



**City of New Fairview
City Council
Regular Meeting
999 Illinois Lane
Monday, June 20, 2023, at 7:00 pm**

WORK SESSION

1. **Call to Order and Determination of Quorum**
2. **Receive a report and hold a discussion regarding a possible contract with FundView for software management services.**
3. **Receive a report and hold a discussion regarding the Fiscal Year (FY) 2022-23 budget trends and the projections and priorities for FY 2023-24 annual budget.**
4. **Adjournment**

REGULAR SESSION

1. **Call to Order and Determination of Quorum**
2. **Pledge to the Flags.**
 - A. **United States of America**
 - B. **Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.**
3. **Announcements & Special Recognitions:** The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. **City Administrator's Report:** The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. **Public Comment:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens 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.

6. **Consent Agenda:** All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
 - A. **Approve the City Council Meeting minutes for June 5, 2023.**
 - B. **Approve the May 2023 Financial Report.**
7. **New Business:** All matters listed in New Business will be discussed and considered separately.
 - A. **Hold a public hearing and consider an Ordinance for Specific Use Permit of an Airport, Private on 141.49 acres located in G. Buchanan Survey, Abstract No. 31 Wise and Denton Counties, Texas located generally west of S. County Line Road. The property is currently zoned "A" Agricultural.**
 - B. **Hold a public hearing, consider and act on an Ordinance to amend Chapter 9B, Article 2, Sections 11 and 12 to permit Farmer's Market, Outdoor use in the SF Single Family zoning district in the City of New Fairview, under Special Conditions.**
 - C. **Receive, consider, and act on amending City Code of Ordinances Chapter 5, Business Regulations, by Adding Article 5.08, Sections 5.08.001-012, to adopt an Ordinance creating a Farmers Market.**
8. **Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.
9. **Return to Open Session:** Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.
10. **Mayor & Council Member Announcements:** The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

11. Adjournment

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview

City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and on its website, said notice being posted this 16th day of June, 2023 at 5:00 PM at least 72 hours proceeding the meeting time.


Brooke Boller, 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 MEMO**

Prepared By: John Cabrales Jr, City Administrator

June 20, 2023

FundView Software

DESCRIPTION:

Receive a report and hold a discussion regarding a possible contract with FundView for software management services.

BACKGROUND INFORMATION:

For some time now, staff have been having issues with some of our software products not performing functions for our operations. For example, our financial software CSA, which we have had since 2020, does not readily transfer our budget into our monthly financial report. We are having to find workarounds for documenting transfers between our various Special Revenue Funds and the General Fund. Also, in order to reconcile our monthly report, the bank statement must be compared with our credit card statement, direct deposits, and taxes, and then must be manually entered into CSA. This process takes the City Secretary approximately two to four days to complete this reconciliation. CSA also does not have a cash drawer feature, so we currently must generate receipts from a different software that does not track well with

We are also experiencing issues with our CivicGov software and having to find workarounds for this as well. For example, the GIS mapping system requires us to get updates from Denton Cad and Wise CAD. This is an additional expense that was not anticipated because we must have Dunaway do this for us. This data is also not updated in a timely manner, and this negatively impacts on our ability to file permits because we do not have an address for the property in the system. The software also does not allow us to process permit payments, so we are forced to use another software to do this and then manually transfer that payment into the software.

Staff recently participated in a demonstration from FundView on the various software modules that they provide. FundView is a fully integrated suite of fund-based accounting solutions designed specifically for local governments. FundView's subscription-based software-as-a service model allows organizations to upgrade to state-of-the-art solutions. Services include managing all software updates and data backups. FundView solutions are true web-based, providing secure access from any internet connection. FundView is also used by several cities including Boyd, Bartonville, Aurora, Copper Canyon, Gunter.

Staff would like to bring back a contract for the Council’s consideration so that we can switch to this software for better integration of our various departments, and improved operational efficiencies.

FINANCIAL CONSIDERATION:

According to FundView’s proposal, the first-year cost is \$18,500 for the integration and training, and \$19,000 for the annual subscription for a total of \$37,500. We are currently paying \$20,994 annually for the various software services that we are using and that will be replaced by FundView.

SOFTWARE	NOTICE TO BE GIVEN	AMOUNT PAID YEARLY
Bamboo Hr	None required (30 days will be given)	\$3,000.00
CSA Accounting Software	None required (30 days notice will be given)	\$2,494.00
CivicGov	60 days notice must be given by July 1, 2023	\$7,500.00
MCRS/UDS Court Software	None required (30 day notice will be given)	\$5,200.00
Dunaway GIS Sysytem updtaes for CivicGov	Non required	\$2,800.00
	TOTAL AMOUNT YEARLY	\$20,994.00

RECOMMENDED MOTIONS:

None, discussion only.

ATTACHMENT(S):

1. Proposal
2. Agreement
3. Presentation



Prepared for the City of New Fairview, TX

FundView Software ERP Solutions

Quote#JW000363 v1

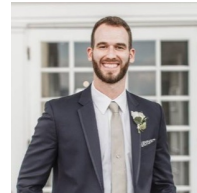
PREPARED FOR

Susan Greenwood
Court Administrator
susan@newfairview.org
(817) 638-5366



PREPARED BY

Joe Wertz
Director of Sales
joe.wertz@fastsw.com
(806) 370-3710



A handwritten signature in black ink that reads "Joe Wertz".



www.fastsw.com - (806) 794-3278

Friday, June 09, 2023

City of New Fairview, TX
Susan Greenwood
Court Administrator
999 Illinois Ln.
New Fairview, TX 76078
susan@newfairview.org

Dear Susan ,

Based on our recent conversations, we have prepared a Subscription Proposal for the City of New Fairview, TX with the software applications requested.

This pricing was determined by the information provided via the Pricing Metrics Survey.

Please let us know when you have reviewed our proposal and we can schedule a call to answer any questions you may have.

We appreciate your interest in our FundView solutions and would love to have the opportunity to partner with the City of New Fairview, TX!

Best Regards

A handwritten signature in black ink, appearing to read "Joe Wertz".

Joe Wertz
Director of Sales
FundView Software



Pricing Assumptions

- Annual Operating Budget - \$1.8MM
- Number of Bank Accounts - 1 - 5
- Number of Monthly Payment - 16 - 20
- Number of Active Employees - 5 - 10
- Number of Monthly Citations - 1 - 25
- Number of Annual Permits - 1501 - 2000
- Number of Annual Code Enforcement Cases - 1 - 25
- Data Migration/Conversion - GL AP PY MC
- Remote Training

Subscription Pricing - Annual

PRODUCT DETAILS	RECURRING AMOUNT
FundView Financial Solutions	
General Ledger	\$2,500.00
Bank Reconciliation	\$1,000.00
Accounts Payable	\$2,000.00
Payroll	\$2,500.00
FundView Citizen Relationship Management Solutions	
Municipal Court	\$2,500.00
Citation Import	\$2,000.00
FASTGovPay Municipal Court - Credit Card & Online Payments	\$750.00
Permits	\$2,500.00
FASTGovPay Permits - Credit Card & Online Payments	\$750.00
Cash Receipting	\$1,000.00
Code Enforcement	\$1,500.00
	Annual Subtotal: \$19,000.00



www.fastsw.com - (806) 794-3278

Professional Services - Initial Year Only

PRODUCT DETAILS	PRICE
FundView Financial Solutions - Remote Training	
General Ledger	\$1,500.00
Bank Reconciliation	\$750.00
Accounts Payable	\$1,000.00
Payroll	\$1,500.00
FundView Citizen Relationship Management Solutions - Remote Training	
Municipal Court	\$1,500.00
Legacy User Discount	(\$500.00)
Citation Import	\$1,000.00
Permits	\$1,500.00
Legacy User Discount	(\$500.00)
Cash Receipting	\$750.00
Legacy User Discount	(\$250.00)
FASTGovPay - Credit Card & Online Payments	\$750.00
Code Enforcement	\$1,000.00
Data Migration/Conversion	
General Ledger	\$1,500.00
Accounts Payable	\$1,000.00
Payroll	\$1,500.00
Municipal Court	\$1,500.00
Project Management Design Configuration	
Project Management	\$1,000.00
Citation Import Configuration/Testing	\$1,000.00



www.fastsw.com - (806) 794-3278

Professional Services - Initial Year Only

PRODUCT DETAILS	PRICE
FASTGovPay - Credit Card & Online Payments Design/Configuration	\$500.00
Data Center Installation/Configuration	\$250.00
Data Backup Configuration/Testing	\$250.00
	Subtotal: \$18,500.00



Terms and Conditions

Included

Unlimited Users
Software Updates
Premium Support
Secure Hosting
Data Backup Plan

Data Migration/Conversion Limitations. The City of New Fairview, TX will help provide data to be migrated/converted to FundView in a consumable format such as .csv, Excel, Access, or SQL database along with the related file definitions and record layouts. Following is a list of the modules of data and the scope of services provided by FundView if each are migrated/converted:

General Ledger –

1. Chart of accounts for all funds. *
2. Account balances for the current and two prior fiscal years.
3. Current year budget and two prior fiscal year budgets.

Accounts Payable –

1. Vendor master file to include vendor name, address, taxpayer ID, and contact information
2. Current year summary 1099 balances as provided by the City.

Payroll -

1. Employee master file to include name, address, date of birth, SSN, contact information, dates (hire, anniversary, etc.), position, pay type, pay rate, deductions, retirement, banking (direct deposit), and tax settings.
2. Current year leave balances.
3. Current calendar year pay history to include paychecks, earnings, expense distribution, deductions and taxes.

Municipal Court -

1. FundView will electronically convert up to the last ten (10) years of historical data from the City's legacy system. FundView and the City will work together to reconcile the most recent twelve (12) months of data.

** Changes to the Chart of Accounts from the legacy system to the current system should be discussed with the City's auditor prior to implementing these changes in FundView.*

Statement of Confidentiality

This proposal is for the sole and exclusive use of the aforementioned entity. The information contained in this document is confidential. It shall not be disclosed outside of the entity, and shall not be duplicated, used or disclosed, in whole or in part, without express written consent of Fund Accounting Solution Technologies, Inc.



www.fastsw.com - (806) 794-3278

FundView Software ERP Solutions

FundView Annual Subscription Summary

DESCRIPTION	AMOUNT
Subscription Pricing - Annual	\$19,000.00
Annual Total:	\$19,000.00

FundView Professional Services - Initial Year Only

DESCRIPTION	AMOUNT
Professional Services - Initial Year Only	\$18,500.00
Total:	\$18,500.00

Prepared for:

City of New Fairview, TX

Susan Greenwood
Court Administrator
(817) 638-5366
susan@newfairview.org

Prepared by:

FundView Software

Joe Wertz
Director of Sales
(806) 370-3710
joe.wertz@fastsw.com

Quote Information:

JW000363

Version: 1
Delivery Date: 06/09/2023
Expiration Date: 07/06/2023

SOFTWARE SUBSCRIPTION AGREEMENT

This Software Subscription Agreement ("**Agreement**") is made as of the Effective Date (the "**Effective Date**") between Fund Accounting Solution Technologies, Inc., a Texas corporation (Company), and the City of New Fairview, a Texas municipality, (Customer). The Effective Date of this agreement is June 12th, 2023. This Agreement describes Customer's subscription for access to Software and payment for Services provided by Company. Company and Customer therefore agree as follows:

1) DEFINITIONS.

