors, dimmer switches, and turning lights off when not in use can help improve lighting levels.

Generally, use lighting where it's needed, when it's needed, and only as bright as needed.

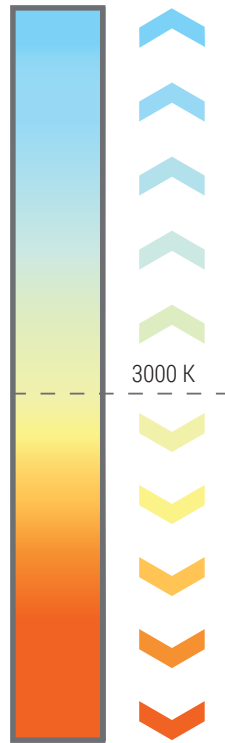
DARK SKY ASSESSMENT GUIDE

3. LIGHTING COLOR

The color of the light is important as well. Cool, blue spectrum lights brighten the night sky more than amber colored light and researchers are beginning to connect blue light spectrum to negative health effects in people and greater problems for wildlife. IDA recommends using long-wavelength lighting with a color temperature of < 3000 Kelvins.

- **Kelvins** are a measurement unit for light's warmness or coolness.
- **Color Spectrum** refers to the portion of the electromagnetic spectrum that is visible to the human eye.

WARM SPECTRUM COOL SPECTRUM



NOTES

ESSENTIAL TAKEAWAYS

- LIGHT ONLY WHAT YOU NEED:** Use fully shielded fixtures. Shine lights down, not up. Direct lighting at desired areas. Be strategic with lighting and only use it where needed.
- LIGHT ONLY WHEN YOU NEED:** Install timers, motion sensors, and dimmer switches, and turn off lights when not in use.
- LIGHT ONLY HOW MUCH YOU NEED:** Use the right amount of light. Save electricity by using the lowest adequate wattage bulbs. Too much light is wasteful, impairs vision, and can be costly.
- LIGHT ONLY HOW YOU NEED:** Use long-wavelength lights with a red or yellow tint to minimize negative health effects. Use warmer colored bulbs, like yellow or amber instead of white. Avoid bluish light, which is known to have a variety of negative effects.

ADAPTED FROM THE INTERNATIONAL DARK-SKY ASSOCIATION, DARKSKY.ORG

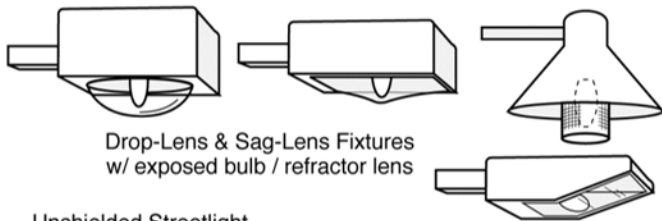
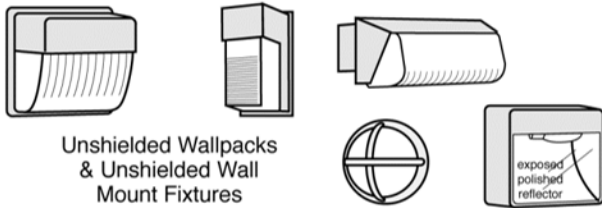
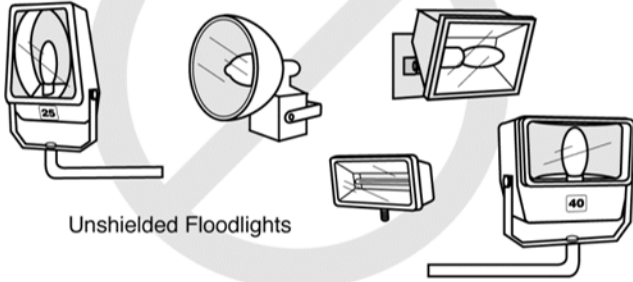
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ACCEPTABLE LIGHTING TYPES

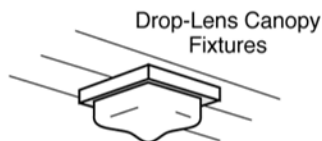
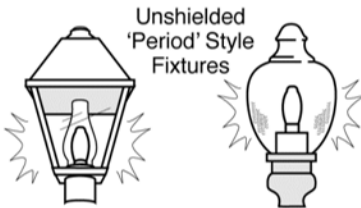
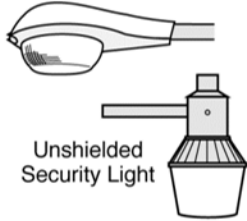
The images below illustrate various acceptable lighting forms. For more informations, visit <http://www.darksky.org/fsa/fsa-products/>.

Unacceptable / Discouraged

Fixtures that produce glare and light trespass

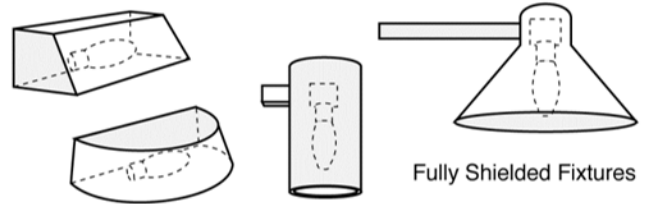
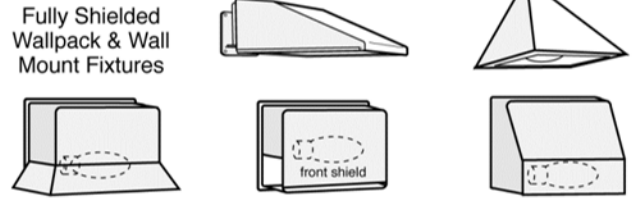
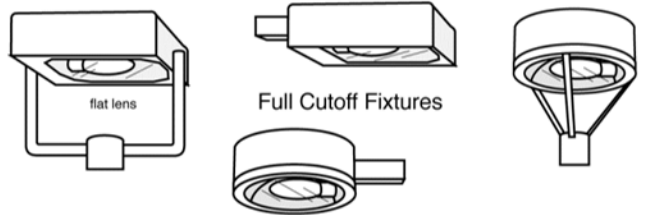


Unshielded Streetlight

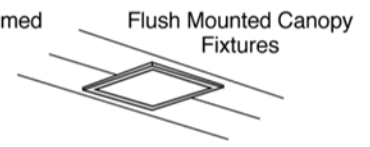
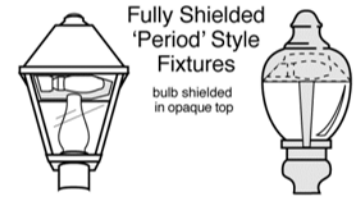


Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Full Cutoff Streetlight



ILLUSTRATIONS BY BOB CRELIN©. RENDERED FOR THE TOWN OF SOUTHAMPTON, NY. COURTESY OF INTERNATIONAL DARK-SKY ASSOCIATION.

DARK SKY ASSESSMENT GUIDE



CONDUCTING A FORMAL LIGHTING AUDIT

The IDA requires formally designated Dark Sky Communities (DSC) to adopt a quality and comprehensive lighting code which includes a commitment to a brightness measurement program. The brightness measurement program can be maintained either by the community or by another public or private organization. The measurement program is meant to monitor success in reducing light pollution. A formal lighting audit should be performed to establish a baseline for monitoring success.

A formal audit may require outside help from organizations such as a university, research center, IDA chapter, astronomy club, or other qualified entities since determining the electrical, physical, and operational characteristics of lighting can be difficult or technical. The process for lighting audits vary depending on the organization; however, the Federal Department of Energy (DOE) recommends several basic guidelines.

BASIC LIGHTING AUDIT GUIDELINES

THE FOLLOWING ITEMS ARE RECOMMENDED FOR CONSIDERATION:

- The age, condition, quality, and location of existing light fixtures.
- Model and manufacturer of lighting system to obtain existing photometrics (perceived brightness).
- Lamp wattage and ballast type (if appropriate).
- Take note of the environment, is there the possibility of particulate, moisture, or dirt buildup in or around the lighting fixture?
- Take note of what kinds of activities, or uses are being performed in the space. Are there special visual requirements?
- Observe how the lighting system is controlled and how often it is used.
- Note the perceived color of the lighting, e.g. blue, white, or amber light.
- Measure the physical layout of the existing lighting system and take note of height and spacing.
- If possible, use an illuminance meter to measure light intensity. Readings should be taken on the ground and at even intervals to create a "grid" of measurements.

ADAPTED FROM THE FEDERAL DEPARTMENT OF ENERGY EXTERIOR LIGHTING AUDIT GUIDELINES

A lighting audit provides benchmarks for determining the effectiveness of lighting improvements and energy savings.

EXAMPLE LIGHTING AUDIT LOG

There are different ways to log your lighting audit information. One simple way is to record the information on a spreadsheet. The following is an example spreadsheet from the Federal Department of Energy's Exterior Lighting Guidelines. **Some data points can be captured during the day while other data points will require a nighttime visit.**

FIXTURE/LENSES				LAMP								
ITEM NUMBER	LOCATION DESCRIPTION	AGE	CONDITION (soiled, cracked, ect.)	LAMP TYPE	AGE	CONDITION (soiled, cracked, ect.)	SYSTEM WATTAGE	MODEL NUMBER	MANUFACTURER	PERCEIVED COLOR (blue, white, amber)	OCCUPANT TYPES (age, work, activities, ect.)	SHIELDING (none, partially, fully shielded)

DARK SKY ASSESSMENT GUIDE

EXAMPLE LIGHTING AUDIT WORKSHEET

Below is another example of how to record and organize your lighting audit data. Specific technology or technical assistance may be required to capture each data point. No matter what method or structure you use, be consistent and well organized.