(a) "**Software Subscription**" means the software developed and delivered by Company provided to Customer as described in this Agreement.

(b) "**Government Authority**" means any governmental authority or court, tribunal, agency, department, commission, arbitrator, board, bureau, or instrumentality of the United States of America or any other country or territory, or domestic or foreign state, prefecture, province, commonwealth, city, county, municipality, territory, protectorate or possession.

(c) "**Law**" means all laws, statutes, ordinances, codes, regulations and other pronouncements having the effect of law of any Government Authority.

(d) "**Services**" means the Services Company provides to Customer as described in this Agreement.

(e) "**Software**" means the software described in this Agreement.

2) SERVICES. Company agrees to provide the Services as described in Addendum B.

3) SUBSCRIPTION.

(a) **Scope.** Company agrees to provide support for the Software listed in Addendum A of this Agreement. Both parties acknowledge that the Subscription Agreement covers support for both the Software products listed in Addendum A of this Agreement and for updates of the Software products. The Subscription agreement will provide support services as described in Addendum B of this Agreement.

(b) **Updates.** Company will install the Software in a hosted computer environment as described in Addendum A of this Agreement. Updates to the software, including new releases and fixes, will be managed by Company in the hosted environment.

4) DELIVERY. The Software and Services will be delivered as described in Addendums A & B to this agreement. Customer agrees that the Company Software consists of Company's trade secrets. Company shall retain all copyrights in the Company Software, whether published or unpublished. Company agrees that all data provided to Company for Software shall remain the property of Customer. Should Customer terminate the Agreement in good standing and in accordance with the termination provisions of this Agreement, Company agrees to return to Customer, all data files held by Company.

5) OWNERSHIP AND TITLE. Customer agrees that Company possesses exclusive title to and ownership of the Company Software.

a) Customer agrees that Customer acquires neither ownership nor any other interest in the Company Software, except for the right to use the Company Software in accordance with the terms and conditions of this Agreement.

b) All rights not expressly granted to Customer in this Agreement are retained by Company.

c) Customer agrees that Company Software including, but not limited to, systems designs, programs in source and/or object code format, applications, techniques, ideas, and/or know-how utilized and/or developed by Company are and shall remain the exclusive property of Company.

6) FEES. In consideration for Company performing all obligations under this Agreement, Customer agrees to pay Company as described in Addendum A & B of this agreement.

7) INVOICES AND TAXES. Upon execution of this agreement, Company will bill Customer for initial fees related to setup of the Customer data environment and services necessary to schedule and begin work on the implementation. These fees will be due upon receipt. Thereafter, Customer agrees to pay to Company fees owed under this Agreement within thirty (30) days after the date of Customer's receipt of an invoice (unless noted otherwise on the invoice). An invoice will contain the invoice number, invoice date, description of the transaction, total invoice amount with miscellaneous charges listed separately and payment terms consistent with and not additional to any provisions under this Agreement. To the extent that the transactions under this Agreement are subject to any sales, use, value added or any other taxes, payment of these taxes, if any, is Customer's responsibility. Company is liable for any and all taxes on any and all income it receives under this Agreement.

IN WITNESS WHEREOF, the parties execute this Agreement as of the Effective Date. Each person who signs this Agreement below represents that such person is fully authorized to sign this Agreement on behalf of the applicable party.

Company



By:

Print Name: Brian G. Cook, CPA
Title: CEO

CUSTOMER

By:

Print Name:
Title:
Date:

ADDENDUM A
Subscription Agreement

A) Software Modules. The following modules represent the Software covered by these agreements. The modules included are as follows:

- General Ledger
- Bank Reconciliation
- Accounts Payable
- Payroll
- Municipal Court
- Citation Import
- Permits
- Cash Receipting
- Code Enforcement
- FASTGovPay – Court/Permits

All personnel (including but not limited to employees, contractors, sub-contractors, and part-time staff) of the Customer will be licensed to use any of the modules described in Addendum A of this Agreement.

1) Software.

- a) Ownership of the software products, accompanying documentation and related materials, and any modifications and enhancements to such software products and any related interfaces shall remain with Company.
- b) The software products covered by the subscription are not to perform functions or processing for subdivisions or entities that were not considered by Company at the time Company issued this Agreement.
- c) Customer agrees that the software products, any modifications and enhancements and any related interfaces are proprietary to Company and are being developed as a trade secret at Company's expense. Customer agrees to keep the software products confidential and use its best efforts to prevent any misuse, unauthorized use or unauthorized disclosures by any party of any or all of the software products or accompanying documentation.
- d) If Customer makes modifications to the software products, Company will not support

or correct errors in the modified software products.

2) Escrow.

- e) If requested by Customer, Company will maintain at Customer's expense an escrow agreement with an Escrow Services Company under which Company will place the source code of each major release. Customer will be invoiced the annual beneficiary fee by Company and is solely responsible for maintaining its status as a beneficiary.

3) Subscription Fees

- a) The subscription fees listed below do not include any tax or other governmental impositions including, without limitation, sales, use or excise tax. All applicable sales tax, use tax or excise tax shall be paid by Customer and shall be paid over to the proper authorities by Company or reimbursed by Customer to Company any amounts on demand in the event that Company is responsible or demand is made on Company for the payment thereof. If tax-exempt, Customer must provide Company with Customer's tax-exempt number or form.
- b) In the event of any disputed invoice, Customer shall provide written notice of such disputed invoice to Company. Such written notice shall be provided to Company within fifteen (15) days. An additional fifteen (15) days is allowed for the Customer to provide written clarification and details for the disputed invoice. Addresses for Company and Customer are as follows:

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

Fund Accounting Solution Technologies, Inc.
5225 S Loop 289
Suite 222
Lubbock, TX 79424

Company shall provide a written response to Customer that shall include either a justification of the invoice or an explanation of an adjustment to the invoice and an action

plan that will outline the reasonable steps needed to be taken by Company and Customer to resolve any issues presented in Customer's notification to Company. Customer may withhold payment of only the amount actually in dispute until Company provides the required written response, and full payment shall be remitted to Company upon Company's completion of all material action steps required to remedy the disputed matter. Notwithstanding the foregoing sentence, if Company is unable to complete all material action steps required to remedy the disputed matter because Customer has not completed the action steps required of them, Customer shall remit full payment of the invoice.

c) Any invoice not disputed as described above shall be deemed accepted by the Customer. If payment of any invoice that is not disputed as described above is not made within forty (40) calendar days, Company reserves the right to suspend delivery of all subscription services in the Agreement. Any late payments will be subject to an interest charge equal to 1.5% of the amount due per month, or the maximum rate permitted by law. Service will be suspended without further notice on the 10th day after payment is due.

4) Billing. Company will bill for service fees prior to work being performed to insure commitment by both parties. Subscription fees will be billed at go-live date, with renewals as described below.

5) Payment.

a) Customer agrees to pay Company the Annual Subscription amount for licensing, support, and hosting services, as described below. The annual amount identified below will become due the first of the month of any year for which a subscription fee is being charged as described in Addendum A of this Agreement. Customer agrees to remit all payments via ACH using routing instructions provided by Company.

b) Support and services will be suspended whenever Customer's account is ten (10) calendar days overdue. Support and services

will be reinstated when Customer's account is made current.

6) Acceptance of the Software.

a) Within thirty (30) days after the software products have been installed and fully implemented by the Customer, Customer shall acknowledge their acceptance of the software products.

b) At its option, Customer may perform Customer's own defined internal validation process to test the Software to substantially comply with Company's needs for the Software products and functionality of the Software as demonstrated by Company. Completion and validation of compliance by such testing shall constitute Customer's acceptance.

c) Notwithstanding anything contrary herein, Customer's full time use of the software products for its intended purpose, shall constitute Customer's verification of the software products, without exception and for all purposes.

d) Verification or validation that the Software products substantially comply with Company's demonstration and any written commitment to Customer shall be final and conclusive except for latent defect, fraud, and such gross mistakes that amount to fraud and the operation of any provision of this Agreement which specifically survives verification. In the event said verification becomes other than final, or becomes inconclusive, pursuant to this paragraph, Customer's right and remedy against Company shall be to require Company to correct the cause thereof.

e) Company shall correct any functions of the software products which failed the standard verification testing by Customer.

7) Mutual Warranties. Each party represents, warrants and covenants to the other that:

(i) General. It: (a) is a company or municipality duly organized and validly existing and in good standing under the Laws of its jurisdiction of organization; (b) is qualified or licensed to do business and in good standing in every jurisdiction where

qualification or licensing is required; and (c) has the corporate power and authority to negotiate, execute, deliver and perform its obligations under this Agreement.

(ii) Law Compliance. It complies with all applicable Laws.

8) Limited Warranty. Company represents that the Software will conform to meet all necessary requirements for Customer. If the Software does not perform as warranted, Company's obligation will be to use reasonable efforts, consistent with industry standards, to cure the defect. Should Company be unable to cure the defect or provide a replacement product, Customer must give written notice to Company of the nature of the unaccepted issues with the Software. If Company cannot resolve the issues to Customer's satisfaction within ninety (90) days of written notice, Company will refund any payments made by Customer for Subscription Fees within ten (10) days after the ninety (90) day resolution period and the Agreement will be Terminated for both Customer and Company. Company will return all Customer data to Customer and Customer will return all documentation and related materials to Company. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ALL OTHER WARRANTIES, CONDITIONS AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED OR VERBAL, STATUTORY OR OTHERWISE, AND WHETHER ARISING UNDER THIS AGREEMENT OR OTHERWISE ARE HEREBY EXCLUDED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9) Limitation of Liability.

a) In the event that the software products are determined to infringe upon any existing United States patent copyright or trademark rights held by any other person or entity,

Company shall defend and hold harmless Customer and its officers, agents and employees from any claim or proceedings brought against Customer and from any cost damages and expenses finally awarded against Customer which arise as a result of any claim that is based on an assertion that Customer's use of the software products under this Subscription Agreement constitutes an infringement of any United States patent, copyright or trademark provided that Customer notifies Company promptly of any such claim or proceeding and gives Company full and complete authority, information and assistance to defend such claim or proceeding and further provided that Company shall have sole control of the defense of any claim or proceeding and all negotiations for its compromise or settlement provided that Company shall consult with Customer regarding such defense. In the event that the software products are finally held to be infringing and its use by Customer is enjoined, Company shall, at its election; (1) procure for Customer the right to continue use of the software products; (2) modify or replace the software products so that it becomes non-infringing; or (3) if procurement of the right to use or modification or replacement cannot be completed by Company, terminate the subscription for the infringing software product, and upon termination, refund the subscription fees paid for the infringing software product as depreciated on a straight-line basis over a period of seven (7) years with such depreciation to commence on the execution of this Agreement. Company shall have no liability hereunder if Customer modified the software products in any manner without the prior written consent of Company and such modification is determined by a court of competent jurisdiction to be a contributing cause of the infringement or if the infringement would have been avoided by Customer's use of the most current revision of the software products. The foregoing states Company's

entire liability and Customer's exclusive remedy with respect to any claims of infringement of any copyright, patent, trademark, or any property interest rights by the software products, any part thereof, or use thereof.

b) In no event shall Company be liable for special, indirect, incidental, consequential or exemplary damages, including without limitation any damages resulting from loss of use, loss of data, interruption of business activities or failure to realize savings arising out of or in connection with the use of the software products. Company's liability for damages arising out of this Agreement, whether based on a theory of contract or tort, including negligence and strict liability shall be limited to the Company subscription fees identified above. The subscription fees set forth below reflect and are set in reliance upon this allocation of risk and the exclusion of such damages as set forth in this Agreement.

10) Force Majeure. Any failure or delay by a party in the performance of its obligations under this Agreement is not a default or breach of the Agreement or a ground for termination under this Agreement to the extent the failure or delay is due to elements of nature or acts of God, acts of war, terrorism, riots, revolutions, or strikes or other factor beyond the reasonable control of a party (each, a "**Force Majeure Event**"). The party failing or delaying due to a Force Majeure Event agrees to give notice to the other party which describes the Force Majeure Event and includes a good faith estimate as to the impact of the Force Majeure Event upon its responsibilities under this Agreement, including, but not limited to, any scheduling changes. However, should any failure to perform or delay in performance due to a Force Majeure Event last longer than thirty (30) days, or should three (3) Force Majeure Events apply to the performance of a party during any calendar year, the party not subject to the Force Majeure Event may terminate this Agreement

by notice to the party subject to the Force Majeure Event.

11) No Intended Third Party Beneficiaries.

This agreement is entered into solely for the benefit of Company and Customer. No third party shall be deemed a beneficiary of this agreement, and no third party shall have the right to make any claim or assert any right under this Agreement. Subject to the terms and conditions of this Agreement and during the Term, Company shall make the Subscription Service available to Customer solely for Customer's and its Affiliates' Users for internal business operations.

12) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Lubbock County, Texas.

13) Entire Agreement.

a) This Agreement and the functional description of the software products presented in Company's demonstration to Customer, will represent the entire agreement of Customer and Company with respect to the software products and supersedes any prior agreements, understandings and representations, whether written, oral, expressed, implied, or statutory. Customer hereby acknowledges that in entering into this Agreement it did not rely on any representations or warranties other than those explicitly set forth in this Agreement and the functional description of the software products presented in Company's demonstration to Customer.

b) If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

c) Customer should return an executed copy of this Agreement to Company. If the Agreement is not returned to Company within thirty (30) days from the issue date, then such Agreement is subject to be voided and prices are subject to change.

14) Cancellation or Termination. In the event of cancellation or termination of this Agreement for any reason other than those contained in Section 7) Limited Warranty and Section 9) Force Majeure in Addendum A, Customer will make payment to Company for all software products, services and expenses delivered or incurred prior to the termination or cancellation of this Agreement. Upon receipt of all outstanding payments owed to Company by Customer, Company will provide Customer with a final copy of all of Customer's data, and access to the Hosted environment will then be terminated.

15) Approval of Governing Body. Customer represents and warrants to Company that this Agreement has been approved by its governing body and is a binding obligation upon Customer.

B) Subscription. Both parties acknowledge that this Subscription Agreement covers both Support for the Software listed on Addendum A of this Agreement and updates to the installed Software.

C) Term of Agreement. This Subscription Agreement is effective on June 12th, 2023, when executed by authorized representatives of Company and Customer, and shall terminate upon the last day of June 2024.

1) Subscription Renewal. The Annual Subscription Agreement will automatically renew for subsequent one-year terms unless either party gives the other party at least 60 (sixty days) prior written notice of its intent not to renew. Subsequent terms will begin on July 1st and terminate on the last day of June of each year. Company reserves the right to implement price changes of an Agreement's modules by giving written notice to Customer at least ninety days prior to

subscription renewal; Customer agrees that it will accept subsequent price changes. The fees and the term of use for additional modules and services procured during an existing subscription term shall be set at then current Company pricing, unless otherwise agreed to by the parties.

2) Terms and Conditions for Updates of the Software.

a) Customer is hereby granted non-exclusive and nontransferable access and right to use the Software listed in Addendum A of this Agreement. Company agrees to extend and Customer agrees to accept a subscription subject to the terms and conditions contained herein for the Software. Company agrees to provide and install all updates to the Software in the hosted environment provided Customer is in good standing regarding payments for Subscription Fees and any Services billed by Company to Customer. The terms of this Agreement shall also apply to updates, and upgrades subsequently provided by Company to Customer for the Software. Company shall host the Software and may update the functionality, user interface, usability and other user documentation, training and educational information of, and relating to the Software from time to time in its sole discretion and in accordance with this Agreement as part of its ongoing mission to improve the Software and customers' use of the Software.

b) The Software listed in Addendum A is for use only for the benefit of Customer listed in this Agreement. The software products are not to perform functions or processing for subdivisions or entities that were not considered by Company when Company placed Customer in the categories listed on the cover of this Agreement.

c) Customer agrees that the Software is proprietary to Company and has been developed as a trade secret at Company's expense. Customer agrees to keep the software products confidential and use its best efforts to prevent any misuse, unauthorized use or unauthorized disclosures

by any party of any or all of the software products or accompanying documentation.

d) If Customer has made modifications to the software products, Company will not support the modified software products, unless modifications were specifically authorized in writing by Company.

e) For as long as a current Subscription Agreement is in place, Company shall promptly correct any functions of the software products which fail to substantially comply with Company's documentation for the Software. If Customer has made modifications to the software products, Company will not make such corrections, unless modifications were specifically authorized in writing by Company.

3) Terms and Conditions for Support.

a) Company shall provide software related Customer support during standard support hours. Standard support hours are from 8:00am to 5:00pm Central Standard Time, Monday thru Friday, excluding holidays. Support requests may be initiated via Company's published support phone line, via e-mail to Company's support group, or via Company's instant-messaging support software during regular support hours. Company reserves the right to modify these support hours as Company sees fit in order to better serve its Customer. Assistance and support requests which require special assistance from Company's development group will be taken and directed by support personnel.

b) Company will maintain staff that is appropriately trained to be familiar with the software products in order to render assistance, should it be required.

c) Company will provide Customer with all updates that Company may make to the then current version of the Software covered in this Agreement.

d) Company will make available appropriately trained personnel to provide Customer additional training, program changes, analysis, consultation, data recovery, non-coverage maintenance service, etc. Company shall provide Customer with

on-line support through the use of desktop control software.

e) If a Customer decides to discontinue the Software Subscription and later chooses to reinstate the Software Subscription, the Customer will be required to pay the portion of annual Software Subscription dating back to the date when the Customer discontinued the Annual Software Subscription. Should Customer choose to reinstate the Software Subscription, Company agrees to install the then current version of the Software and related Customer data. These installation Services will be performed on a time and material basis at the current Company rates.

4) Hosting.

a) Company shall provide the Software to Customer in a hosted network environment accessible to Customer employees via an internet connection using MS Edge. Company supports Software access using versions of MS Edge currently supported by Microsoft. Company software may function using other browsers but are not supported. Company will install the Software and Customer data on a network server providing secure access, high-speed performance, and a Data Backup Plan as elements of the Subscription Agreement.

b) Company will maintain staff that is appropriately trained to be familiar with the Hosted server in order to render assistance, should it be required.

c) Company will provide a Data Backup Plan that will include scheduled backups, data redundancy, and off-site data storage.

d) Customer will access the hosted network environment via a reliable internet connection that provides a minimum 6Mbps download speed and 1.5Mbps upload speed. Company cannot be liable for software performance if Customer's internet connection speeds do not meet these minimum requirements. Customer will maintain updates to any third-party software required to access and use Company software via the secure internet connection.

5) Additional Services. The Services listed below are not included in the Subscription

Agreement. These services may be provided at Company's discretion and may be billed on a time and materials basis. Customer will not be liable to pay for any Additional Services unless Company provides Customer with a detailed estimate for the Additional Services prior to Company expending any time and materials on Additional Services and Customer approves the estimate. If Company believes that it will exceed the estimate provided to Customer for Additional Services, Company must notify Customer in writing of the additional expenses before performing any Additional Services in excess of the estimate. Customer will not be liable to pay for any amount of Additional Services for which Company has not provided prior notice of cost and has not approved at Company's then current rates.

a) Changes to print programs. Company agrees to provide initial print programs for Customer as required for the Software modules described in Addendum A at no charge. After Acceptance of the Software as described in Addendum A of this Agreement, additional customer print programming may be subject to time and material Services fees at the then Company current billing rates for such Services.

b) Software modifications, excluding software updates.

c) Software Training. The scope of Training to be provided in this Agreement is defined in Addendum B.

d) Responding to problems caused by bad data.

e) Responding to problems caused by Customer hardware.

f) Responding to problems caused by operator error.

g) Responding to problems caused by software that is not Company software.

h) Responding to problems resulting from misuse, accidents, neglect, fire, or any other cause not within Company's reasonable control.

i) Changes made to the Company Software by someone other than Company personnel.

j) Responding to problems resulting from issues with Customers internet access

6) Limitations and Exclusions. The support and services of this Subscription Agreement do not include the following:

a) Support service does not include the customization of the software products and other consulting services, support of an operating system or hardware, or any support requested outside of normal business hours.

b) Customer understands that changes made by Company to the current version are for implementation in the installed Software products version as it exists without customization or Customer alteration.

7) Customer Responsibilities.

a) Customer shall provide, at no charge to Company, full and free access to the network, working space, adequate facilities, use of machines, features, or other equipment necessary to provide the specified support and maintenance service. Such environment requires the Customer to have email and Internet access. Customer shall provide phone lines, communications software specified by Company and all equipment necessary to use Company's on-line support. Customer will be responsible for all additional costs incurred to the extent such hardware and software does not conform to Company's specifications. The acquisitions of necessary hardware and software meeting the requirements then in effect shall be sole responsibility of the Customer.

b) Customer shall provide a designated email address (or subsequent email addresses as advised by Customer) for communication and notice purposes relating to this Agreement. Company may provide any and all notices, statements, and other communications to Customer through either e-mail, posting on the Service (or other electronic transmission) or by mail or express delivery service. Company recommends sending updated main and billing contact email addresses so that notices are reviewed promptly and not delayed due to the absence of one individual. In addition, Company may rely and act on all information and instructions provided to

Company from the above-specified e-mail address.