DAYTIME VISIT		NIGHTTIME VISIT	
Visit Date:	Fixture Power:	Visit Date:	
Fixture Height (ft):	<input type="checkbox"/> Solar	Fixture Height (ft):	
Fixture Lighting Purpose:	<input type="checkbox"/> Utility	Correlated Color Temperature CCT:	
<input type="checkbox"/> Area	<input type="checkbox"/> Other	Illuminance:	
<input type="checkbox"/> Entrance/Egress	Fixture Adaptive Controls:	Footcandle:	
<input type="checkbox"/> Pathway	<input type="checkbox"/> Motion Sensor		
<input type="checkbox"/> Parking	<input type="checkbox"/> None		
<input type="checkbox"/> Roadway	<input type="checkbox"/> Photocell		
<input type="checkbox"/> Sign	<input type="checkbox"/> Switch		
<input type="checkbox"/> Stairway	<input type="checkbox"/> Timer Switch		
<input type="checkbox"/> Other	<input type="checkbox"/> Other		
Fixture Type:	Lamp Type:	MITIGATION	
<input type="checkbox"/> Barn	<input type="checkbox"/> CFL	Mitigation Required	
<input type="checkbox"/> Bollard	<input type="checkbox"/> Empty Socket	<input type="checkbox"/> Yes	
<input type="checkbox"/> Ceiling Mount	<input type="checkbox"/> Fluorescent Tube	<input type="checkbox"/> No	
<input type="checkbox"/> Dark Cowbell	<input type="checkbox"/> Halogen	Mitigation Date:	
<input type="checkbox"/> Flood	<input type="checkbox"/> HPS		
<input type="checkbox"/> Hanging Light	<input type="checkbox"/> Incandescent		
<input type="checkbox"/> Lamp Post	<input type="checkbox"/> Induction		
<input type="checkbox"/> Phone Booth	<input type="checkbox"/> LED		
<input type="checkbox"/> Recessed	<input type="checkbox"/> LPS		
<input type="checkbox"/> Spotlight	<input type="checkbox"/> Mercury Vapor		
<input type="checkbox"/> Tin Hat	<input type="checkbox"/> Metal Halide		
<input type="checkbox"/> Tube	<input type="checkbox"/> Other		
<input type="checkbox"/> Vending Machine	Shielding:		
<input type="checkbox"/> Wall Pack	<input type="checkbox"/> Fully Shielded Eve		
<input type="checkbox"/> Wall Sconce	<input type="checkbox"/> Fully Shielded Fixture		
<input type="checkbox"/> Other	<input type="checkbox"/> Fully Shielded Lamp Lens		
Number of Fixtures	<input type="checkbox"/> Partially Shielded Eve		
Lamps per Fixture:	<input type="checkbox"/> Partially Shielded Fixture		
Historic Fixture?	<input type="checkbox"/> Partially Shielded Lamp Lens		
<input type="checkbox"/> Yes	<input type="checkbox"/> Unshielded		
<input type="checkbox"/> No			
		ADDITIONAL NOTES	

ADAPTED FROM BRYAN BOULANGER, OHIO NORTHERN UNIVERSITY CONTACT: B-BOULANGER@ONU.EDU

DARK SKY ASSESSMENT GUIDE



DIFFERENT ASSESSMENT TOOLS

There are a variety of ways to collect information for your dark sky assessment. The following pages describe different methods for collecting, documenting, and organizing information. While the DOE and IDA offers basic guidelines, each community is unique, and the methods used and data collected will depend on individual goals, capacity, and access to technology. Dark Sky Community status won't be the goal for every community, but a formal audit will provide a baseline for limiting light pollution.

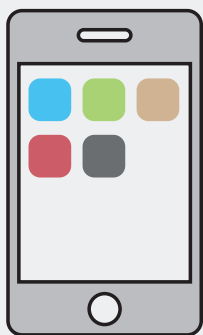
USE TECHNOLOGY

A wide variety of Iphone and Android apps can be used to take night sky brightness measurements. Other applications, such as [COLLECTOR FOR ARCGIS](#) can capture a comprehensive set of geographic data points.

For more precise measurements, the IDA recommends using a [SKY QUALITY METER](#) with Lens (SQM-L). Choose apps and resources that make sense for you and your community or contact a dark sky expert for help. Below is a list of basic apps to get you started.

NOTES

MOBILE APPS AND RESOURCES



DATA COLLECTION [COLLECTOR FOR ARCGIS](#)

Collector can capture geolocated measurements for:

- Shielding
- Fixture height
- Lamp type
- Color temperature
- Lumens (Lux)
- Footcandles (fc)

SKYGLOW [SKY QUALITY METER](#)

- [DARK SKY METER APP \(IOS\)](#)
- [CITIES AT NIGHT PROJECT](#)
- [GLOBE AT NIGHT PROJECT](#)
- [MY SKY AT NIGHT PROJECT](#)
- [LOSS OF THE NIGHT APP](#)

WHO CAN I CONTACT FOR HELP WITH A FORMAL AUDIT?

The International Dark Sky Association (IDA)

(520) 293-3198

<http://www.darksky.org>

The Colorado Plateau Dark Sky Cooperative

(435) 260-8540

<https://cpdarkskies.org/>

darkskycooperative@gmail.com

The Consortium for Dark Sky Studies

(435) 260-8540

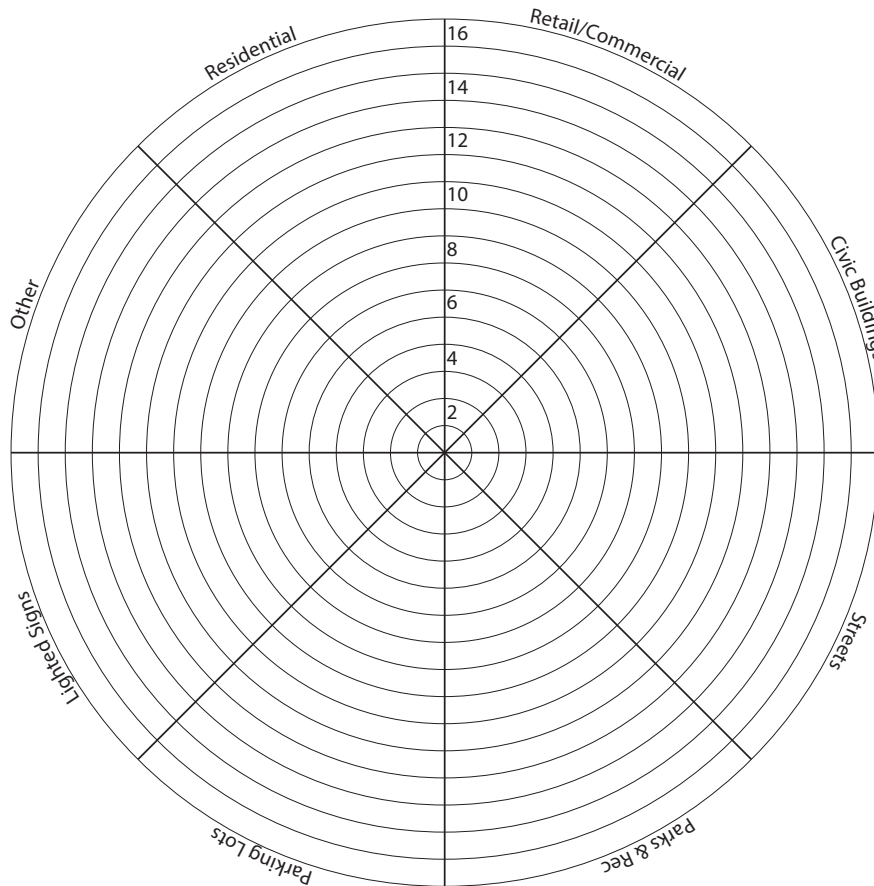
<http://www.darkskystudies.org/>

goldsmith@arch.utah.edu

DARK SKY ASSESSMENT GUIDE

LIGHTING ISSUE CONCERNS & LAND USE

Another tool for documenting light pollution sources is to mark the number of issues (e.g. poor shielding, blue/white lighting color, excessive lighting) observed in relation to land use. This can help identify focus areas and large-scale opportunities. Color in the number of issues related to the “three-legged stool” observed in the radial table below. Optional “issue-related” color coding is suggested below. The goal is to be able to compare the size of the “pie slices” after the assessment.



OPTIONAL “ISSUE” COLOR CODING

- Shielding
- Lighting Color
- Inappropriate/ Excessive Lighting

RESIDENTIAL

All types, single-family, apartments, etc.

RETAIL

Stores, shops, businesses, restaurants, etc.

CIVIC BUILDINGS

Government, post office, schools

STREETS

Street lighting

PARKS & REC

Sports parks, baseball fields, tennis courts, etc.

PARKING LOTS

Lighted parking lots

LIGHTED SIGNS

Business signs, advertising signs, etc.

OTHER

Any other uses, industrial, etc.

PUBLIC ENGAGEMENT & EDUCATION

Community engagement is an essential part of any kind of community-wide initiative. The support of local leaders, residents, and business owners can be gained from talking to people on an individual level and addressing their concerns. Make an effort to talk to neighbors and friends about light pollution and educate them on the benefits of improved lighting.

2 MINUTE SURVEYS...

Ask residents and business owners about their experience with light pollution. As you survey people educate them about basic light pollution concepts and issues. Why should they care?

QUICK QUESTIONS	EDUCATE
Is preserving dark skies important to you?	Briefly explain why light pollution is an issue.
Would you support simple changes to limit light pollution?	Describe why preserving the night sky is important to you.
What concerns do you have?	Discuss the “three-legged stool” and simple ways to mitigate light pollution.

DARK SKY ASSESSMENT GUIDE

MARKING A MAP

Marking lighting issues on a map can help identify and document spatial clusters and provide a reference for others.

An official zoning map, Google map, or other reference map of your community can be used to document sources of light pollution as well as examples of “dark-sky friendly” lighting.

Some areas may require a map that is “zoomed in on an area” such as on main street or a sports park. Your assessment may include just publicly owned lighting or all lighting including commercial, residential, and open space. The scale and amount of detail are up to the community.

Marked lighting issues should relate to the “three-legged stool” but should also be tailored to your community’s specific dark sky assessment goals.

IDEAS FOR WHAT TO MARK



Unshielded lighting



Glare/ intense brightness



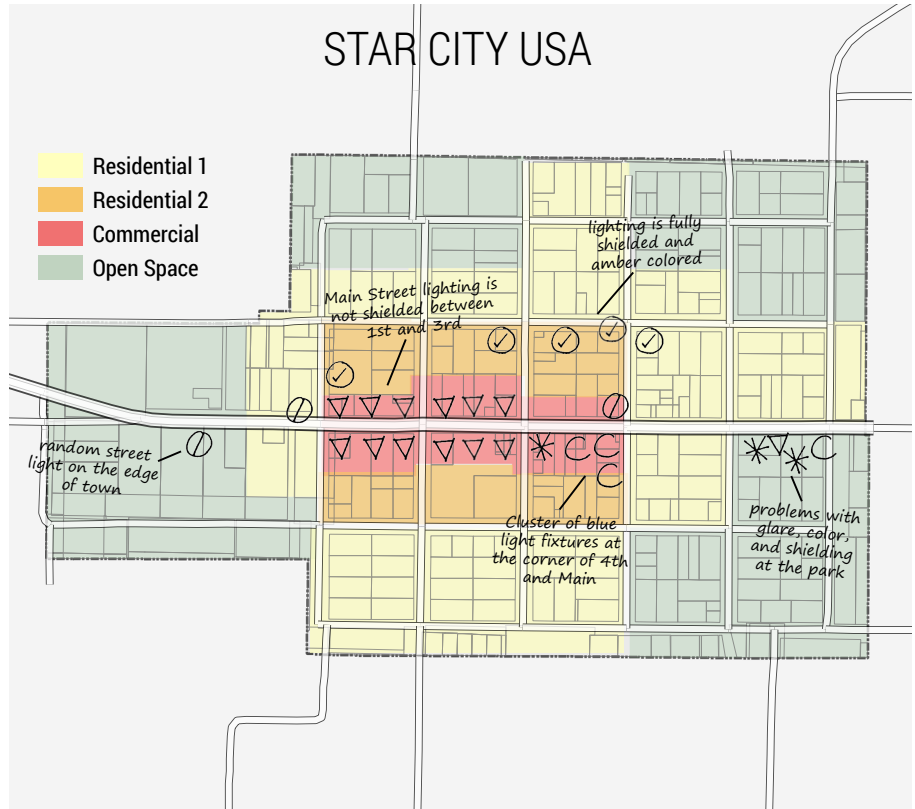
Unnecessary lighting



Blue/ White Colored Light



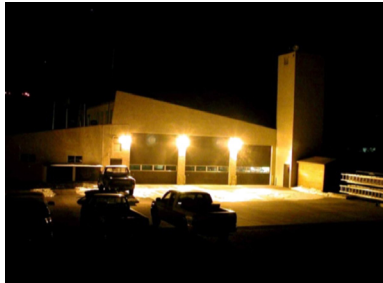
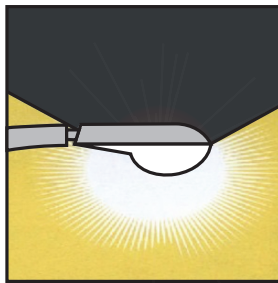
Good lighting