- c) Customer is responsible for all activities conducted under its User logins and for its Users' compliance with the Software Subscription Agreement. Customer shall not permit any third party to: (a) copy, translate, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the Service or any part thereof or otherwise attempt to discover any source code or modify the Service in any manner or form unless expressly allowed in the User Guide; (b) use unauthorized modified versions of the Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the Service; (c) use the Service in a manner that is contrary to applicable law or in violation of any third party rights of privacy or intellectual property rights; (d) publish, post, upload or otherwise transmit Customer Data that contains any viruses, Trojan horses, worms, time bombs, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another; or (e) use or knowingly permit the use of any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Service.
- d) Customer shall maintain a stable internet connection as prescribed by Company. This internet connection must provide a minimum 6Mbps download speed and 1.5Mbps upload speed. Company cannot be liable for software performance if Customer's internet connection speeds do not meet these minimum requirements. Company shall also use the connection to assist with problem diagnosis and resolution. Customer shall provide Company adequate remote access communication infrastructure to Customer's computing environment to enable Company technical services assistance.
- e) Company uses Microsoft Word to launch printing of the integrated documents

produced in the hosted software. If Customer desires to be able to edit standard documents included with the software or create new documents for use in document generation functions of the Company software, Customer will need to purchase or own a licensed copy of Microsoft Word. To receive support from Company for the document generation tools, the licensed copy of Microsoft Word must currently be supported by Microsoft.

f) All printers used by Customer to print documents and reports from the Software must have the most recent version of a currently supported Windows driver. Company supports only the Epson TM-T88V receipt printer. Other receipt printers may function with Company software but are not supported.

8) Non-Assignability. The Customer shall not have the right to assign or transfer its rights hereunder to any party.

A. Annual Subscription Costs

General Ledger	\$2,500.00
Bank Reconciliation	1,000.00
Accounts Payable	2,000.00
Payroll	2,500.00
Municipal Court	2,500.00
Citation Import	2,000.00
Permits	2,500.00
Cash Receipting	1,000.00
Code Enforcement	1,500.00
FASTGovPay - Court	750.00
FASTGovPay - Permits	750.00
Total Subscriptions	<u>\$19,000.00</u>

ADDENDUM B

Services Agreement

A) Services Provided. Company shall provide the following services to Customer:

- a) Training – Remote
- b) Data Migration/Conversion
- c) Data Center Setup/Configure
- d) Data Backup Setup/Configure
- e) FASTGovPay – Design/Configure
- f) Citation Import Configure/Testing
- g) Project Management

Training - Remote	
- General Ledger	\$1,500.00
- Bank Reconciliation	750.00
- Accounts Payable	1,000.00
- Payroll	1,500.00
- Municipal Court	1,500.00
- Citation Import	1,000.00
- Permits	1,500.00
- Cash Receipting	750.00
- Code Enforcement	1,000.00
- FASTGovPay	750.00
- Legacy User Discount	-1,250.00
Data Migration/Conversion	
- General Ledger	1,500.00
- Accounts Payable	1,000.00
- Payroll	1,500.00
- Municipal Court	1,500.00
Data Center Setup/Configure	250.00
Data Backup Setup/Configure	250.00
FASTGovPay - Des/Config	500.00
Citation Import Config/Test	1,000.00
Project Management	1,000.00
Total Services	<u>\$18,500.00</u>

B) Professional Services Fees.

1) Services.

Remote Training, Data Migration/Conversion, Data Center Setup/Configuration, Data Backup Setup/Configuration, FASTGovPay Design/Configuration, Citation Import Configuration/Testing, and Project Management Services will be delivered as described above and detailed below as determined by Customer and the Project Manager. If Customer adds new users to existing modules that Customer's staff was not previously trained on, the new users must receive training on each module they will access prior to using the software. Should the Customer experience turnover or growth, Company will provide follow up training for any module for 50% of the then current rate for training fees per module. Payment for training must be received in full prior to activation of the new user. Training will be provided remotely under the terms as described below.

2) Training Environment. During remote training, Customer should be free of distractions and interruptions. If training is being conducted onsite at the Customer's location, the Customer is responsible for providing a productive environment to conduct training.

3) Rescheduling/Cancellation of Training. The Project Manager for Company will coordinate with Customer to schedule dates/times for training/go-live. If Customer has to reschedule or cancel a confirmed event, Customer will provide Company at least seventy-two hours notice of its intent to reschedule or cancel prior to the scheduled time. If Customer does not provide adequate notice or fails to attend for a scheduled event, Customer will be subject to a

two hundred-fifty dollar (\$250) penalty for the first occurrence and a five hundred dollar (\$500) penalty for each subsequent occurrence.

4) Additional Services. Additional related services not listed above may be billed at Company's then current market rate for the service as they are incurred. Any services addressed under this area of the Agreement would be discussed with Customer prior to the Services being performed by Company. From time to time, Company may assist with the resolution of a payroll or accounting matter related to Customer's financial data. Customer acknowledges that the services provided should not be construed in any way as professional accounting or consulting advice and should not be relied upon as such. Customer is strongly encouraged to consult with their currently retained auditor to determine the proper course of action. Additional services provided beyond the scope of software support will be categorized as a billable event and will require a signed Service Level Agreement (SLA) detailing the work to be performed by each respective party and the fees to be paid in advance by Customer to Company for services rendered.

5) Limitation of Liability. Company shall not be liable for inaccurate data in Company's application software which is the result of inaccurate data migrated/converted from the previous systems. Company's liability for damages arising out of this Agreement, whether based on a theory of contract or tort, including negligence and strict liability, shall be limited to any Service fees paid to Company by Customer. The Service terms set forth above reflect and are set in reliance upon this allocation of risk and the exclusion of such damages as set forth in this Agreement.

6) Data Migration/Conversion.

Customer will help provide data to be migrated/converted to FundView in a consumable format such as .csv, Excel, Access, or SQL database. Customer will also provide the related file definitions and record layouts.

Following is a list of the modules of data to be migrated/converted and the scope of services provided by Company:

Required:

1. Changes to chart of accounts, adopting Consolidated Cash, and related bank account consolidation require formal sign off by auditor and approval by council.

General Ledger –

1. Chart of accounts for all funds. *
2. Migrate current year and two prior years' account balances.
3. Current year budget and two prior fiscal year budgets.

Accounts Payable –

1. Vendor master file to include vendor name, address, taxpayer ID, and contact information
2. Current year summary 1099 balances as provided by the Customer.

Payroll -

1. Set up current pay codes, deduction codes and leave codes.
2. Define positions.
3. Populate current employee payroll detail including pay rate, deductions, direct deposit, tax settings, related employment dates and leave balances.
4. Current calendar year pay history to include paychecks, earnings, expense distribution, deductions and taxes.
5. Format payroll check template provided check stock meets FundView layout standard.

Municipal Court -

1. Company will convert up to the last ten (10) years of historical data from Customer's current legacy system. Company and Customer will work together to reconcile the most recent twelve (12) months of data.

** Changes to the Chart of Accounts from the legacy system to the current system should be discussed with Customer's auditor prior to implementing these changes in FundView.*



New Fairview, TX

Keeping it country

FundView Software Presentation

Presented by
Joe Wertz, Director of Sales



- Cloud ERP solutions designed for local governments
- Headquartered and developed in Lubbock, Texas
- Hosted in secure SOC 3 data center in Dallas
- Customers access via secure web connection

The screenshot displays the FundView web application interface for the City of Woodcreek. The top navigation bar includes the FundView logo, a menu icon, and links for Theme, Calendar, Notifications (with a red badge), Support, Help Documents, Logout, and the user name 'Hi, City of Woodcreek'. A left sidebar contains icons for various modules: AM, MANAGE, PROCESSES, REPORTS, SETUP, TOOLS, CAL, CR, CE, EP, GL, HR, MC, PM, and PO. The main content area is divided into several sections:

- Payroll Process:** A section titled '5/11/2022 - 5/24/2022 Payroll Process Tasks' with a '+ Add Task' button. Below it is a table with columns 'Description' and 'Completed'. The table is currently empty, showing 'No records available.'
- Forms:** A section with links for 'Print new employee forms packet' and 'Form filing due by 07/31/2023'. It includes instructions: 'W-2 Forms to Employees must be postmarked by 01/31/2024' and 'W-2 copies and Form W-3 filing be postmarked by 01/31/2024'.
- Tax Payments Due:** A section with links for 'Reporting due on 07/31/2023: Unemployment', 'Tax payment due on 07/31/2023: 941 Federal Taxes', 'Pay Federal Taxes', and 'Pay TWC Taxes'.
- Reporting:** A section with links for 'E-Verify Report your new employees to SSA within 3 days of hire', 'New Hire Reporting Report new employees to Texas Attorney General within 12 to 16 days of hire', 'Mail TMRS Report & Payment by the 15th of each month', 'Update the TMRS rate for year 2024 by 12/31/2023', 'TMRS City Rate Letters', and 'U.S. Bureau of Labor Statistics Submit monthly labor statistics data'.
- Employee Anniversaries:** A table listing employee anniversaries. The table has columns for Employee, Anniversary, Years, and Birth Date. The data is as follows:

Employee	Anniversary	Years	Birth Date
Jessica D Adams	08/06/2012	11	09/26/1979
John Benson	09/01/2020	3	02/11/1977
Tonya D Bixby	04/27/2022	1	04/09/1974
James B Bronson	06/30/2008	15	08/05/1971
Gary W Dodson	12/28/2016	7	03/23/1956
Stephen A Ferris	05/11/2020	3	01/13/1974
Erin A Garth	10/17/2007	16	03/13/1981
Linda B Goen	06/09/2014	9	03/23/1973
Cole D Guessner	08/13/2018	5	07/18/2000
David L Harrison	12/16/2019	4	08/22/1964

The bottom of the interface shows a 'CLOSE ALL TABS' button and a tab labeled 'PY Dashboard'.

Company Overview

- Fund Accounting Solution Technologies, Inc. (FAST/FundView)
- Incorporated – 2008
- Headquarters – Lubbock, TX
- FundView Installations – Currently 153 Texas cities/counties

FundView was founded by Brian and Tami Cook after thirty-five combined years working for other local government software companies. Both are currently licensed CPAs in Texas and have built a team committed to providing unparalleled software and support. FundView is a fully-integrated suite of true fund-based accounting solutions designed specifically for local governments. With over fifty combined years of local government software experience, the management team has powered the design and development of the powerful, user-friendly solutions FundView delivers. FundView's subscription-based software-as-a service model allows your organization to upgrade to state-of-the-art solutions, experience unparalleled customer support and save money as you better leverage your technology budget. Services include managing all software updates and data backups in conjunction with your disaster planning. FundView solutions are true web-based, providing secure access from any internet connection.



FundView Financial Suite:

- **General Ledger** provides a true fund-based accounting solution to manage the operations of your organization. Standard features include integrated budget management, simplified reporting, cash management and support of consolidated cash.
- **Accounts Payable** helps streamline your organization's payable processing with simplified vendor management, invoice entry, payment processing and reporting. Includes integration for payroll-related payables, utility/court refunds, budget validation and reporting.
- **Payroll** provides complete payroll processing including benefits, accruals, time entry, payment processing, reporting and integrated Accounts Payable generation. Efficiently manage all phases of payroll including time entry (remote), payroll processing and benefits management.
- **Distributed Time Entry** allows individual employees and designated department representatives to input time directly to the Payroll module for approval and processing. Provides validation of availability of leave/comp time at input. Ability to reject back and complete audit trail of input/related changes.