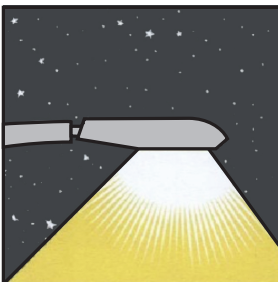
TAKING NIGHT PHOTOS

Documenting light pollution is an important way for educating the public on the actual situation and to support a case for improved lighting.

UNSHIELDED



SHIELDED



NIGHT PHOTO GUIDELINES

The following are helpful guides on settings for taking certain types of photos at night. Remember, always use a tripod. These settings should be adjustable on the manual mode for any DSLR camera.

- **DSLR** stands for “digital single-lens reflex.” DSLR cameras are versatile cameras with changeable lenses that produce high-quality photos.

	SHUTTER	APERTURE	ISO	FLASH
SIGNS	1/50	F/2.8	100	N
CITY SCAPE	1/320	F/4.5	100	N
BRIDGES	15/1	F/5.6	100	N
STREET	1/5	F/4	320	Y
MONUMENTS	15	F/16	250	Y
LIFE	6	F/9	100	Y
THE MILKY WAY	20+	F/2.8	1600	N

IMAGES FROM IDA INTRO TO LIGHTING POWERPOINT

DARK SKY ASSESSMENT GUIDE

CALCULATE THE SAVINGS

Many communities are now realizing the benefits of controlling energy waste through better-quality and better-designed lighting. Calculating potential energy savings and payback for upgrade conversions is another way to understand how adopting dark sky policies and best practices can benefit your community. Use the following formula from the Federal Department of Energy's Exterior Lighting Guidelines to calculate an estimation of lighting power and energy use. Compare your current lighting energy costs with estimated energy costs of an upgrade conversion. Calculating an energy use estimation for prospective lighting replacements is an effective way to illustrate cost savings.

LIGHTING POWER & ENERGY USE ESTIMATION

1. COMPUTE THE TOTAL POWER (kW) USED BY THE EXISTING SYSTEM

EXISTING LAMP OR LUMINAIRE WATTAGE	NUMBER OF LAMPS	TOTAL POWER CONSUMED
_____ W	x _____ lamps	= <input type="text"/> W

2. COMPUTE THE TOTAL ENERGY (kWh) CONSUMED ANNUALLY BY THE EXISTING SYSTEM.

TOTAL POWER CONSUMED BY SYSTEM LUMINAIRE	HOURS OF USE PER DAY	DAYS OF USE PER WEEK	WEEKS OF USE PER YEAR	TOTAL ENERGY CONSUMED
_____ W	x _____ hrs/day	x _____ days/wk	x _____ wks/yr	= <input type="text"/> kWh/

3. COMPUTE THE TOTAL ENERGY COST (DOLLARS) ANNUALLY FOR OPERATION OF THE EXISTING SYSTEM.

TOTAL ENERGY CONSUMED	ENERGY RATE	TOTAL COST
_____ kWh/yr	x _____ \$/kWh	= <input type="text"/> \$/yr

BACK TO THE BASICS

- **W (watt)** the standard unit of power in the International System of Units (SI)
- **Wh (watt hour)** a unit of energy equal to the power of 1 watt operating for 1 hour
- **kW (kilowatt)** a measure of 1,000 watts of electrical power.
- **kWh (kilowatt hour)** a measure of electrical energy equivalent to a power consumption of 1,000 watts for 1 hour.
- **Luminaire** a complete lighting unit that usually includes the fixture, ballasts, and lamps

IN A NUTSHELL...

$$\text{ENERGY} = \text{POWER} \times \text{TIME}$$

DARK SKY ASSESSMENT GUIDE



NOW WHAT? AFTER YOUR DARK SKY ASSESSMENT

What you do after your dark sky assessment is almost as important as the assessment itself. Depending on your specific goals, the following steps can lead to an organized and effective action plan.

1. Debrief after the assessment

- Hold a post-assessment meeting with all assessors.
- Compile information, recording comments and clarifying notes.
- Brainstorm and record suggestions for changes and improvements. Develop ideas for projects that take advantage of opportunities, improve strengths, strengthen weaknesses, or mitigate threats.
- Invite participants to be involved in your project and identify how they will be committed.
- Thank everyone for their participation and outline next steps.

2. Form a local Dark Skies Group

(adapted from Advice on Starting a Local Dark Skies Group, Ed Stewart, Dark Skies, Inc., of the Wet Mountain Valley)

- Educate yourself on the various aspects of light pollution.
- Develop a core working group to support the initiative.
- Build awareness and education through local media and social media.
- Personally contact business owners and managers on the benefits of proper outdoor lighting.
- Provide a vendors list of dark sky friendly fixtures to contractors, hardware stores, and home improvement businesses.
- Contact the local power company for potential incentives or discounts on amber LED fixtures.
- Individually approach town leadership to get a feel for local support.
- Take the long-range approach. This may be seen as a “tree hugger” issue, but is about protecting the rural environment and quality of life.
- Stay positive and focus on benefits and advantages: reduced power consumption, cost savings, improved quality of life, and improved potential tourism.

3. Pursue Dark Sky Places certification

- Provide the compiled report to local leadership, with suggested actions.
- Gauge the level of willingness of local leadership to take action.
- Outline the current project prioritization for leaders and ask leaders for input.
- Examine the potential to become a dark-sky certified community at <http://www.darksky.org/idsp/become-a-dark-sky-place/>.
- Fill out the application at <http://www.darksky.org/idsp/become-a-dark-sky-place/dark-sky-community-inquiry/>.

4. Plan action

- Create an implementation plan based on prioritized projects or actions.
- Identify potential funding sources as needed, required partners, and any needed changes to town code.
- Plan completion of small simple tasks first to build momentum for larger projects.
- Build critical mass—get the word out! Notify and continually engage and invite stakeholders, land owners, business owners and general public.

NOTES

IDA DARK SKY COMMUNITY

An IDA Dark Sky Community (DSC) is a town, city, or municipality that has shown exceptional dedication to the preservation of the night sky through the implementation and enforcement of quality lighting codes, dark sky education, and citizen support of dark skies.

Communities apply with the IDA who will make a decision in an average of one-to-two years from the initial request.

Requirements that must be maintained:

- Quality comprehensive lighting code
- Community commitment to dark skies
- Broad support from community organizations
- Community commitment to education on dark skies
- Success in light pollution control
- A continuing sky brightness measurement program

For full instructions and information:

<http://www.darksky.org/idsp/become-a-dark-sky-place/>

DARK SKY ASSESSMENT GUIDE

ADDITIONAL RESOURCES

GENERAL

International Dark Sky Association: <http://www.darksky.org>

Colorado Plateau Dark Sky Cooperative: <https://cpdarkskies.org>

The Consortium for Dark Sky Studies: <http://darkskystudies.org>

International Dark Sky Association Salt Lake City Chapter: <https://www.darkskyslc.org/>

Interactive light pollution mapping tool: <https://www.lightpollutionmap.info>

Building Energy Codes Program: <https://www.energycodes.gov/comcheck>

Watts-to-lumens free calculator: <http://www.rapidtables.com/calc/light/watt-to-lumen-calculator.htm>

Sensible outdoor lighting: <https://darkskywisconsin.uwex.edu/files/2015/11/township-brochure.pdf>

The new world atlas of artificial night sky brightness: <http://advances.sciencemag.org/content/2/6/e1600377.full>

Federal Department of Energy's Exterior Lighting Guidelines: http://cltc.ucdavis.edu/sites/default/files/files/publication/2010_DOE_FEMP_Exterior_Lighting_Guide.pdf

How to carry out a dark sky survey: <https://darkskydiary.wordpress.com/2010/12/18/how-to-carry-out-a-dark-sky-survey/>

Luginbuhl and Hall. "How Flagstaff is Preserving Dark Skies." *Astronomy*, Sept. 2017, pp. 56-60.

RECREATION LIGHTING

Powder Mountain Night Skiing: 6,248,060 total lumens for 19 acres of skiable terrain (ratio of 7.6 lumens per square foot). 6500 Kelvin color temp. <http://ultratechlighting.com/wp-content/uploads/2016/01/SNBT-FL-300W-B2.pdf>

Nordic Valley Night Skiing: 6,639,390 lumens and about 54 acres of skiable terrain (ratio of about 3 lumens per square foot). 6500 Kelvin color temp.

International Tennis Federation: <http://www.itftennis.com/technical/facilities/facilities-guide/lighting.aspx>

FLAG LIGHTING

Federal law for US flag: <http://www.senate.gov/reference/resources/pdf/RL30243.pdf>

Federal and state facilities: See UCA §17-27a-304. <http://le.utah.gov/xcode/Title17/Chapter27A/17-27a-S304.html>

Canopy lighting a parking lot light: See IDA model ordinance regarding lumens per gas pump and lumens per parking stall: <http://darksky.org/our-work/public-policy/mlo/>

TOWER LIGHTING

Federal Aviation Administration: https://www.faa.gov/regulations_policies/faq_regulations/

Federal Communications Commission: <https://www.fcc.gov/general/rules-regulations-title-47>

ILLUMINATION STANDARDS

Illuminating Engineering Society (IES): <https://www.ies.org/standards/>

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TOWN OF WESTLAKE

ORDINANCE NO. 879

AN ORDINANCE OF THE TOWN OF WESTLAKE AMENDING CHAPTER 102, “ZONING” ARTICLE 6 “PERFORMANCE STANDARDS”, DIVISION 2 “OUTDOOR LIGHTING”, SECTIONS 102-206 THROUGH 102-240 BY PROVIDING FOR NEW DEFINITIONS AND NEW STANDARDS FOR OUTDOOR LIGHTING; PROVIDING A PENALTY; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AUTHORIZING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Town of Westlake, Texas is a general law Town; and

WHEREAS, the Town Council of the Town of Westlake finds it necessary for the public health, safety and welfare that new standards for outdoor lighting be adopted; and

WHEREAS, the Town Council of the Town of Westlake adopted Ordinance 386 on January 22, 2001 establishing outdoor lighting standards for the Town of Westlake; and

WHEREAS, the Town Council of the Town of Westlake has adopted a Comprehensive Plan for the Town of Westlake established by Ordinance 747; and

WHEREAS, the Town Council of the Town of Westlake has amended the Comprehensive Plan by providing Urban Lighting Zones established by Ordinance 878; and

WHEREAS, the Town Council of the Town of Westlake has a desire to be a dark-skies community; and

WHEREAS, upon the recommendation of the Town of Westlake Planning & Zoning Commission, the Town Council of the Town of Westlake, Texas, is of the opinion that it is in the best interests of the town and its citizens that the amendments Section 102-206 through 102-240 of the Town of Westlake Code of Ordinances should be approved and adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTLAKE, TEXAS:

SECTION 1: That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety.

SECTION 2: That Chapter 102, “Zoning” Article 6 “Performance Standards”, Division 2 “Outdoor Lighting”, Sections 102-206 through 102-240 of the Town of Westlake Code of Ordinances, as amended, is hereby amended as follows:

CHAPTER 102 ZONING

ARTICLE VI PERFORMANCE STANDARDS

DIVISION 2. OUTDOOR LIGHTING

Section 102-206 Definitions.

Accent lighting. Lighting used to emphasize or draw attention to a special object or building.

Adaptive Controls. Devices such as motion sensors, timers and dimmers used in concert with outdoor lighting equipment to vary the intensity or duration of operation of lighting.

Advertising searchlight. An outdoor advertising device used to direct beams of light upward.

Ambient light. The general overall level of lighting in an area.

Brightness. Strength of the sensation that results from viewing surfaces from which the light comes to the eye.

Bulb or lamp. The source of electric light. To be distinguished from the whole assembly (see luminaire). Lamp often is used to denote the bulb and its housing.

Candela (cd). Unit of luminous intensity. One candela is one lumen per steradian. Formerly called the candle.

Candlepower. Luminous intensity expressed in candelas.

Candlepower distribution curve. A plot of the variation in luminous intensity of a lamp or luminaire.

Commission Internationale de l'Eclairage (CIE). The International Commission on Illumination. Sets most lighting standards.

Coefficient of Utilization (CU). Ratio of luminous flux (lumens) from a luminaire received on the "work plane" [the area where the light is needed] to the lumens emitted by the luminaire.

Color Rendering Index (CRI). A measure of the accuracy with which a light source of a particular CCT renders different colors in comparison to a reference light source with the same CCT under normal daylighting. A high CRI provides better illumination with the same or lower lighting levels.

Compact fluorescent. A discharge lamp having a coating of fluorescent material on its inner surface and containing mercury vapor whose bombardment by electrons from the cathode provides ultraviolet light which causes the material to emit visible light.

Correlated Color Temperature (CCT). A measure in degrees Kelvin (°K) of light's warmth or coolness. Lamps with a CCT of less than 3,200 °K are pinkish and considered warm. Lamps with a CCT greater than 4,000 °K are bluish-white and considered cool.

Cosine law. Illuminance on a surface varies as the cosine of the angle of incidence of the light. The inverse square law and the cosine law can be combined.

Cut off angle, of a luminaire. The angle, measured up from the nadir (i.e. straight down), between the vertical axis and the first line of sight at which the bare source (the bulb or lamp) is not visible.

Cutoff fixture. An IES definition “Intensity at or above 90° (horizontal) no more than 2.5% of lamp lumens, and no more than 10% of lamp lumens at or above 80°”.

Dark adaptation. The process by which the eye becomes adapted to a luminance less than about 0.03 candela per square meter (0.01 footlambert).

Diffuser. A device used to distribute light from a source.

Dimmer. Dimmers can reduce the input power requirements and the rated lumen output levels of incandescent and fluorescent lights. Fluorescent lights need special dimming ballasts. Dimming incandescent lights reduces their efficiency.

Disability glare. Glare resulting in reduced visual performance and visibility. It is often accompanied by discomfort.

Discomfort glare. Glare that produces discomfort, but does not necessarily diminish visual performance.

Efficacy. The ratio of light output to its consumption of power, measured in lumens per watt (lm/W), or the ability of a lighting system to produce the desired result.

Efficiency. A measure of the effective or useful output of a system compared to the input of the system.

Energy (radiant energy). Unit is erg, or joule, or kWh.

Façade lighting. The illumination of the exterior of a building.

Fixture. The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Fixture Lumens. A light fixture’s light output after processing of emitted light by optics in that fixture.

Fixture Watts. The total power consumed by a fixture. This includes the power consumed by the lamp(s) and ballast(s).

Floodlight. A fixture designed to “flood” a well defined area with light.

Flux (radiant flux). Unit is erg/sec or watts.

Footcandle. Illuminance produced on a surface one foot from a uniform point source of one candela. A footcandle is equal to one lumen per square foot.

Footlambert. The average luminance of a surface emitting or reflecting light at a rate of one lumen per square foot.

Full-cutoff fixture. An IES definition; “Zero intensity at or above horizontal (90° above nadir) and limited to a value not exceeding 10% of lamp lumens at or above 80°”.

Fully shielded. A luminary constructed or shielded in such a manner that all light emitted by the luminary either directly from the lamp or indirectly from the luminary, is projected below the horizontal plane through the luminary's lowest light emitting part as determined by photometric test or certified by the manufacturer.

Glare. Direct lighting emitted from a luminary that causes reduced vision or temporary blindness. Intense and blinding light that reduces visibility. A light within the field of vision that is brighter than the brightness to which the eyes are adapted.

Halogen lamp. A specialized type of incandescent lamp which has a significantly hotter filament than conventional incandescent lights. Rather than filling the bulb with an inert gas, the halogen bulbs use a highly reactive element. The resulting reaction produces a significantly brighter light and at extremely high temperatures.

HID lamp. In a discharge lamp, the emitted energy (light) is produced by the passage of an electric current through a gas. High-intensity discharge (HID) include mercury, metal halide, and high pressure sodium lamps. Other discharge lamps are LPS and fluorescent. Some such lamps have internal coatings to convert some of the ultraviolet energy emitted by the gas discharge into visual output.

High pressure sodium (HPS). A high intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures (100 torr). HPS is essentially point source light.

Horizontal plane. A line horizontal to the lowest point on the fixture from which light is emitted.

House-side shield. Opaque material applied to a fixture to block the light from illuminating a residence or other structure being protected from light trespass.

Illuminance. Density of luminous flux incident on a surface. Unit is footcandle or lux.

Illuminating Engineering Society of North America (IES or IESNA). the professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

Incandescent lamp. Any lamp that produces light by heating a filament through use of an electric current.

Infrared radiation. Electromagnetic radiation with longer wavelengths than those of visible light, extending from the nominal red edge of the visible spectrum at 700 nanometers to 1 mm.

Intensity. the degree or amount of energy or light.

Internally Illuminated Architecture. Any architectural element including walls or portions of buildings that is internally illuminated and that is not a sign, windows, or doors.

International Dark-Sky Association (IDA, Inc.). A non-profit organization whose goals are to build awareness of the value of dark skies, and of the need for quality outdoor lighting.

Inverse-square law. The illuminance at a point varies directly with the intensity, I , of a point source and inversely as the square of the distance, d , to the source. $E = I / d^2$

kWh: Kilowatt-hour. A unit of energy equal to the work done by one kilowatt (1000 watts) of power acting for one hour.

Lamp Life. The average life span for a specific type of lamp. Half of lamps will perform longer than the average; the others will fail before the average.

LED. Light emitting diode. A semiconductor device that emits visible light when an electric current passes through it.

LED, Narrow-Spectrum(Band) Amber. A light emitting diode (LED) with a peak wavelength between 585 and 595 nanometers and a full width at 50 percent power no greater than 15 nanometers.

Light Pollution. Any adverse effect of artificial light.

Light Quality. A measurement of a person's comfort and perception based on the lighting.

Light source. A device (such as a lamp) which produces visible energy as distinguished from devices or bodies which reflect or transmit light such as a luminary.

Light Spill. The unwanted spillage of light onto adjacent areas and may affect sensitive receptors particularly residential properties and ecological sites.

Light Trespass. The light from an artificial light source that is intruding into an area where it is not wanted or does not belong.

Lighting Controls. The devices used for either turning lights on and off or for dimming. Photocells Sensors that turn lights on and off in response to natural light levels. Some advanced mode can slowly dim or increase the lighting.

Low-Pressure Sodium (LPS) lamp. A discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr). LPS is a "tube source". It is monochromatic light.

Lumen. A unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela.

Lumen depreciation factor. The light loss of a luminaire with time due to the lamp decreasing in efficiency, dirt accumulation, and any other factors that lower the effective output with time.

Luminaire. A complete lighting unit that usually includes the fixture, ballasts, and lamps.

Luminaire Efficiency. The ratio of the light emitted by the luminaire compared to the light emitted by the enclosed lamps.

Luminance. At a point and in a given direction, the luminous intensity in the given direction produced by an element of the surface surrounding the point divided by the area of the projection of the element on a plane perpendicular to the given direction. Units: candelas per unit area.

Luminary. A device or fixture containing a light source and means for directing and controlling the distribution of light from the source.

Lux. One lumen per square meter. Unit of illuminance.

Mercury lamp. A high intensity discharge lamp where light is produced by radiation from mercury vapor.

Metal halide lamp. A high intensity discharge lamp where light is produced by radiation from metal halide vapor.

Nadir. A point on the celestial sphere directly below the observer, diametrically opposite the zenith.

Nanometer (nm). 10^{-9} meter. Often used as the unit for wavelength in the EM spectrum.

Nonessential lighting. Lighting that is not required to ensure the security, safety and the general welfare of the public and the premises.

Occupancy Sensors, Passive Infrared. A lighting control system that uses infrared beams to sense motion. When beams of infrared light are interrupted by movement, the sensor turns on the lighting system. If no movement is sensed after a predetermined period, the system turns the lights off.

Occupancy Sensors, Ultrasonic. A lighting control system using high-frequency sound waves pulsed through a space to detect movement by depth perception. When the frequency of the sound waves change, the sensor turns on the lighting system. After a predetermined time with no movement, the system turns the lights off.

Opaque. Material must not transmit light from an internal illumination source.

Optic. The components of a luminaire such as reflectors, refractors, protectors which make up the light emitting section.