FundView Client Relationship Management Suite:

- **Permits** streamlines the permitting process with simplified tools to manage permit applications, communications, approvals and inspections.
- **Code Enforcement** provides comprehensive case management for code violations including inspections, notifications and administration.
- **Cash Receipting** provides an integrated payment processing solution that provides for multiple users, cash drawers and end-of day balancing.

FASTGovPay – Credit Card & Online Payments:

FASTGovPay is a cloud-based payment processing solution designed for local governments. With seamless integration to FundView, all payments are automatically reflected within the corresponding solution and financials, reducing the chance of human error. This solution streamlines payment processing for government agencies and provides a convenient and efficient payment experience for their customers.



FundView – Professional Services:



Project Management

By developing a plan of clearly-defined objectives, the implementation team will manage the process and ensure a successful deployment with minimal disruption.



Training

Our Distance Learning model provides online, live interactive sessions with instructors who are well-versed in how to implement and use FundView most effectively.



Data Migration

Data migration is a critical element for a successful software implementation project. The FundView conversion team will work closely with you on data extraction, mapping, migration, and validation.



Data Backup

Our subscription agreement includes comprehensive data and document backups, and freedom from the hardware maintenance required with on-premise offerings.



Customer Support

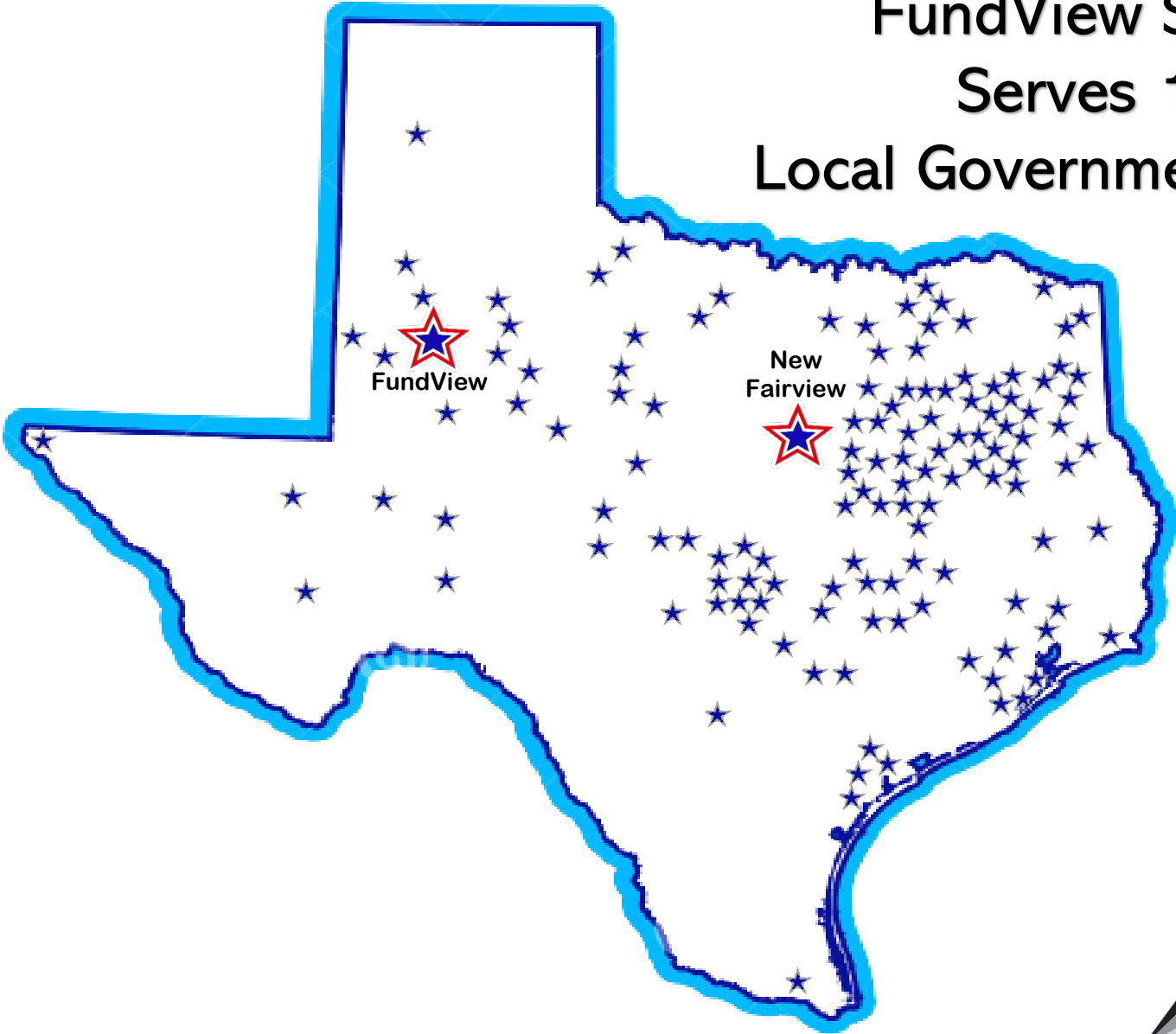
Customer support at FundView has one level of service – outstanding! Our subscription cost structure provides for unlimited access to our knowledgeable staff to get the right answers you need when you need them.



Updates

Our subscription agreement also includes comprehensive software updates, including all State and Federal updates and reports managed within the software, eliminating the need for manual updates.

FundView Software Serves 150+ Local Governments in Texas





CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

June 20, 2023

Budget Workshop

DESCRIPTION:

Receive a report and hold a discussion regarding the Fiscal Year (FY) 2022-23 budget trends and the projections and priorities for FY 2023-24 annual budget.

BACKGROUND INFORMATION:

The item is to discuss the trends for Fiscal Year 2022-23 and the projections for Fiscal Year 2023-24 as staff works on preparing the proposed FY 2023-24 annual budget. The proposed budget is developed through an extensive process of meetings with department heads, reviewing requests received by city departments, and then prioritizing those requests in a manner that utilizes resources effectively, within fiscal constraints, while working to achieve the city's goals. A budget calendar is implemented to ensure we meet dates within the process and have discussions with the council through public budget workshops. Below are significant dates for the FY 2023-24 Budget preparation and adoption.

- June 19 Budget Workshop at Regular Council Meeting
- July 17 Budget Workshop at Regular Council Meeting
- August 7 Budget Workshop at Regular Council Meeting
(We will need to vote at this meeting to get council approval to call the public hearing for the tax rate and budget with a recorded vote of the proposed tax rate that will be held at the public hearing.)
- August 14 Publish Notice of Budget & Tax Hearing in the Newspaper
- August 14 Internet Notice of Tax Rate Hearing
- August 18 File Proposed Budget
- August 21 Budget Workshop at Regular Council Meeting
- August 28 Budget Workshop at Special Council Meeting
- September 4 Public Hearing on Tax Rate and Budget at Regular Council Meeting
- September 4 Adoption of Tax Rate and Budget at Regular Council Meeting
- September 29 Final Date to adopt a Budget

FINANCIAL CONSIDERATION:

None, discussion only.

RECOMMENDED MOTIONS:

None, discussion only.

ATTACHMENT(S):

1. Presentation



**City of New Fairview
City Council
Regular Meeting Minutes
Monday, June 5, 2023**

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

**City Staff
John Cabrales Jr, City Administrator
Brooke Boller, City Secretary
Susan Greenwood, Assistant City Secretary
Roberta (Robin) Cross, City Attorney – Virtual**

WORK SESSION

1. Call to Order and Determination of Quorum (**Work Session called to order by Mayor John Taylor at 7:00 pm; Roll Call with the above-mentioned names.**)
2. Receive a report and hold a discussion regarding the Fiscal Year (FY) 2022-23 budget trends and the projections and priorities for FY 2023-24 annual budget.
Council received a presentation from John Administrator and Michele Sanchez regarding the Fiscal Year (FY) 2022-23 budget trends and the projections and priorities for FY 2023-24 annual budget.
3. Receive a report and hold a discussion regarding a possible Interlocal Agreement with the City of Boyd for municipal court services from the City of New Fairview, and an Interlocal Agreement with the City of Boyd for law enforcement services to the City of New Fairview.
Council received a report from Susan Greenwood regarding a possible Interlocal Agreement with the City of Boyd for municipal court services from the City of New Fairview, and an Interlocal Agreement with the City of Boyd for law enforcement services to the City of New Fairview.
4. Adjournment
Work Session was adjourned at 7:47pm.

REGULAR SESSION

1. Call to Order and Determination of Quorum (**Regular Session called to order by Mayor John Taylor at 7:47 pm; Roll Call with the above-mentioned names.**)

2. Pledge to the Flags.
 - A. United States of America
 - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
 - A. Recognition of High School Graduates within New Fairview
4. City Administrator's Report: The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. Public Comment: The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens 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.
6. Consent Agenda: All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
 - A. Approve the City Council Meeting minutes for May 15, 2023.
 - B. Approve the April 2023 Financial Report.
 - C. Approve a Resolution for moving the June 19, 2023 Regular Meeting to June 20, 2023, and canceling the July 3, 2023 Regular Meeting.
Motion: Councilman Peter Kozlowski
Second: Councilman Richard Greene
Vote: All in Favor
Result: After the correction to item 5 motion was made by Councilman Richard Greene and second by Councilman Peter Kozlowski all items under the consent agenda were passed and approved.
7. New Business: All matters listed in New Business will be discussed and considered separately.
 - A. Receive, consider, and act on all matters incident and related to approving a Resolution authorizing publication of notice of intention to issue \$3.5 million in Certificates of Obligation.
Motion: Councilman Richard Greene
Second: Mayor Pro Tem Steven King
Vote: All in Favor
Result: Council approved a Resolution authorizing publication of notice of intention to issue \$3.5 million in Certificates of Obligation.

- B. Receive, consider, and act on a Resolution entering into an interlocal agreement with the Texas Department of Motor Vehicles for Scofflaw Services contract making Texas Motor Vehicle Registration Records and authorizing MVBA as a third-party to our Scofflaw Account.

Motion: Councilman Harvey Burger

Second: Councilwoman Sarah Adams

Vote: All in Favor

Result: Council approved a Resolution entering into an interlocal agreement with the Texas Department of Motor Vehicles for Scofflaw Services contract making Texas Motor Vehicle Registration Records and authorizing MVBA as a third-party to our Scofflaw Account.

- C. Receive, consider, and act on an Ordinance amending Chapter 4, Article 4.02 of the Code of Ordinances of the City of New Fairview, Texas, entitled “Building and Construction Codes and Standards” by adding the “International Energy Conservation Code”, by adopting the 2015 Edition of the International Energy Conservation Code, and local amendments to the International Energy Conservation Code.

Motion: Mayor Pro Tem Steven King

Second: Councilwoman Sarah Adams

Vote: All in Favor

Result: Council approved an Ordinance amending Chapter 4, Article 4.02 of the Code of Ordinances of the City of New Fairview, Texas, entitled “Building and Construction Codes and Standards” by adding the “International Energy Conservation Code”, by adopting the 2015 Edition of the International Energy Conservation Code, and local amendments to the International Energy Conservation Code.

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

Motion: Councilman Richard Greene

Second: Mayor Pro Tem Steven King

Vote: All in Favor

Result: Council approved the placement of John Rodriguez as Place 3 Commissioner to the Parks & Recreation & Keep New Fairview Beautiful Boards.

8. Executive Session: Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.
9. Return to Open Session: Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.
10. Mayor & Council Member Announcements: The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent

public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

11. Adjournment

Motion: Councilman Richard Greene

Second: Mayor Pro Tem Steven King

Vote: All in Favor

Result: Regular work session adjourned at 8:45pm.

MINUTES APPROVED ON THIS, THE 20TH DAY OF JUNE 2023

John Taylor, Mayor

Brooke Boller, City Secretary



City Council AGENDA MEMO

Prepared By: Stephen Cook, Senior Planner, Dunaway

June 20, 2023

Public Hearing for Specific Use Permit Airport, Private on 141.49 Acres in G. Buchanan Survey, Abstract No. 31

DESCRIPTION:

Agenda Description: Hold a public hearing, consider and act on an Ordinance for Specific Use Permit of an Airport, Private on 141.49 acres located in G. Buchanan Survey, Abstract No. 31 Wise and Denton Counties, Texas located generally west of S. County Line Road. The property is currently zoned "A" Agricultural.

BACKGROUND INFORMATION:

Matthew Spaethe and family own approximately 141.49 acres of land within the "A" Agricultural zoning district at the southern end of the city, west of S. County Line Road. They are asking to improve the property to provide a private grass airstrip to fly their personal aircraft. This use is allowed with a Specific Use Permit in the "A" Agricultural zoning district.

The property has access to S. County Line Road. The private airport has been designed to be in compliance with Federal Aviation Administration requirements regarding this type of airstrip serving light aircraft. The runway surface will be developed as a sixty (60') foot wide; one thousand five hundred (1,500') foot long facility. No lighting fixtures are planned with the facility.

If approved, the airstrip will be graded and developed as a grass airfield without concrete or asphalt paving. The improvement on the property will remain outside of the designated 100 year floodplain on the applicant's property. As a natural turf airfield, it will not generate additional runoff through impervious surfaces. Airfields of this type are required to have regulated space designated on the sides and ends of the runway to accommodate for safety areas for aircraft maneuvers. The airfield has been designed to accommodate all of this area solely on the applicant's property and not encroach on adjacent property owners. As a private facility, very few aircraft operations are intended on this airstrip as compared to the Fairview Airport located south of FM 407, east of City Hall. The applicant does not intend to install any lighting for the runway. The applicant intends to construct one private residence on the property.

The Planning and Zoning Commission considered this item at their regularly scheduled public hearing on June 12, 2023, and voted to recommend approval of Specific Use Permit.

FINANCIAL CONSIDERATION:

Property valuation for the individual parcel may increase upon completion of construction.

RECOMMENDED MOTION:

I move to **Approve/Not Approve** a Specific Use Permit for an Airport, Private in the "A" Agricultural zoning district on 141.49 acres located in G. Buchanan Survey, Abstract No. 31 Wise and Denton Counties, Texas located generally west of S. County Line Road within Ordinance No. 202306-03-112.

ATTACHMENTS:

1. Ordinance No. 202306-03-112, with exhibits.

ORDINANCE NO. 202306-03-112

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A SPECIFIC USE PERMIT FOR AN AIRPORT, PRIVATE IN THE "A" AGRICULTURAL ZONING DISTRICT LOCATED ON 141.49 ACRES WITHIN G. BUCHANAN SURVEY, ABSTRACT NO. 31, NEW FAIRVIEW, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on June 12, 2023, in conjunction with a Specific Use Permit case for a Airport, Private located within the "A" Agricultural Zoning District, and has rendered a recommendation to the City Council with respect to this case; and,

WHEREAS, the City Council has conducted a public hearing on June 20, 2023, and has considered the recommendation of the Planning and Zoning Commission, and has determined that the proposed change is in the best interest of the general welfare of the City of New Fairview and that any foreseeable negative impacts of the proposed use have been mitigated through design restrictions or other set condition.

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

SECTION 1

ALLOWED USES. An Airport, Private and conditions as shown on the site plan and associated drawings of Exhibit A (attached hereto and made a part hereof) shall be permitted on 141.49 acres located in G. Buchanan Survey, Abstract No. 31 Wise and Denton Counties, Texas located generally west of S. County Line Road.

SECTION 2

That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

SECTION 3

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 4

All rights or remedies of the City of New Fairview, Texas, are expressly saved as to any and all violations of the city's zoning ordinance, as amended, or any other ordinance affecting zoning and land use thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 5

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portion of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

The City Secretary of the City of New Fairview, Texas, is hereby directed to publish in the official newspaper of the City of New Fairview, the caption, penalty clause, publication clause, and effective date clause of this Ordinance for two (2) days as required by section 52.012 of the Texas Local Government Code.

SECTION 12

This Ordinance shall take effect from and after its date of passage and publication in accordance with law, and it is so ordained.

PASSED AND APPROVED ON THIS 20th DAY OF June, 2023.

John Taylor, Mayor

ATTEST:

Brook Boller, City Secretary



**City Council
AGENDA MEMO**

Prepared By: Stephen Cook, Senior Planner, Dunaway

June 20, 2023

Public Hearing for Amending Permitted Use Table – Farmer’s Market, Outdoor

DESCRIPTION:

Hold a public hearing, consider and act on an Ordinance to amend Chapter 9B, Article 2, Sections 11 and 12 to permit Farmer’s Market, Outdoor use in the SF Single Family zoning district in the City of New Fairview, under Special Conditions.

BACKGROUND INFORMATION:

The City of New Fairview has been approached to allow a Farmer’s Market to occur on City Hall Property located at 999 Illinois Ave in the City of New Fairview. An outdoor farmer’s market is a use under Chapter 9B, Article 2, Section 11, Permitted Use table in the Code of Ordinances. This use is permitted in the A Agricultural zoning district, and by a specific use permit in the M Manufacturing zoning district. The proposed ordinance would allow outdoor farmer’s markets in the SF Single Family zoning district as a permitted use.

The second part of the ordinance would place conditions on all outdoor farmers markets in the city within the SF Single Family zoning district. This section makes a specific reference to a section in a new ordinance to be reviewed by the City Council in the Business Regulations chapter of the Code of Ordinances (Chapter 5). The City Council met in May of this year to discuss the desire to hold a farmers market in the City.

This Ordinance is a companion to the Ordinance which specifies the conditions under which a Farmer’s Market may operate in New Fairview.

The Planning and Zoning Commission held a public hearing on Monday, June 12, 2023 and voted to recommend approval of this Ordinance.

FINANCIAL CONSIDERATION:

The City will be charging an annual Farmers Market permit fee to help cover some of the costs of the City to operate this market.

RECOMMENDED MOTIONS:

I move to **Approve/Not Approve** an Ordinance amending Chapter 9B, Article 2, Sections 11 and 12 for the permitting and conditioning of Farmer's Market, Outdoor uses in the SF Single Family zoning district under Special Conditions..

ATTACHMENT(S):

1. Zoning Ordinance 202306-02-211

CITY OF NEW FAIRVIEW, TEXAS
ORDINANCE NO. 202306-02-211

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS AMENDING CERTAIN SECTIONS OF CHAPTER 9B ZONING REGULATIONS, ARTICLE 2, SECTIONS 11 AND 12, PERMITTED USES OF THE CODE OF ORDINANCES OF THE CITY OF NEW FAIRVIEW REGARDING FARMERS MARKETS; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of New Fairview is a general law municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas; and,

WHEREAS, the City possesses all of the rights, powers, and authorities possessed by all general law municipalities, including the authority to regulate land uses under Chapter 211 of the Texas Local Government Code, as amended; and

WHEREAS, the City has previously adopted Farmer’s Markets as an allowable land use and desires to extend that permitted land use to other zoning classifications;; and

WHEREAS, the proposed change is consistent with the Comprehensive Plan; and

WHEREAS, the City’s Planning and Zoning Commission and City Council of the City of New Fairview, Texas, in accordance with state law and the ordinances of the City, have given the required notices and have held the required public hearings regarding the proposed zoning text amendment; and

WHEREAS, after due deliberations and consideration of the recommendation of the City’s Planning and Zoning Commission, and any other information and materials received at the public hearing, the City Council of the City of New Fairview, Texas has determined that amendments to Chapter 9B, Zoning Ordinance; Article 2, Sections 11 and 12, Permitted Uses is in the best interests of the public health, safety, and welfare of the residents of the City and that it is in the public interest to adopt the new zoning text amendment, adding Farmer’s Market, Outdoor to the table of permitted uses in a SF zoning district.

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

SECTION 1

All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of the Ordinance as if fully set forth herein.

SECTION 2

Chapter 9B Zoning Ordinance, Article 2, Section 11 Permitted Use Table is amended as follows:

Residential				Nonresidential		Special Conditions
A	SF	MH		C	M	
P	P		Farmer's Market, Outdoor		S	23

Chapter 9B Zoning Ordinance, Article 2, Section 12 Special Conditions for Listed Uses is amended with the addition of paragraph 23:

23. All farmer's markets, outdoor uses within the SF Single Family zoning district shall be subject to Chapter 5, Article 5.07 of the City of New Fairview Code of Ordinances.

SECTION 3

This Ordinance, shall be cumulative of all other ordinances of the City, and in those instances where the provisions of other ordinances are in direct conflict with the provisions of this Ordinance; provided however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 4

Any person, firm, or corporation violating any of the provisions of this Ordinance shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 5

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict and any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7

This Ordinance shall take effect and be in full force from and after its publication, as provided by State law.

DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, ON THIS 20th DAY OF JUNE, 2023.

John Taylor, Mayor

ATTEST:

Brooke Boller, City Secretary



**CITY COUNCIL
AGENDA MEMO**

Prepared By: John Cabrales Jr., City Administrator

June 20, 2023

Farmers Market Ordinance

DESCRIPTION:

Receive, consider, and act on amending City Code of Ordinances Chapter 5, Business Regulations, by Adding Article 5.08, Sections 5.08.001-012, to adopt an Ordinance creating a Farmers Market.

BACKGROUND INFORMATION:

Various former and current City Council have made comments to the City Administrator about their interest in starting a farmers market for the benefit of New Fairview residents and surrounding communities. As part of the 2022 Citizen Satisfaction Survey conducted last year, there were questions concerning various special events, including a farmers market. Sixty-one (61%) percent of the respondents stated that they would "Always" or "Sometimes" attend a farmers market.

A benefit of having a farmers market is that there would be fresh produce and other food products available to residents because we do not have a grocery store in our city. The nearest grocery stores to New Fairview are in Boyd, Justin and Decatur. We are in what is referred to as a food desert, which are regions where people have limited access to healthful and affordable food. Without access to healthful foods, people living in food deserts may be at higher risk of diet-related conditions, such as obesity, diabetes, and cardiovascular disease. Also, farmers markets, if maintained correctly, can become the focal part of a community where people can interact easily creating a sense of place in an area where such is desired.

The City Council had a Work Session discussion on May 1, 2023, regarding the types of vendors allowed to participate in the farmers market; the duration time; the permitting process; the code of conduct; and the annual fee. The City plans to operate the farmers market at the Municipal Complex and has prepared a zoning ordinance to amend the Land Use Table permit this use for Single-Family Residential. This was addressed by the City Council in the previous agenda item. Staff was directed to draft an ordinance for the creation of a Farmers Market (see attached).

FINANCIAL CONSIDERATION:

The permit fees collected by each vendor in the farmers market will go into the City's General Fund to help offset the operational costs.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** an Ordinance amending City Code of Ordinances Chapter 5, Business Regulations, by Adding Article 5.08, Sections 5.08.001-012, to adopt an Ordinance creating a Farmers Market.

ATTACHMENT(S):

1. Ordinance 202306-04-113
2. Farmers Market Application
3. Farmers Market Code of Conduct

ORDINANCE NO. 202306-04-113

AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS AMENDING CHAPTER 5, BUSINESS REGULATIONS BY ADDING ARTICLE 5.08 "FARMERS MARKET," SECTIONS 5.08.001-5.008.012, ESTABLISHING CERTAIN REGULATIONS RELATING TO OPERATION OF A FARMERS MARKET ON CITY PROPERTY; PROVIDING FOR ISSUANCE OF A FARMERS MARKET VENDOR PERMIT; PROVIDING FOR PERMIT FEES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE OF \$500.00 PER OFFENSE; PROVIDING FOR AN EFFECTIVE DATE, AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of New Fairview is a general law municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas; and

WHEREAS, the City possesses all of the rights, powers, and authorities possessed by all general law municipalities, including the authority to regulate land uses under Chapter 211 of the Texas Local Government Code, as amended; and

WHEREAS, the City Council desires to provide business regulations governing the conduct of Farmers Markets in those districts where such use is allowed; and

WHEREAS, the City Council further desires to establish a Farmers Market at City Hall, to operate seasonally and finds it to be in the public interest to amend the Code of Ordinances to establish a Farmers Market.

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

SECTION 1: All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of the Ordinance as if fully set forth herein.

SECTION 2: That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of New Fairview, Texas, and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 3: That a violation of this ordinance shall be a misdemeanor and the penalty for violating this ordinance shall be as provided for in Section 1-14 of the Code of Ordinances of the City of New Fairview, which shall be a maximum fine of \$500.00, and each day a violation exists shall be a separate offense.

SECTION 4: That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given as required.

SECTION 5: This Ordinance (which includes Exhibit A, attached, and incorporated within for all purposes) shall be cumulative of all other ordinances of the City, and shall not repeal any of the provisions of those other ordinances or in those instances where the provisions of other ordinances are in direct conflict with the provisions of this Ordinance.

SECTION 6: Should any section, subsection, sentence, clause, or phrase of this Ordinance (which includes Exhibit A, attached hereto, and is incorporated within) be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance (which includes Exhibit A, attached hereto, and is incorporated within) shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance (which includes Exhibit A, attached hereto, and is incorporated within), and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 7: This Ordinance shall become and be effective from and after its passage and publication as required by law.

PASSED AND APPROVED by the City Council of the City of New Fairview, Texas on this the 20th day of June 2023.

John Taylor, Mayor

ATTEST:

Brooke Boller, City Secretary

EXHIBIT "A"

From and after the effective date of this Ordinance, the New Fairview Municipal Code of Ordinances Chapter 5, Business Regulations, is amended by adding Article 5.08, titled "Farmers Market" to read as follows:

ARTICLE 5.08. FARMERS MARKET

Sec. 5.08.001. Definitions

For purposes of this Article, the following words and phrases shall have the following meanings:

Farmers Market means a designated location used for a recurring event at which a majority of the vendors are Farmers or other food producers who sell food directly to consumers, including at least two vendors who meet the definition of "Farmer" as defined in this section and may include vendors who meet the definition of "food producer," also as defined in this section. In addition, a Farmers Market may include vendors who are not "Farmers" or "food producers," provided that "Farmers" and "food producers" constitute the majority of vendors who participate in the Market throughout the year. Vendors may also sell crafts, handmade goods, and processed and/or pre-packaged food meant to be consumed off-premises. A Farmers Market is not a food establishment and operates on a seasonal basis.

Agricultural Product means an agricultural, apicultural, horticultural, silvicultural, viticultural, or vegetable product, either in its natural or processed state, that has been produced, processed, or otherwise had value added to the product in this state for use as human food, including:

- (1) Fish or other aquatic species;
- (2) Livestock processed for food or by-product;
- (3) Poultry processed for food or by-product;
- (4) Wildlife processed for food or by-product; and
- (5) Fruit, nut, or vegetable product.

Farmer means a person or entity that produces agricultural products including, but not limited to, fruits, vegetables, fungi, grains, fiber, honey, dairy products, meat, poultry, or eggs, by practice of the agricultural arts upon land that the person or entity owns, rents, leases, or to which the person or entity otherwise has access.

Farmers Market Permit means written approval to operate a Farmers Market issued by the City.

Farmers Market Vendor means a person who:

- 1) Offers or sells food typically known as "farm grown", "farm originating", or "farm obtained", such as whole produce, plants, nuts, certain meats, honey, egg, and pasteurized dairy products;
- 2) Offers or sells crafts typically known as "handmade" and originating from a trade or occupation of the sort requiring skill and training, particularly manual skill combined with a knowledge of the principles of the art;
- 3) Offers or sells secondhand goods, or resale goods;
- 4) Offers or sells prepared food for off-premises consumption in compliance with all applicable federal, state, and local laws and regulations;

- 5) Conducts a performance at no charge to the general public, including performing arts such as dance, music, opera, theater and musical theater, magic, illusion, mime, spoken word, puppetry, and circus arts; or
- 6) Provides free information, products, or services from an entity that has received a determination letter from the Internal Revenue Service stating that the organization has been determined to be an exempt organization pursuant to 26 U.S.C. § 501(c)(3) (i.e., §501(c)(3) of the Internal Revenue Code of 1984), which determination letter has not been revoked.

Food Item Vendor means a vendor whose commercial inventory present at the beginning of each Farmers Market session is comprised of at least eighty percent (80%) agricultural products and not more than twenty percent (20%) locally produced non-agricultural products.

Locally produced means raised, grown, made, crafted, processed, or produced within 150 miles of the city limits of the City of New Fairview.

Food Producer means a person who grew, raised, processed, prepared, manufactured, or otherwise added value to the food product the person is selling. The term does not include a person who only packaged or repackaged a food product.

Permittee means a person issued a Farmers Market permit.

Potable water means drinking water.

Public restroom means a restroom facility which includes multiple toilets and sinks for handwashing, which are open to and available to the public. Does not include portable restroom facilities, except such as may otherwise be permissible on City-owned property.

Simple Sample strictly means a sample of a single food product by itself with no additional food products. A simple sample may consist of two food products only when the primary food item of the vendor has a low viscosity (jam, cheese spread, dip). In such cases a solid food item (cracker, bread) may accompany the sample food item for sampling purposes only and still classify as a simple sample.

Sec. 5.08.002 Farmers Market permit required.

It shall be unlawful to operate a Farmers Market:

- (1) without a valid Farmers Market permit, or
- (2) in violation of any provision of a Farmers Market permit, this article, or any other applicable city ordinance or other law.

Sec. 5.08.003 Location of Farmers Markets.

A Farmers Market must be located in a zoning classification that allows Farmers Markets as a permitted use.

Sec. 5.08.004 Operation of a Farmers Market.

- (a) A Farmers Market shall not be operated for more than twenty-four (24) hours per week and more than twelve (12) hours in any twenty-four (24) hours period.

(b) At least eighty percent (80%) of the vendors must be food item vendors whose products are locally produced.

(c) At least eighty percent (80%) of the cumulative square footage area of all vending booths at the Farmers Market must consist of locally produced agricultural products.

(d) No more than twenty percent (20%) of the vendors at a Farmers Market may operate with an inventory comprised of more than twenty percent (20%) locally produced non-agricultural products.

(e) Any vendor who offers prepackaged potentially hazardous/time and temperature control for safety (PHF/TCS) food at a Farmers Market shall abide the following requirements:

- (1) Only vendors with a state food distribution, food manufacturing, or food wholesale license may sell processed foods.
- (2) The food manufacturing, food distribution, or food wholesale license must be prominently displayed at the vendor's booth throughout the duration of each Farmers Market session.
- (3) Any processed foods must be commercially pre-packaged.
- (4) Vendors offering foods which required to be kept at any particular temperature as described in the Texas Food Establishment Rules and Article IV Food Service Establishments and Food Handlers, of this Chapter must be able to demonstrate that the food is consistently kept at the required temperature for the duration of any Farmers Market event from the arrival to the departure of the vendor.
- (5) Ice that contacts food shall be made under conditions meeting the requirements of these rules. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. Packaged food may not be stored in direct contact with ice if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

(f) Each Farmers Market must provide 1.25 parking spaces per vending booth, unless held on City-owned property.

(g) A Farmers Market may display up to two temporary signs on site with a maximum area of thirty-two square feet (32 ft) each. Four additional temporary signs, no larger than two square feet each (2 ft) may be displayed off site on a property where permission has been granted by the property owner. Each vendor may display one temporary sign. A vendor's sign shall be no larger than twenty square feet (20 ft). No sign shall be located in the public right of way, unless so placed by the City.

(h) All retail activity and all retail products must be confined to the allocated retail vending space

(i) The permittee or the permittee's designated representative must be present at the Farmers Market location for all Farmers Market functions, which includes any on site activities, preparation, clean up, organizing, loading, or unloading, or setup associated with the Farmers Market and have the authority to comply with directives from City code and County health inspectors including providing corrections for identified violations.

(j) Any outdoor Farmers Market facilities, structures, signs, tents, tables, or any other physical items associated with the Farmers Market are considered temporary and are not permitted to remain on site outside of a permanent enclosed structure. Such items may be placed on site within two hours of the beginning of the Farmers Market operations and may remain on site for up to two hours after the conclusion of Farmers Market operations.

(k) Each vendor at a Farmers Market shall meet all requirements of any other applicable law regulating the vendor's operation at the Farmers Market, including displaying of an appropriate license or permit and meeting required performance standards. The permittee shall be responsible for ensuring that each vendor complies with this subsection. If the permittee is also a vendor at the Farmers Market, the permittee shall also meet all requirements of any other applicable law regulating such vendor's operation at the Farmers Market.

(l) If the permittee desires to add a vendor to the list of participating vendors submitted in accordance with Section **5.08.005**, the permittee shall submit an amended list of participating vendors to the Inspection Services Department prior to such vendor participating in the Farmers Market.

(m) Any vendor not listed on the list of participating vendors submitted by the applicant in accordance with Section **5.08.005** or as amended in subsection (l) of this section and any vendor not providing the required insurance or indemnification agreement will not participate in the Farmers Market.

Sec. 5.08. Simple Samples and on-site food preparation.

(a) Vendors may distribute samples of food items they are selling without a food establishment permit as long as the samples classify as simple samples as defined herein. The use of single use disposable utensils (toothpicks, sample cups) is allowed. In the case of low viscosity foods (cheese spread, jam), the use of a single solid edible item (cracker, bread) is also allowed. Vendors distributing samples of prepackaged potentially hazardous/time and temperature control for safety (PHF/TCS) foods must demonstrate that the samples are maintained at the same levels of food safety standards as the non-sample items in keeping with section 13-443(e)(4) of this ordinance. Products must be protected from all sources of contamination.

(b) A Farmers Market permit does not authorize on-site food preparation at a Farmers Market. Appropriate permits from Wise County and/or other pertinent public agencies will be required to prepare food on site (i.e., mobile food vending permit, food establishment permit, and open-air vending permit).

1. Individual vendors may acquire a food establishment permit from Wise County.
2. A vendor with the appropriate permits to prepare food on site as a part of the Farmers Market operation will count as a nonfood item vendor unless one hundred percent (100%) of the prepared food items offered for sale consist of locally produced agricultural products, in which case the vendor may be considered a food item vendor. Such vendors must comply with any County open air vending, food establishment, or mobile food vending regulations in addition to the requirements listed in this article.

Sec. 5.08.005 Permittee's application and review.

(a) All applicants for a Farmers Market permit shall apply for the permit from the City Clerk. To facilitate the review, the applicant shall provide a site plan displaying the location of the Farmers Market, layout of the allocated vending spaces with dimensions, temporary structures, furniture, signage, trash bins, a solid waste collection plan and parking, including parking spaces. The applicant shall also provide a list of all participating vendors and their production location information.

(b) The appropriate city departments, through the existing city plan review process, shall review all applications. Staff involved in the review shall place special provisions or conditions upon the applicant deemed necessary by staff including but not limited to screening, traffic control, lighting, and waste

management.

(c) When the review process is complete, the City Clerk will notify the applicant. Any modifications or special conditions and provisions imposed during the review shall be provided to the applicant in writing. When all conditions of the permit have been met, then the permit shall be issued by the City Clerk, unless denial is required by **Section 5.08.010**.

Sec. 5.08.006 Length of permit; renewal.

A Farmers Market permit shall be valid for a period of one year from the date of issuance and may be renewed by applying in accordance with **Section 5.08.005**.

Sec. 5.08.007 Fees.

A permit fee will be charged at the time of issuing the permit. The City Council shall set the fee for the permit.

Sec. 5.08.008 Permit Requirements for Farmers Market located on City-owned property.

(a) If a Farmers Market is to be located on City-owned property and operated by the City or its designee, the applicant must obtain and retain a minimum of \$500,000 general liability and property damage insurance coverage, and one million dollars (\$1,000,000.00) per accident or injury incurred

(b) No on-site Farmers Market activities on City-owned property may commence until the applicant has filed with the city documents evidencing the required insurance being in full force and effect. No vendor may operate at a Farmers Market on City-owned property without having either evidence of the required vendor insurance or the required indemnification agreement on file with the City.

(c) No person shall be allowed to sell food, crafts, or goods until first having received a permit issued pursuant to this Section.

(d) Permits issued pursuant to this Section may only be issued to a person or entity operating as a Farmers Market vendor at the Farmers Market.

(e) Application for a New Fairview Farmers Market permit shall be submitted on a form provided by the City containing such information as required by the City Administrator, but which shall contain at least the following:

(1) The name, address, and telephone number of the Farmers Market Vendor. If the Farmers Market Vendor is a business entity and not an individual person, the name of the entity and the responsible person authorized to obligate the entity to contractual agreements;

(2) Dates on which the Farmers Market Vendor desires to conduct business at the City-owned and operated Farmers Market;

(3) The permit fee in the amount established by the City Council; and

(4) A certificate of insurance showing the applicant maintains commercial general liability insurance written by a carrier licensed in the State of Texas in the amount of not less than five hundred thousand dollars (\$500,000.00) per person, and one million dollars (\$1,000,000.00) per

accident or injury incurred.

- (f) In addition, every vendor must sign and comply with the New Fairview Farmers Market Code of Conduct. Failure to sign and/or comply with the Code of Conduct could result in the revocation of the permit and the ability to participate in the Farmers Market.
- (g) The City Administrator shall be authorized to determine the completeness of each Farmers Market vendor permit application under this section and to issue a permit based on said application.
- (h) The City Administrator shall be authorized to revoke a Farmers Market vendor permit upon a determination that the Farmers Market vendor has failed to comply with the provisions of the permit.

Sec. 5.08.009 Other permits.

Permittees or vendors (if a specific permit applies to them) shall comply with all applicable regulations and obtain all other permits, franchises or licenses that may be required under the ordinances of the City or other agencies of the county, state, or federal government. Such permits may relate to health, safety, sale of alcohol or any other topic.

Sec. 5.08.010 Revocation, suspension, or denial of a permit.

The City may immediately revoke or suspend the permit, or deny either the issuance or renewal thereof, if it is found that:

- (1) The applicant or permit holder has violated or failed to meet any of the provisions of this article or conditions of the permit;
- (2) Any required licenses have been suspended, revoked, or canceled;
- (3) The permittee has violated any federal, state, or city law or regulation;
- (4) The Mayor has determined that the Farmers Market would pose a serious threat to the public health, safety, or welfare; or
- (5) The applicant has made a false statement of material fact on an application for a Farmers Market permit.

Sec. 5.08.011 Notice to applicant/permittee; appeals.

Upon denial, suspension or revocation, the City shall notify the applicant or permittee in writing either in person or by certified mail to the address listed on the application of the action taken and the reasons therefore. A person may appeal a decision to deny, revoke, or suspend a permit to the City Council. Appeals shall be submitted to the City Secretary in writing within 15 days following the date the applicant or permittee receives the decision. A hearing on the denial, suspension, or revocation will be scheduled for the next regular meeting of the City Council that is more than six days away. The council will render a decision on the appeal within ten days of the hearing. A permittee shall not operate the Farmers Market during the appeal process.

Sec. 5.08.012 Permit Fee.

The City Council may from time to time establish the permit fee(s) to be charged to vendors to operate a Farmers Markets, or any Farmers Market located on city property, which fee(s) shall be included in the City's Master Fee Schedule. Any permit fee required by this Section shall be non-refundable once paid.

The permit fee for a Farmers Market located on city property may be waived to an entity providing free information, products, or services which has received a determination letter from the Internal Revenue Service stating that the organization has been determined to be an exempt organization pursuant to 26 U.S.C. § 501(c)(3) (i.e. §501(c)(3) of the Internal Revenue Code of 1984), which determination letter has not been revoked.

DRAFT



New Fairview, Texas Keeping it country

**City of New
Fairview
Farmers Market
Application**

999 Illinois Lane, New
Fairview, Texas 76078
817-638-5366

www.newfairview.com

A non-refundable filing fee of \$50.00 must accompany each application.

In order to process this application, please ensure that all fields are filled in and that all information is accurate.

Applicants must meet the definition of a *Farmers Market Vendor* as set forth by Ordinance (202306-04-113) pertaining to the New Fairview Farmers Market. If the applicant is a non-profit organization looking to provide free goods or services, they may apply as such, providing a copy of their IRS Affirmation Letter and 501(c)(3) EIN.

Before a permit can be issued, the applicant must provide proof of commercial general liability insurance, written by a carrier licensed in the State of Texas, in the amount not less than five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) per accident or injury incurred.

The applicant understands that the issued permit is only valid for use on the City of New Fairview's property on which the Farmers Market has been established.

If the applicant has a need for electrical power, they will be required to provide their own portal electric generation and notify the City of this requirement.

The applicant understands that they are responsible for placement and removal of any signs or promotions relating to their specific business or organization.

The applicant understands that they are required to dispose of all trash and debris generated by the operation of the farmers market vendor at the end of each day of operation.

The applicant agrees to display their Farmers Market Permit during the days and times in which they are operating as a Farmers Market Vendor for the New Fairview Farmers Market.

The applicant agrees to follow the Farmers Market Code of Conduct. The applicant understands that failure to adhere to the Farmers Market Code of Conduct, or failure to provide full and accurate information on this application can result in the revoking of one's Farmers Market Permit.



New Fairview, Texas
Keeping it country

City of New Fairview Farmers Market Application

999 Illinois Lane, New Fairview, Texas 76078
817-638-5366

www.newfairview.org

Date of Application: _____ Name of Applicant: _____

Address: _____ City: _____ State: _____

ID#: _____ State of Issuance: _____ Expiration Date: _____

Phone #: _____ Email: _____

- | | |
|--|--|
| <input type="checkbox"/> Farm Grown Food | <input type="checkbox"/> Non-Profit Organization |
| <input type="checkbox"/> Crafts / Handmade Goods | <input type="checkbox"/> Prepared Food |
| <input type="checkbox"/> Public Performance | |

Name of Business or Non-Profit: _____

Address: _____ City: _____ State: _____

Business/Org. Phone #: _____ Sales Tax Number: _____

501(c)(3) EIN: _____

Electricity Needs: _____

Describe the of type of items to be sold and the size of tents/booths for this event: _____

I agree that the above information is correct and that I have received a copy of the Farmers Market Code of Conduct. I understand that if the above information is inaccurate or that if I do not adhere to the Farmers Market Code of Conduct that my permit to participate in the New Fairview Farmers Market may be revoked.

Applicant Signature

Date

FOR OFFICE USE ONLY: Date Received: _____ Received By: _____

- | | |
|---|--|
| <input type="checkbox"/> Application Fee Paid | <input type="checkbox"/> Insurance Presented |
| o Cash | <input type="checkbox"/> Permit Issued |
| o Credit Card | o Permit No.: _____ |
| o Check # _____ | |
| <input type="checkbox"/> Application Denied | |
| o Reason for Denial: _____ | |

Signature of Staff Member Issuing/Denying Permit

Date Permit is Issued/Denied



City of New Fairview Farmers Market Code of Conduct

999 Illinois Lane, New Fairview, Texas 76078
817-638-5366, newfairview.org

All participants in the New Fairview Farmers Market must adhere to the following Code of Conduct. Failure to follow this code could result in the City revoking a vendor's permit. The City does not provide refunds for any vendors whose permit is revoked. New Fairview Farmers Market Vendors will:

1. Demonstrate the highest standards of personal behavior and integrity, treating everyone with courtesy and respect.
2. Comply with all Federal, State, and Local laws, codes, and ordinances.
3. Abstain from physical or verbal abuse.
4. Operate vehicles and other equipment in a safe and responsible manner.
5. Abstain from criminal activity.
6. Remove all trash, signage, vehicles, and belongings from the premises within an hour of the New Fairview Farmers Market closing.
7. Comply with equal opportunity and anti-discrimination laws.
8. Under no circumstance, attend or participate in the New Fairview Farmers Market while under the influence of alcohol or a controlled substance.
9. Under no circumstance possess, sell or consume alcohol or controlled substances at the New Fairview Farmers Market.

For questions or clarification regarding any of these items, please contact the City of New Fairview.

Permit Holder Signature

Date