Outdoor Light Output, Total. The maximum total amount of light, measured in lumens, from all outdoor light fixtures. Includes all lights and luminous tubing used outdoors or in areas open to the outdoors, and lights used for external illumination of signs, but does not include lights used inside of internally illuminated signs or luminous tubing used in neon signs. For luminous tubes used outside of signage, output is calculated per linear foot of tubing rather than per lamp. For lamp types that vary in their output as they age (such as high pressure sodium, metal halide and fluorescent), the initial output, as defined by the lamp manufacturer, is the value to be considered.

Partially Shielded. Shielding so that the lower edge of the shield is at or below the centerline of the light source or lamp so as to minimize light transmission above the horizontal plane, or at least 90 percent of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data.

Photocell. An electronic device that changes the light output of a luminaire dynamically in response to the ambient light level around the luminaire.

Photometry or Photometric. The quantitative measurement of light level and distribution.

Quality of light. A subjective ratio of the pluses to the minuses of any lighting installation.

Reflector. An optic that achieves control of light by means of reflection (using mirrors).

Refractor. An optic that achieves control of light by means of refraction (using lenses).

Semi-cutoff fixture. An IES definition; "Intensity at or above 90° (horizontal) no more than 5% of lamp lumens and no more than 20% at or above 80°".

Shielding. An opaque, physical structure intended to restrict the transmission of light.

Skyglow. Diffuse, scattered sky light attributable to scattered light from sources on the ground.

Source Intensity. This applies to each source in the potentially obtrusive direction, outside of the area being lit.

Spill Light. Light emitted by the lighting installation that falls outside the boundaries of the property on which the installation is sited.

Spotlight. A fixture designed to light only a small, well-defined area.

Stray light. The emission of light that falls away from the area where it is needed or wanted. Light trespass.

Task Lighting. Task lighting is used to provide direct light for specific activities without illuminating the entire area.

Ultraviolet light. Electromagnetic radiation with wavelengths from 400 nm to 100 nm, shorter than that of visible light but longer than X-rays.

Uniformity ratio. A ratio of the smoothness of the lighting pattern or the degree of intensity of light or areas to be lighted. Uniformity is the ratio between the lowest and the mean illuminance level in the area to be evaluated ($u = \frac{E_{avg}}{E_{min}}$). The lower the ratio the more uniform the lighting design.

Value measurement, maximum. The measurement of light measured horizontal to the ground and three feet from the ground and directly beneath the light source.

Value measurement, minimum. The measurement of light measured horizontal to the ground and three feet from the ground and midway between light sources. Minimum values are also the

measurements taken for inside structure measurements or in areas of generally uniform coverage such as canopies, ballfields, tennis courts, etc.

Veiling luminance. A luminance produced by bright sources in the field-of-view superimposed on the image in the eye reducing contrast and hence visibility.

Visibility. Being perceived by the eye. Seeing effectively. The goal of night lighting.

Wallpack. A luminaire, typically affixed to the side of a structure, used for area lighting.

Watt. The unit used to measure the electrical power consumption of a lamp.

Section 102-207 Purpose.

This ordinance is intended to establish procedures and standards that which will minimize light pollution glare, light trespass, and conserve energy and maintain the quality of the town's physical and aesthetic character while promoting the best practices as established by the Illuminating Engineering Society of North America (IESNA) and the International Dark Sky Association (IDA). The use of outdoor lighting is often necessary for adequate nighttime safety and utility, but common lighting practices can also interfere with other legitimate public concerns. Principles among these are:

- (a) Degradation of the nighttime visual environment by production of unsightly and dangerous glare; and
- (b) Lighting practices that interfere with the health and safety of Westlake's citizens and visitors; and
- (c) Unnecessary waste of energy and resources in the production of too much light or wasted light; and
- (d) Interference in the use or enjoyment of property that is not intended to be illuminated at night by light trespass, and the loss of the scenic view of the night sky due to increased urban sky-glow; and
- (e) The impact of inappropriately designed outdoor lighting that disrupts nocturnal animal behavior, particularly migrating birds and other species.

Section 102-208 Applicability.

All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this division, the building code and the electrical code of the town as applicable and under appropriate permit and inspection. Except as approved otherwise by the Town Council, these performance standards shall apply to all zoning districts in the town. This ordinance shall apply to all outdoor lighting including, but not limited to, search, spot or floodlights for:

- (a) Buildings and structures;
- (b) Recreational use lighting;
- (c) Parking lot lighting;
- (d) Landscape lighting;

- (e) Street and/or right-of-way lighting;
- (f) Other outdoor lighting.

Section 102-209 Outdoor Lighting Plan.

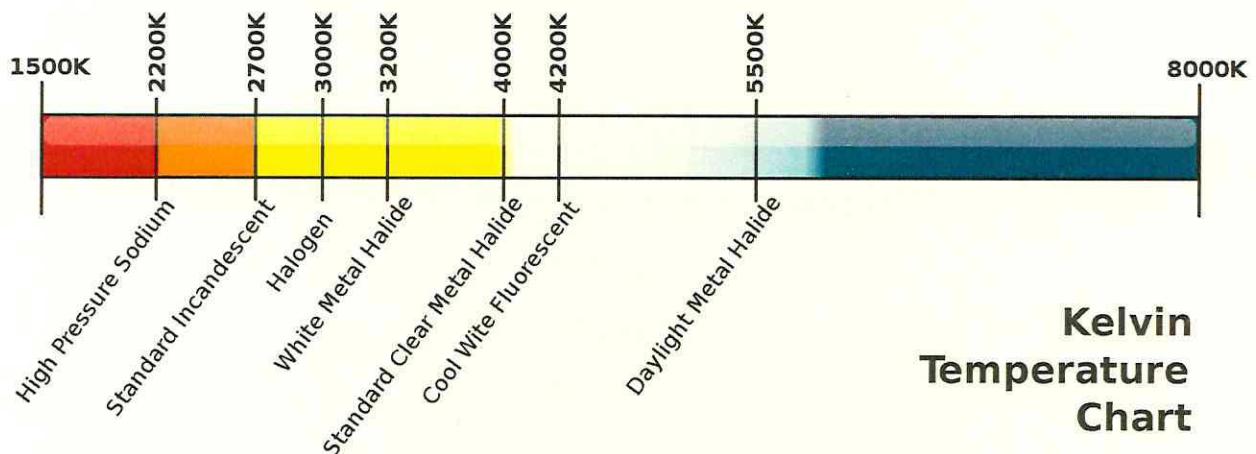
- (a) *Plan Submittal.* An outdoor lighting plan must be submitted separately from any required site plan or landscape plan on all public or private properties, including rights-of-way, public easements, franchises and utility easements. The outdoor lighting plan shall be submitted prior to issuing a building permit. For nonresidential development the outdoor lighting plan must be approved by the Town Council. Except where required elsewhere, for residential developments, an outdoor lighting plan may be approved administratively by the Town Manager or their designee(s).
- (b) *Applications.* Plans shall include the following:
 - (1) A site plan of the proposed fixture locations;
 - (2) The luminous area for each proposed light source with photometrics in foot-candle measurement;
 - (3) The average lighting level of the development;
 - (4) The lamp type and height of the light fixture or of the light source above grade;
 - (5) The type of illumination;
 - (6) The cut-off angles of each fixtures;
 - (7) The number of lumens and wattage of each fixture;
 - (8) Color correlated temperature of each fixture measured in Kelvins as shown in **Figure 1**;
 - (9) A plan to manage glow and glare on the outside of the structure by lighting produced by interior lights. The plan shall include descriptions of window shading, window tinting, structural screening, and operational arrangement of interior lights.
 - (10) Such other information that the Town Manager or their designee(s) may determine is necessary to ensure compliance with this division.
- (c) *Plan Approval.* If the Town Manager or their designee(s) determines that any proposed lighting does not comply with this division, the permit shall not be issued nor the plan approved. Appeals may be made to the Town Council by the following the provisions of Section 102-217.
- (d) *Lamp or Fixture Substitution.* Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the Town Manager or their designee(s) for approval, together with adequate information to assure compliance with this division, which must be received prior to substitution.
- (e) *Certification of Installation.* On projects where an engineer or architect is required, the developer shall verify in writing to the Town that all outdoor lighting was installed in accordance with the approved plans before the Certificate of Occupancy is issued. Until this certification is submitted, approval for use of a Certificate of Occupancy shall not be issued for the project.

- (f) *Record Drawings.* In addition to the certificate of installation, a record drawing of the outdoor lighting plan, as-built, shall be provided upon completion of a development or project where any outdoor lighting was used by the architect or engineer of record.

Section 102-210 General Regulations.

- (a) *Preferred Source.* Due to their high energy, long life, and spectral characteristics, Low-Pressure Sodium (LPS) lamps and Narrow-band amber LEDs (NBALED) are the preferred illumination source throughout the Town. Their use is to be encouraged, when not required, for outdoor illumination whenever their use would not be detrimental to the use of the property. In all applications where LPS lighting is required or preferred, an acceptable alternative is narrow-band amber LEDs.
- (b) *Height of Fixtures.* Lighting fixtures shall be a maximum of 16 feet in height for street lighting, right-of-ways, parking areas, and nonresidential zoning districts. Lighting fixtures shall be a maximum of 8 feet in height within non-vehicular pedestrian areas. Lighting fixtures within residential districts shall be no more than 12 feet in height and no light fixtures located within 50 feet of any residential district shall exceed 12 feet in height. Lighting fixtures affixed to signalized intersection shall be no more than 20 feet in height.
- (c) *Light Emitting Diodes (LEDs).* All LED lighting shall be dimmable and comport to all provisions of this division, unless specified otherwise. The following are preferred options for LED types in use with outdoor lighting:
 - (1) Narrow-band amber LED (NBALED);
 - (2) Phosphor-converted amber (PCALED);
 - (3) Filter warm-white LED (FLED)
- (d) *Lighting Temperature.* All lighting must be less than 3000 Kelvins (K) per the correlated color temperature in **Figure 1**.

FIGURE 1 KELVIN TEMPERATURE CHART



- (e) *Lighting Control Requirements.*
 - (1) *Automatic Switching Requirements.* Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control

device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system, all with battery or similar backup power or device.

- (2) *Motion Sensing.* Motion sensing light fixtures shall be fully shielded and properly adjusted, according to the manufacturer’s instruction, to turn off when detected motion ceases.
- (3) *Dimmable Lighting.* Where possible, all outdoor lighting shall contain a dimmable option that comports with the standards of this division.

(f) *Lamp and Shielding.* All light fixtures are required to be fully shielded and shall be installed in such a manner that the shielding complies with the definition of fully shielded light fixtures for all uses, including single-family, except as provided in **Table 1**.

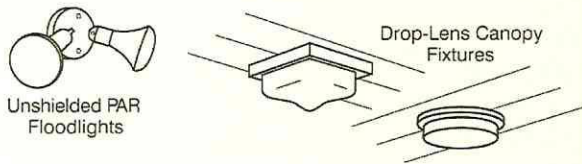
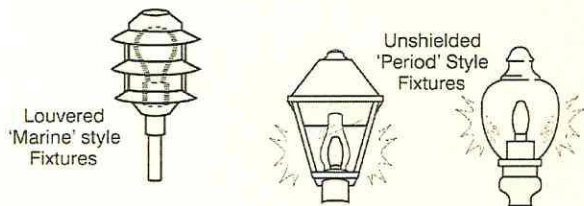
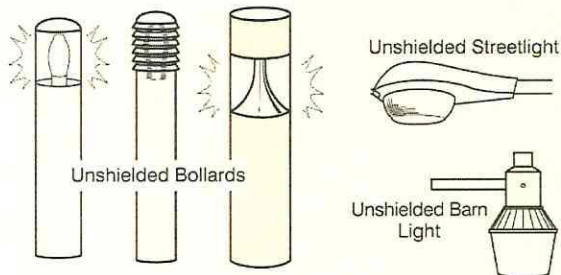
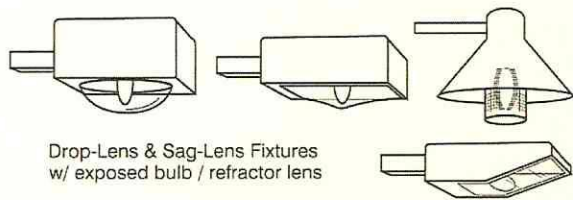
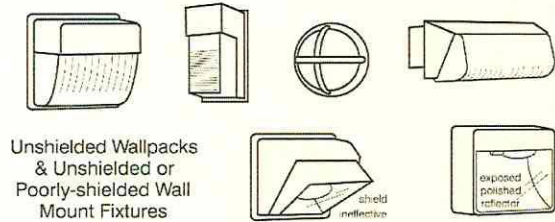
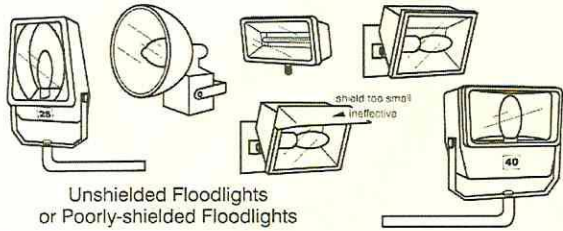
TABLE 1 LAMPING AND SHIELDING

Lamp Type	Shielding
Low Pressure Sodium (LPS)	Fully shielded, with 80° cut-off
High Pressure Sodium (HPS)	Fully shielded, with 80° cut-off
Light Emitting Diode (LED)	Fully shielded, with 80° cut-off
Metal Halide	Fully shielded, with 80° cut-off
Halogen	Prohibited
Mercury Vapor	Prohibited
Fluorescent	Fully shielded, with 80° cut-off
Incandescent	Fully shielded, with 80° cut-off
Any light source 625 lumens and under	Unshielded permitted
Low intensity Neon, Krypton or Argon discharge tubes	Unshielded permitted

FIGURE 2 ACCEPTABLE / UNACCEPTABLE LIGHTING FIXTURES

Unacceptable / Discouraged

Fixtures that produce glare and light trespass



Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night

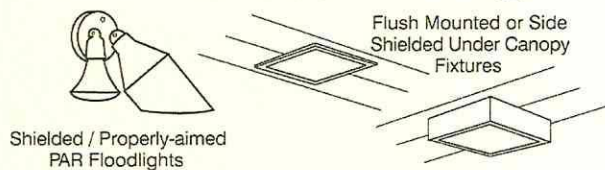
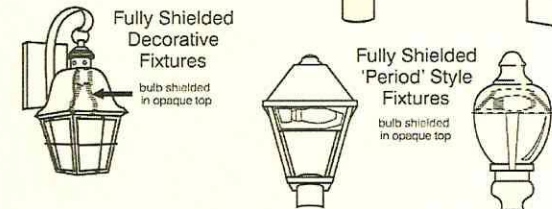
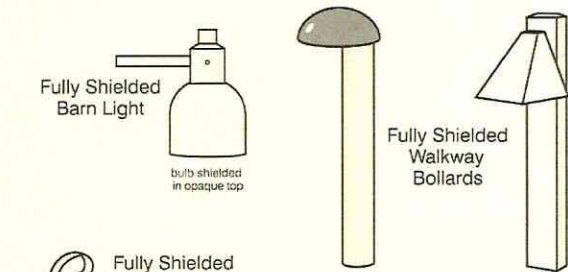
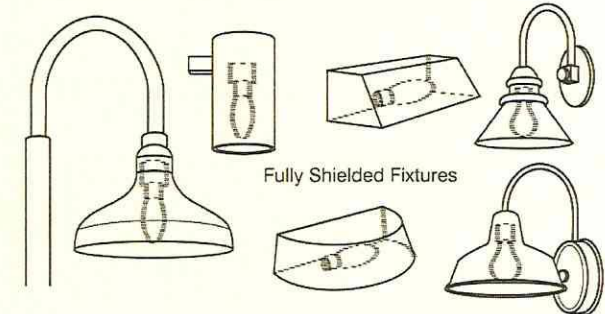
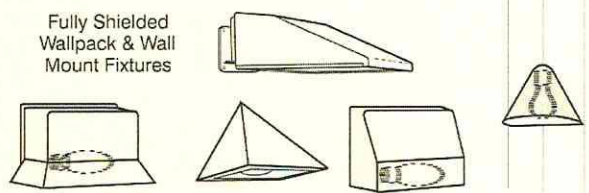
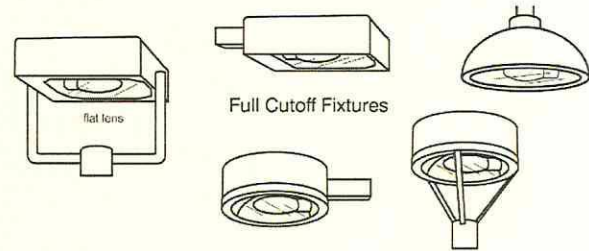


FIGURE 3 SHIELDING CONFIGURATION

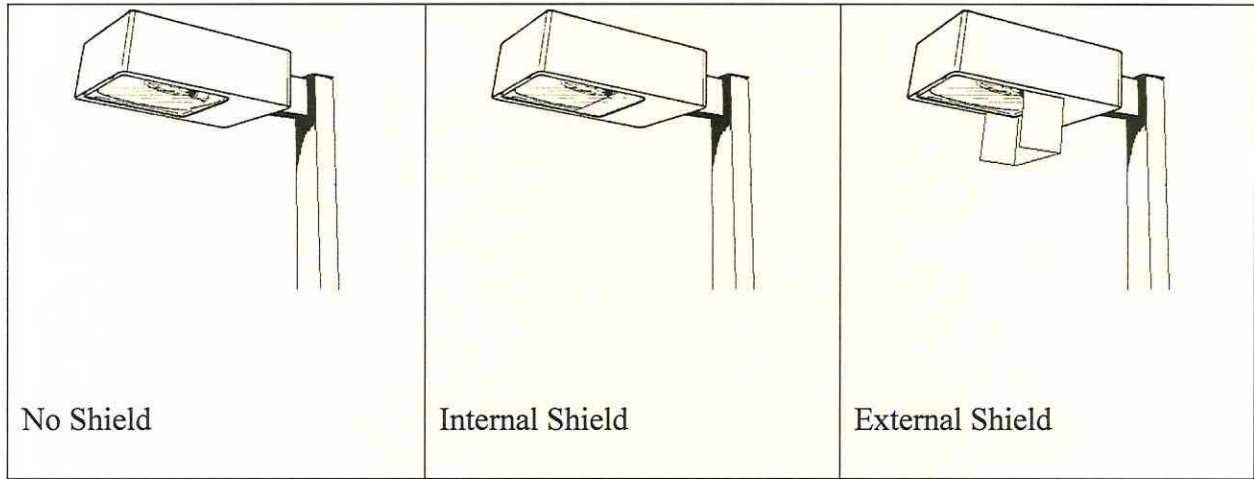
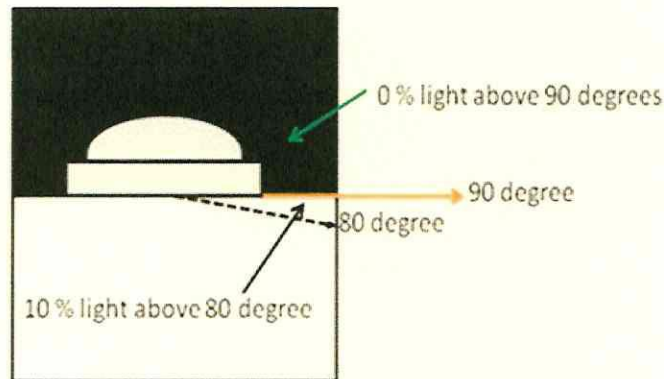


FIGURE 4 FIXTURE CUTOFF ANGLES



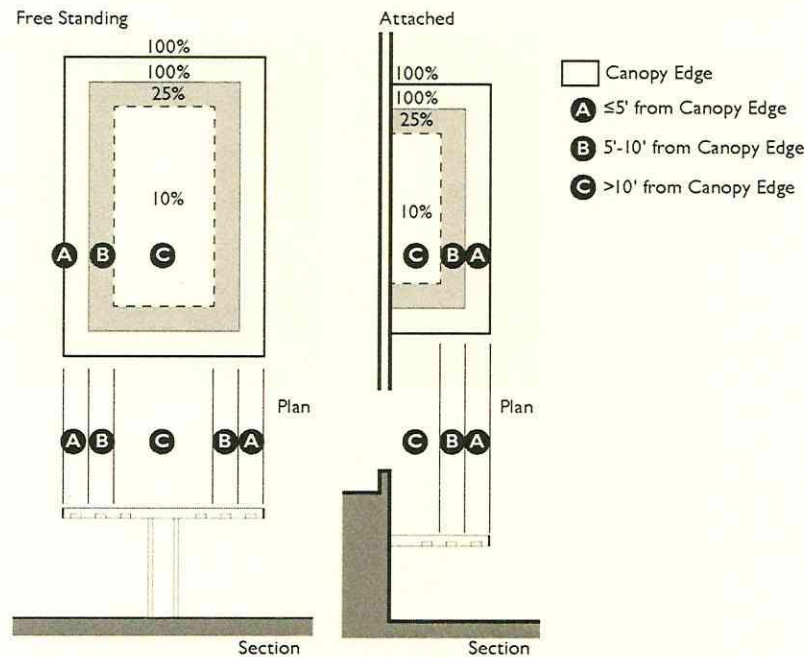
Full cutoff lights

(g) *Total Outdoor Light Output.* Light emitted from outdoor lighting is to be included in the total outdoor light output. Total outdoor light output shall not exceed 100,000 lumens per net acre for all nonresidential uses. Residential uses are evaluated on a per lot basis. Total outdoor light output shall be calculated as follows:

- (1) Light fixtures installed as described below shall be included in the total outdoor light output by adding 100 percent of the initial lumen outputs of the lamps used:
 - a. All unshielded or partially shielded fixtures, regardless of location;
 - b. Light fixtures installed on poles (such as parking lot light fixtures);
 - c. Light fixtures installed on the side of buildings or other structures but not located as described in paragraphs (2) or (3). below; and

- d. Light fixtures installed within open parking garages, or under canopies, building overhangs, or roof eaves that are not fully shielded or are fully shielded but not located as described in paragraphs (2) or (3) below.
- (2) Fully shielded light fixtures installed as described below shall be included in the total outdoor light output by adding only 25 percent (25%) of the initial lumen outputs of the lamps used:
- a. Fully shielded light fixtures located within open parking garages, or located under canopies, building overhangs, or roof eaves, where all parts of the light fixture are located at least five feet but less than 10 feet from the nearest outdoor opening, canopy, or overhang edge.
- (3) Fully shielded light fixtures installed as described below shall be included in the total outdoor light output by adding only 10 percent (10%) of the initial lumen outputs of the lamps used:
- a. Fully shielded light fixtures located within open parking garages, or located under canopies, building overhangs, or roof eaves, where all parts of the light fixture are located 10 feet or more from the nearest outdoor opening, canopy, or overhang edge.

FIGURE 5 FREE STANDING & ATTACHED CANOPY SECTION



- (4) The Total outdoor light output shall not exceed the limits in **Table 2** averaged over the entire development. All site lighting shall not exceed the intensities and uniformity ratios in **Table 2** below, unless otherwise specified in this division.

TABLE 2 AVERAGE LIGHTING LEVELS

Type of Lighting / Land Use	Lighting Levels (footcandles)		
	Minimum	Average	Maximum
Architectural Lighting	0.0fc	1.0fc	3.0fc
Canopy Area Lighting	0.5fc	2.0fc	5.0fc
Entrances and Exits	0.5fc	1.5fc	5.0fc
Loading and Unloading Areas	1.0fc	2.0fc	5.0fc
Multifamily Residential	0.5fc	1.5fc	5.0fc
Nonresidential	0.5fc	1.5fc	10.0fc
Parking Lots / Vehicle Areas / Streets	0.25fc	1.0fc	5.0fc
Public Facilities (recreational areas)	2.5fc	5.0fc	10.0fc
Residential	0.0fc	1.0fc	5.0fc
Security Lighting	0.20fc	1.0fc	5.0fc
Walkways, Landscape or Decorative Lighting	0.0fc	1.0fc	3.0fc

(g) *Time Limits for Outdoor Lighting.* All outdoor lighting shall be turned off at the times listed below. Decorative holiday lights are exempt in accordance with the regulations outlined in this division.

- (1) *Nonresidential.* All nonessential lighting shall be turned off no later than thirty (30) minutes after the business closes or after 11:00 p.m., whichever is later, and remain off for the remainder of the night or until the business reopens, leaving only necessary lighting for site security.
- (2) *Residential.* All nonessential lights exceeding 625 lumens shall be turned off after 11:00 p.m., leaving only necessary lighting for site security.
- (3) *Recreational Facilities.* All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

(h) *Sign Illumination.* Standards for external and internal sign illumination are subject to the provisions in Chapter 70 – Signs of the code of ordinances. Light used for illumination of signs is included toward the total outdoor light output standards of this division.

Section 102-211 Illumination.

- (a) *Illumination.* Unless otherwise provided in this division, illumination, where required by this division, shall have intensities and uniformity ratios in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA) as from time to time amended and the International Dark-Sky Association (IDA).
- (b) *Measurement.* Illumination levels of outdoor lighting shall be measured by a qualified professional according to generally accepted Illuminating Engineering Society of North America methods.
 - (1) *Meter Required.* Lighting levels of outdoor lighting shall be measured in foot-candles with a direct reading portable light meter with a color and cosine corrected sensor with multiple scales. The meter shall read within an accuracy of plus or minus five percent.
 - (2) *Horizontal Method of Measurement.* The meter sensor shall be mounted not more than six inches above ground level in a horizontal position. Readings shall be taken only after the cell has been exposed to provide a constant reading.
- (c) *Computation of illumination.* Illumination at a point may be computed in lieu of measurement. Computation methods shall consist of a generally accepted Illuminating Engineering Society of North America method, using certified photometric data furnished by the fixture manufacturer, lamp manufacturer, photometric laboratory, or other reliable authority satisfactory to the town. Computations shall be based on new, properly seasoned lamps, diffusers and other appurtenances in place, and with proper regard taken for mounting height, relative elevation, natural and manmade objects.
- (d) *Light Trespass Standard.* No use or operation in any district shall be located or conducted so as to produce glare, or either direct or indirect illumination across the bounding property line from a source of illumination into a residentially zoned property, nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property. For the purposes of this section, a nuisance shall be defined as more that one-tenth of one footcandles of light measured at the residential property line and twenty-five hundredths of one footcandles at any adjoining nonresidential property line:

TABLE 3 - LIGHTING AT PROPERTY LINES

Zoning of Property	Horizontal Foot-candles (fc)
Residential districts	0.10fc
Nonresidential districts	0.25fc

- (e) *Lumens*. Brightness of a light fixture shall be measured in lumens. Where applicants may need to measure equivalency of lumens and watts, **Table 4** below shall be used. Where a ratio is not listed in the table, the best practices as prescribed by the IESNA shall apply:

TABLE 4 LUMEN-WATT EQUIVALENTS

Light Output (Lumens)	Power Consumption (Watts)		
	Standard Incandescent	Compact Fluorescent	LED
200 L	25 W	6 W	4 W
450 L	40 W	9 W	8 W
800 L	60 W	14 W	13 W
1,100 L	75 W	19 W	17 W
1,600 L	100 W	23 W	20 W
2,000 L	125 W	33 W	22 W
2,400-2,600 L	150 W	43 W	28 W

Section 102-212 Special Uses.

(a) *Security Lighting.*

- (1) Unless otherwise provided in this division, all building lighting for security will be fully shielded type, not allowing any upward distribution of light. Wallpack type fixtures are acceptable only if they are fully shielded with 80-degree cut-off and shall not project above the fascia or roof line of the building.
- (2) Security fixtures shall not face residential uses.
- (3) Security fixtures shall not be substituted for parking area or walkway lighting and shall be restricted to loading, storage, service and similar locations.

(b) *Canopy Area Lighting.*

- (1) *Shielding.* All development that incorporates a canopy type area including, but not limited to, service stations, automated teller machines, awnings, arcades, porte-cochere or similar installations shall use a recessed lens cover flush with the bottom surface of the canopy that provides a cutoff or shielded light distribution. Such shielding must be provided by the fixture itself and shielding by surrounding structures such as canopy edges is not permitted. Lighting along the canopy edge, side or roof is not permitted.

- (2) *Total Under-Canopy Output.* The total light output used under service station canopies, defined as the sum of all under-canopy initial lamp outputs in lumens, shall not exceed 40 lumens per square foot of canopy and comply with the average lighting levels of **Table 2.**

$$\frac{\sum \text{Lumens under Canopy}}{\text{Square Feet of Canopy}} < 40 \text{ lumens per square foot}$$

- (3) All lighting mounted under the canopy, including but not limited to light fixtures mounted on or recessed into the lower surface of the canopy and any lighting within signage (but not including any lamps mounted within the pumps and used to illuminate information indicating the total cost of such items as fuel pumped and price per gallon), shall be included in the total outdoor light output for the site and is subject to the standards of this division.
- (c) *Entrances and Exits.* All entrances and exits to buildings used for nonresidential purposes and open to the general public, along with all entrances and exits in multifamily residential buildings, shall be lighted to ensure the safety of persons and the security of the building. All lighting shall conform to average lighting levels of **Table 2.**
- (d) *Parking Lots, Garages and Loading Area Lighting.*
- (1) All lighting facilities shall be arranged as to reflect the illumination away from any adjacent property. Such lighting facilities shall provide illumination within parking areas and shall distribute not more than one-fifth (0.20fc) of a foot-candle of light upon any adjacent residential property.
 - (2) Parking lots and vehicle movement areas shall not exceed a maximum illumination value of five foot-candles (5.0fc) or a minimum illumination value of one-fourth (0.25fc) foot-candle. Lamps in decorative lantern type fixtures shall not exceed a maximum of 1,600 lumens. Total pole and fixture height shall not exceed a maximum of 16 feet, measured from grade at the base.
 - (3) All lighting facilities shall be placed, masked or otherwise arranged such that illumination or glare shall not intrude on residential property or create a hazard to motorists on any street, alley or other public or private right-of-way.
 - (4) All light fixtures used on open parking garages, including those mounted to the ceilings over the parking decks, shall be fully shielded.
 - (5) The lumen output of lamps mounted on or within open parking garages shall be included toward the total outdoor light output standards of this division.
- (e) *Outdoor Recreational Facilities.* Any light source permitted by this division may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, driving ranges,

outdoor arenas and amphitheaters, show areas, or other field recreation facilities and are subject to the following conditions:

- (1) *Illumination.* Any illumination level exceeding a maximum of ten foot-candles (10.0fc) must receive prior approval by the Council.
- (2) *Shielding.* All fixtures used for event lighting shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up light, spill-light, and glare.
- (3) *Time Limits.* No illuminated sports facility shall be illuminated after the time limits outlined in this division, except to conclude a scheduled recreational or sporting event in progress prior to the time limitation.

(f) *Street Lighting.*

- (1) Standards for street lighting installed on public rights-of-way must conform to the Town Engineering Standards and the Town's Comprehensive Plan and the standards of this division.
- (2) Street lighting installed on private rights-of-way shall be included within the total outdoor light output for the development.
- (3) Streetlights for both public and private right-of-ways are not exempt from the provisions of this division.

(g) *Internally Illuminated Architectural Elements.* Any architectural element including walls or portions of buildings that are internally illuminated and that is not a sign or fenestration (e.g. windows or doors) shall have 100 percent of the initial lamp output of all lamps used to provide such illumination counted toward unshielded lighting for the purposes of calculating total outdoor light output for the site and is subject to the standards of this division.

(h) *Architectural, Aesthetic and Landscape Lighting.* Architectural lighting used to illuminate the wall of a building or landscape lighting used to illuminate trees or other landscape elements is permitted. All building lighting for aesthetics shall be fully shielded type, not allowing any upward distribution of light and must be externally lit from the top and shine downward, except as provided below:

- (1) Architectural and landscape lighting that is directed downward onto a wall, tree or other landscape feature shall be included in the total outdoor light output standards provided in **Table 2**, based on whether a fully shielded or partially shielded light fixture is used; and
- (2) Architectural and landscape lighting that is directed upward onto a wall, tree or other landscape feature shall be included in the total outdoor light output standards provided in **Table 2**. Fixtures shall be located, aimed or shielded to minimize light spill into the night sky.

(i) *Emergency Lighting.* Emergency lighting that is only turned on in the event of a power failure or when an alarm is activated is permitted in all zoning districts and is excluded from the total lumen calculations for the site.

- (j) *Neon Building Lighting.* Neon building lighting is included in the total outdoor light output calculations for the site. Any unshielded neon lighting is limited by the unshielded lighting limits of this division.

Section 102-213 Prohibited Lighting.

- (a) *Laser source light.* The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.
- (b) *Cobra-head fixtures.* Cobra-head-type fixtures having dished or drop lenses are prohibited.
- (c) *Searchlights.* The operation of searchlights for advertising purposes is prohibited.
- (d) *Floodlights.* The use of floodlights is prohibited.
- (e) *Up lighting.* Up lighting of display, building and aesthetic lighting is prohibited, except where provided otherwise in this division.
- (f) *Halogen lights.* Halogen lights are prohibited.
- (g) *Mercury vapor lights.* Mercury vapor lights are prohibited.
- (h) *Flashing lights.* Any lighting device located on the exterior of a building or on the inside of a window which is visible beyond the boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating or strobe light illumination.

Section 102-214 Exemptions.

The following are exempt from the provisions of this division:

- (1) *Emergency Lighting by Emergency Services.* All temporary emergency lighting needed by the Westlake Department of Public Safety or other emergency services, as well as all vehicular luminaries.
- (2) *Holiday Decorations.* Seasonal decorative lighting is exempt from the provisions of this division provided that individual lamps are less than 10 watts incandescent or equivalent lumens.
- (3) *Solar Powered Lighting.* Solar powered lights less than 5 watts incandescent or equivalent lumens per fixture used in residential landscaping application and to illuminate walkways are exempt from applicable lamp type and shielding standards, but must conform the average lighting levels of **Table 2**.
- (4) *Public Art.* Lighting for public monuments and statuary as recommended by the Westlake Public Art Competition Advisory Committee and approved by the Town Council are exempt from the standards of this division.
- (5) *Construction.* All outdoor lighting used for construction or major renovation structures and facilities are exempt from the provisions of this division unless specified elsewhere in this division or code of ordinances.
- (6) *Swimming Pool and Decorative Water Fountain Lighting.* Underwater lighting in swimming pools and other water features are exempt from the lamp type and shielding standards.

Section 102-215 Temporary Exemptions.

- (a) Upon approval by the Town Manager or their designee(s), temporary exemptions from the requirements of this division shall be for a period not to exceed 10 days.
- (b) Any person may submit a written request, on a form prepared by the town for a temporary exemption request. The request shall fulfill the same requirements as defined in in the Outdoor Lighting Plan standards of this division.
- (c) Requests for renewal or exemptions shall be processed in the same way as the original request. Each renewal shall be valid for not more than 10 days or a time period designated by the Town Manager or their designee.
- (d) Approval for temporary exemptions will be based on the effect of location and use of outdoor lighting fixtures.
- (e) Roadway and/or street lighting, whether public or private, is not eligible for exemption.

Section 102-216 Nonconforming.

- (a) All luminaries lawfully in place prior to the date of the ordinance from which this division is derived shall be considered as having legal nonconforming status. However, any luminary that replaces a legal nonconforming luminary, or any legal nonconforming luminary that is moved, must meet the standards of this division, subject to the following conditions.
 - (1) If a person makes any change or addition to an existing lighting system, the change or addition shall conform to the provisions of this division;
 - (2) If a person makes any change or addition to an existing building which results in an increase in the size of the building by more than twenty percent (20%), the person shall ensure that all existing outdoor lighting shall conform to the provisions of this division.

Section 102-217 Appeals to Town Council.

An applicant shall have the right to appeal a decision of the Town Manager or their designee(s). All such appeals shall be heard by the Town Council. The appeal(s) shall be filed with the Town Manager or their designee(s) within twenty (20) days after the date of decision by the Town Manager or designee. After the hearing on the appeal for an application, the Town Council shall grant or deny the appeal.

Section 102-218 – 102-240. - Reserved.

SECTION 3: That all provisions not hereby amended shall remain in full force and effect.

SECTION 4: That this Ordinance shall be cumulative of all other Town Ordinances and all other provisions of other Ordinances adopted by the Town which are inconsistent with the terms or provisions of this Ordinance are hereby repealed.

SECTION 5: That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of

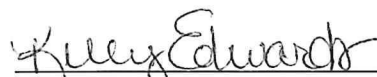
the Town of Westlake, and upon conviction shall be punishable by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 7: It is hereby declared to be the intention of the Town Council of the Town of Westlake, Texas, that sections, paragraphs, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared legally invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such legal invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the Town Council of the Town of Westlake without the incorporation in this Ordinance of any such legally invalid or unconstitutional, phrase, sentence, paragraph or section.

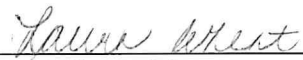
SECTION 8: This ordinance shall take effect immediately from and after its passage as the law in such case provides.

PASSED AND APPROVED ON THIS 25TH DAY OF FEBRUARY 2019.

ATTEST:

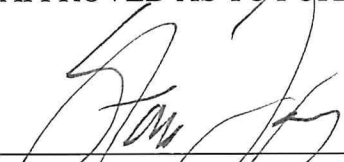


Kelly Edwards, Town Secretary



Laura Wheat, Mayor

APPROVED AS TO FORM:



L. Stanton Lowry, Town Attorney



Star-Telegram MEDIA

Arlington Citizen-Journal | The Keller Citizen | La Estrella
Mansfield News-Mirror | Star-Telegram Northeast | Weatherford Star-Telegram
star-telegram.com | 808 Throckmorton St. | Ft Worth, Tx. 76102-6315 | 800.776.7827

AFFIDAVIT OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Depth
603646	0004105139	TOWN OF WESTLAKE ORDINANCE NO. 879 A		\$212.10	1	35.00 Li

Attention: KELL EDWARDS

TOWN OF WESTLAKE
1500 SOLANA BLVD 7TH FLR BULD 7200
ROANOKE, TX 76262

TOWN OF WESTLAKE
ORDINANCE NO. 879
AN ORDINANCE OF THE TOWN OF
WESTLAKE AMENDING CHAPTER
102, "ZONING" ARTICLE 6
"PERFORMANCE STANDARDS",
DIVISION 2 "OUTDOOR LIGHT-
ING", SECTIONS 102-206
THROUGH 102-240 BY PROVID-
ING FOR NEW DEFINITIONS
AND NEW STANDARDS FOR
OUTDOOR LIGHTING; PROVID-
ING A PENALTY; PROVIDING A
CUMULATIVE CLAUSE; PROVID-
ING A SEVERABILITY
CLAUSE; PROVIDING A SAV-
INGS CLAUSE; AUTHORIZING
PUBLICATION; AND ESTAB-
LISHING AN EFFECTIVE DATE.
SECTION 5: That any person,
firm or corporation violating any
of the provisions or terms of
this ordinance shall be subject
to the same penalty as provided
for in the Code of Ordinances of
the Town of Westlake, and upon
conviction shall be punishable
by a fine not to exceed the sum
of Two Thousand Dollars
(\$2,000.00) for each offense.
Each day that a violation is per-
mitted to exist shall constitute
a separate offense. PASSED
AND APPROVED ON THIS 25TH
DAY OF JANUARY 2019

TOWN OF WESTLAKE
ORDINANCE NO. 879
AN ORDINANCE OF THE TOWN OF
WESTLAKE AMENDING CHAPTER
102, "ZONING" ARTICLE 6
"PERFORMANCE STANDARDS",
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a separate offense. PASSED
AND APPROVED ON THIS 25TH
DAY OF JANUARY 2019


THE STATE OF TEXAS

County of Tarrant


Before me, a Notary Public in and for
said County and State, this day
personally appeared CHRISTINE
LOPEZ, Bid and Legal Coordinator
for the **Star-Telegram**, published by
the Star-Telegram, Inc. at Fort Worth,
in Tarrant County, Texas; and who,
after being duly sworn, did depose
and say that the attached clipping of
an advertisement was published in
the above named paper on the listed
dates:

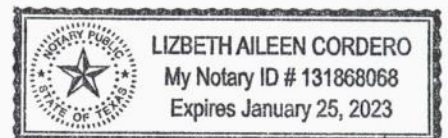
1 Insertion(s)

Published On:
February 27, 2019


(Principal Clerk)

SUBSCRIBED AND SWORN TO
BEFORE ME, THIS 27th day of
February in the year of 2019


Notary Public -



Star-Telegram MEDIA

Arlington Citizen-Journal | The Keller Citizen | La Estrella
Mansfield News-Mirror | Star-Telegram Northeast | Weatherford Star-Telegram
star-telegram.com | 808 Throckmorton St. | Ft Worth, Tx. 76102-6315 | 800.776.7827

AFFIDAVIT OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Depth
603646	0004106767	TOWN OF WESTLAKE ORDINANCE NO. 879 A		\$439.20	1	35.00 Li

Attention: KELLY EDWARDS

TOWN OF WESTLAKE
1500 SOLANA BLVD 7TH FLR BULD 7200
ROANOKE, TX 76262

TOWN OF WESTLAKE
ORDINANCE NO. 879
AN ORDINANCE OF THE TOWN OF
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THE STATE OF TEXAS

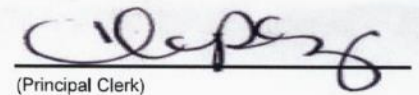
County of Tarrant

Before me, a Notary Public in and for
said County and State, this day
personally appeared CHRISTINE
LOPEZ, Bid and Legal Coordinator
for the Star-Telegram, published by
the Star-Telegram, Inc. at Fort Worth,
in Tarrant County, Texas; and who,
after being duly sworn, did depose
and say that the attached clipping of
an advertisement was published in
the above named paper on the listed
dates:

2 Insertion(s)

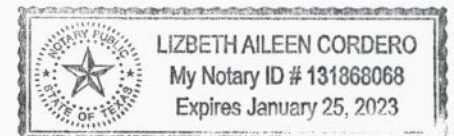
Published On:

February 28, 2019, March 01, 2019


(Principal Clerk)

SUBSCRIBED AND SWORN TO
BEFORE ME, THIS 1st day of
March in the year of 2019


Notary Public -





City Council Agenda March 15, 2021

Agenda Item: **Presentation** **(Discussion)**

Agenda Description:

Discussion with staff regarding a candidate debate.

Background Information:

The Mayor requested that the Council discuss holding a debate for the candidates for the upcoming May election.

Staff has been working with the Council Members and candidates to complete profiles that will be added to the website within the next couple of weeks. We have most of them finalized and will share them with the individuals prior to publication.

Financial Information:

N/A

City Contact and Recommendation:

Ben Nibarger, City Administrator

Attachments: