



**City of New Fairview  
City Council  
Regular Meeting  
999 Illinois Lane  
Monday, November 6, 2023, at 7:00 pm**

**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 October 16, 2023.**
  - B. **Approve the Quarterly Investment Report (July - September 2023).**
7. **New Business:** All matters listed in New Business will be discussed and considered separately.
  - A. **Receive, consider, and act on a Resolution voting on individual(s) to the Wise County Appraisal District Board of Directors.**

- B. Receive, consider, and act on a Resolution voting on individual(s) to the Denton Central Appraisal District Board of Directors.
  - C. Receive, consider, and act on a Resolution regarding a finance contract with Government Capital Corporation for the purpose of procuring a vehicle, and related equipment.
  - D. Receive, consider, and act on a Resolution designating the *Wise County Messenger* as the Official Newspaper for Year 2024.
  - E. Receive, consider, and act on an Ordinance granting a franchise agreement with Atmos Energy Corporation.
8. **Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.
- A. Hold a discussion regarding possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.
9. **Return to Open Session:** Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.
10. **Mayor & Council Member Announcements:** The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

**11. Adjournment**

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and on its website, said notice being posted this 3rd day of November, 2023 at 5:00 PM at least 72 hours preceding the meeting time.

  
 \_\_\_\_\_  
 Brooke Boller, City Secretary

SEAL:



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



**City of New Fairview  
City Council  
Regular Meeting  
999 Illinois Lane  
Monday, October 16, 2023, at 7:00 pm**

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

**City Staff  
John Cabrales Jr, City Administrator  
Brooke Boller, 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. Adjournment  
Motion: Councilman Richard Greene  
Second: Councilman Peter Kozlowski  
Vote: All in Favor  
Result: Work session was adjourned at 7:01pm**

**REGULAR SESSION**

- 1. Call to Order and Determination of Quorum (Regular Session called to order by Mayor John Taylor at 7:01 pm; Roll Call with the above-mentioned names.)**
- 1. Pledge to the Flags.**
  - A. United States of America**
  - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.**
- 2. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.**
- 3. City Administrator's Report: The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and**

commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.

4. **Public Comment:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens 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.

**Brandon Shelby- Representative for the owners of property asking to disannex in Wise County- Item 7C on the agenda.**

5. **Consent Agenda:** All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.

- A. Approve the City Council Meeting minutes for October 2, 2023.

- B. Receive, consider, and act on a Resolution for the canceling of the November 20, 2023 Regular City Council Meeting.

**Motion: Councilman Peter Kozlowski**

**Second: Councilman Richard Greene**

**Vote: All in Favor**

**Result: Council approved minutes for October 2, 2023 as well as approved the Resolution canceling of November 20, 2023 Regular City Council Meeting.**

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

- A. Receive, consider, and act on an Ordinance amending the Transportation Impact Fees; defining development types and establishing the fees for each development type.

**Motion: Councilman Richard Greene**

**Second: Mayor Pro Tem Steven King**

**Vote: All in Favor**

**Result: Council approved an Ordinance updating the Transportation Impact Fees; defining development types and establishing the fees for each development type.**

- B. Hold a Public Hearing and act on an Ordinance adopting a revised Master Schedule of Fees for the City of New Fairview.

**Motion: Councilman Peter Kozlowski**

**Second: Councilwoman Sarah Adams**

**Vote: For: Councilman Peterkozlowski, Councilman Harvey Burger, Councilwoman Sarah Adams**

**Against: Mayor Pro Tem Steven King & Councilman Richard Greene**

**Result: Council approved an Ordinance amending and readopting the Master Fee Schedule, by amending the New Fairview City Code of Ordinances, Appendixes A1 (Miscellaneous Fees) and A2 (Building and Development Fees) for the City of New Fairview.**

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

**Motion: Councilwoman Sarah Adams**

**Second: Councilman Richard Greene**

**Vote: All in Favor**



**Result: Council denied an Ordinance approving the disannexation of approximately 236.70 acres in the Smith County School Land Survey, Wise County, Texas.**

D. Receive, consider, and act on a Resolution amending Resolution 202211-03-104 and the City Council Procedures and Decorum Policy to include prayer/invocation to City Council meetings.

**Motion: Councilman Harvey Burger**

**Second: Mayor Pro Tem Steven King**

**Vote: All in Favor**

**Result: Council denied a Resolution amending Resolution amending Resolution 202211-03-104 and the City Council Procedures and Decorum Policy to include prayer/invocation to City Council meetings.**

E. 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: Councilwoman Sarah Adams**

**Vote: All in Favor**

**Result: Council approved the appointment of Patricia Briscoe to the Parks and Recreation Board, and the Keep New Fairview Beautiful Committee, to Place 5.**

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

A. §551.072, Tex. Gov't Code (Real Property)

B. §551.071 Tex. Gov't Code (Legal Advice)

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

**Tabled**

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

9. 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.

10. Adjournment

**Motion: Councilman Richard Greene**

**Second: Councilman Peter Kozlowski**

**Vote: All in Favor**

**Result: Work Session was adjourned at 8:18pm.**

**MINUTES APPROVED ON THIS, THE 6TH DAY OF NOVEMBER 2023**

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**John Taylor, Mayor**

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**Brooke Boller, City Secretary**

### Fourth Quarter 2022-2023 Investment Report

Month		Beginning Balance	Contributions	Ending Balance	Interest	Withdrawals
July 2023						
	TX Class Account Prime	\$1,128,363.04	\$14,798.09	\$846,604.14	\$4,446.35	\$301,003.34
	Transportation Impact Fee	\$197,283.45	\$14,143.95	\$212,323.56	\$896.16	\$0.00
	Judicial Fund	\$22.61	\$1.12	\$23.79	\$.06	\$0.00
	Municipal Court Building Fund	\$3,623.45	\$55.00	\$3,626.81	\$16.42	\$68.06
	Truancy P&D Fund	\$1,723.96	\$56.12	\$1,788.04	\$7.96	\$0.00
	Municipal Court Tech Fund	\$2,332.64	\$44.90	\$2,388.26	\$10.72	\$0.00
	CIP Fund	\$181,036.18	\$57,130.25	\$235,185.27	\$868.84	\$3,850.00
	TPWD- Small Parks Grant Fund	\$25,220.33	\$129,075.00	\$25,409.90	\$189.57	\$129,075.00
	Debt Service Fund	\$169,713.49	\$654.14	\$47,206.23	\$551.10	\$123,712.50
	TDEM	\$741.85	\$0.00	\$745.24	\$3.39	0.00
August 2023						
	TX Class Account Prime	\$846,604.14	\$0.00	799,440.05	3,835.91	51,000.00
	Transportation Impact Fee	212,323.56	19,801.53	233,186.06	1,060.97	0.00
	Judicial Fund	23.79	.70	24.53	.04	0.0



	Municipal Court Building Fund	\$3,626.81	\$34.30	3,678.05	\$16.94	\$0.00
	Truancy P&D Fund	\$1,788.04	\$35.00	\$1,831.44	\$8.40	\$0.00
	Municipal Court Tech Fund	\$2,388.26	\$28.00	\$2427.45	\$11.19	\$0.00
	CIP Fund	\$235,185.27	\$0.00	\$236,281.33	\$1,096.06	\$0.00
	TPWD- Small Parks Grant Fund	\$25,409.90	\$0.00	\$25,528.31	\$118.41	\$0.00
	Debt Service Fund	\$47,206.23	\$1,000.00	\$48,430.60	\$224.37	\$0.00
	TDEM	\$745.24	\$0.00	\$748.68	\$3.44	\$0.00
September 2023						
	TX Class Account Prime	\$799,440.05	\$0.00	\$552,923.82	\$3,483.77	\$250,000.00
	Transportation Impact Fee	\$233,186.06	\$11,315.16	\$245,613.14	\$1,111.92	\$0.00
	Judicial Fund	\$24.53	\$0.00	\$24.58	\$0.05	\$0.00
	Municipal Court Building Fund	\$3,678.05	\$0.00	\$3,694.79	\$16.74	\$0.00
	Truancy P&D Fund	\$1,831.44	\$0.00	\$1,839.80	\$8.36	\$0.00
	Municipal Court Tech Fund	\$2,427.45	\$0.00	\$24,38.51	\$11.06	\$0.00
	CIP Fund	\$236,281.33	\$3,500,000.00	\$3,745,856.68	\$9,575.35	\$0.00
	TPWD- Small Parks Grant Fund	\$25,528.31	\$123,596.50	\$149,278.37	\$153.56	\$0.00
	Debt Service Fund	\$48,430.60	\$0.00	\$48,650.85	\$220.25	\$0.00

	TDEM	\$748.68	\$0.00	\$752.03	\$3.35	\$0.00
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**CITY COUNCIL  
AGENDA MEMO**

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Prepared By: John Cabrales Jr, City Administrator

November 6, 2023

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**Wise County Appraisal District Board Vote**

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**DESCRIPTION:**

Receive, consider, and act on a Resolution voting on individual(s) to the Wise County Appraisal District Board of Directors.

**BACKGROUND INFORMATION:**

The Wise County Appraisal District (WCAD) has submitted a letter (attached) to all taxing units in Wise County containing the ballot of nominees to the WCAD Board of Directors. There are five positions open and each Director will serve two (2) year terms beginning January 1, 2024.

The City of New Fairview accounts for 23 of the 5,000 votes because this is based on the property valuations for 2023. Any vote must be done by Resolution and submitted to the Chief Appraiser before December 15, 2023.

The City Council passed a Resolution (202310-04-103) nominating Mr. Clayton Brazelton, a member of the Boyd Municipal Development District Board, to the WCAD Board.

**FINANCIAL CONSIDERATION:**

None.

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny** a Resolution voting \_\_\_\_\_ to the Wise County Appraisal District Board of Directors.

**ATTACHMENT(S):**

1. Wise CAD Official Ballot Letter
2. Resolution 202311-04-108

# Wise County Appraisal District

400 East Business 380 Decatur, Texas 76234

Phone 940-627-3081 Fax 940-627-5187

Deidra Deaton , RPA, RTA  
Chief Appraiser

Board of Directors  
Ray Cook, Jr. - Chairperson  
Bill Lewis – Vice Chairperson  
Noel Ruddick  
Karen Schluter  
Kenneth Shepherd, Jr.  
Monte Shaw

October 20, 2023

TO: Taxing Entities:

Subject: 2024 Board of Director Election

It is time for the taxing units in Wise County to submit votes for the Wise County Appraisal District Board of Directors. These Directors will serve two (2) year terms beginning January 1, 2024.

Nominations have been received and the **OFFICIAL BALLOT** is attached. Please place this on your November or December Meeting Agenda for action.

The governing body of each taxing unit that is entitled to vote shall determine its vote by resolution and submit it to the Chief Appraiser before December 15, 2023. The Chief Appraiser shall count the votes, declare the five candidates who receive the largest cumulative vote totals elected and submit the results before December 31, 2023 to each taxing unit in the district and to the candidates. The Chief Appraiser shall resolve a tie vote by any method of chance.

Please see the attached page showing the number of votes for each taxing unit.

As always if you have any questions or comments do not hesitate to call.

Thank you,

Deidra Deaton  
Chief Appraiser  
940-627-3081, ext. 116  
D.deaton@wisecad.net

**WISE COUNTY APPRAISAL DISTRICT**  
**2024 Board of Director Election**

TAXING UNIT	2023 LEVY	Total % of Levy	2024 VOTES
Alvord ISD (Wise County)	\$5,236,775	2.8614%	143
Azle ISD (Wise County)	\$817,358	0.4466%	22
Boyd ISD	\$11,278,548	6.1626%	308
Bridgeport ISD	\$20,386,788	11.1394%	557
Chico ISD	\$8,552,399	4.6731%	234
Decatur ISD	\$33,966,453	18.5594%	928
Jacksboro ISD (Wise County)	\$414,879	0.2267%	11
Krum ISD (Wise County)	\$103,400	0.0565%	3
Northwest ISD (Wise County)	\$23,946,146	13.0843%	654
Paradise ISD	\$9,219,939	5.0378%	252
Poolville ISD (Wise County)	\$1,223,917	0.6688%	33
Springtown ISD (Wise County)	\$3,369,142	1.8409%	92
Slidell ISD (Wise County)	\$4,048,679	2.2122%	111
City of Alvord	\$569,736	0.3113%	16
City of Aurora	\$468,420	0.2559%	13
City of Boyd	\$1,665,086	0.9098%	45
City of Bridgeport	\$4,101,876	2.2413%	112
City of Chico	\$338,790	0.1851%	9
City of Decatur	\$7,241,459	3.9568%	198
City of Ft Worth (Wise County)	\$30,973	0.0169%	1
City of Lake Bridgeport	\$140,877	0.0770%	4
City of Newark	\$402,998	0.2202%	11
City of New Fairview	\$851,538	0.4653%	23
City of Paradise	\$312,188	0.1706%	9
City of Rhome	\$1,193,367	0.6521%	33
City of Runaway Bay	\$1,239,328	0.6772%	34
Wise County	\$40,994,522	22.3995%	1120
Emergency Services #1	\$482,459	0.2636%	13
Emergency Services #2	\$416,995	0.2278%	11
<b>TOTALS</b>	<b>\$183,015,035</b>	<b>100.0000%</b>	<b>5000</b>

# OFFICIAL BALLOT

ELECTION OF DIRECTORS FOR THE  
WISE COUNTY APPRAISAL DISTRICT

**2024-2025**

OCTOBER 20, 2023

NAME OF NOMINEES

# OF VOTES FOR EACH

1. CLAYTON BRAZELTON

\_\_\_\_\_

2. RAY COOK JR.

\_\_\_\_\_

3. BILL LEWIS

\_\_\_\_\_

4. ROCKY PACK

\_\_\_\_\_

5. DENNIS PENNEY

\_\_\_\_\_

6. NOEL RUDDICK

\_\_\_\_\_

7. KAREN SCHULTER

\_\_\_\_\_

8. MARK STARNES

\_\_\_\_\_

THIS BALLOT IS BEING SUBMITTED BY THE \_\_\_\_\_  
AND A COPY OF THE RESOLUTION AND OR MINUTES BY THE  
GOVERNING BODY CASTING VOTES IS ATTACHED.

\_\_\_\_\_  
SIGNATURE OF PRESIDING OFFICER

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

**RETURN BEFORE DECEMBER 15, 2023**

WISE COUNTY APPRAISAL DISTRICT

400 EAST BUSINESS 380

DECATUR, TEXAS 76234





**RESOLUTION NO. 202311-04-108**

**A RESOLUTION OF THE CITY COUNCIL OF NEW FAIRVIEW, TEXAS, VOTING FOR CANDIDATE(S) FOR THE BOARD OF DIRECTORS OF THE WISE COUNTY APPRAISAL DISTRICT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The Chief Appraiser of the Wise County Appraisal District has been charged with the responsibility of conducting the election process to determine the membership of the Board of Directors of the Wise County Appraisal District, according to the Property Tax Code of Texas; and

**WHEREAS**, each taxing unity in Wise County shall have the right to vote by an official resolution on candidates for each position to be filled as a member of the Board of Directors; and

**WHEREAS**, there are five positions open so the City Council can break up their 23 allotted votes for up to five nominees; and

**WHEREAS**, any vote to the Wise County Appraisal District Board must be submitted to the Chief Appraiser before December 15, 2023.

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

**SECTION 1.** The City Council hereby votes for \_\_\_\_\_ to the Wise County Appraisal District Board of Directors.

**SECTION 2.** This Resolution shall be effective immediately upon its passage, as provided by law.

**PRESENTED AND PASSED** on this 6<sup>th</sup> day of November 2023, at a regular meeting of the New Fairview City Council.

\_\_\_\_\_  
JOHN TAYLOR, Mayor

**ATTEST:**

\_\_\_\_\_  
BROOKE BOLLER, City Secretary



## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

November 6, 2023

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### Denton Central Appraisal District Board Vote

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#### **DESCRIPTION:**

Receive, consider, and act on a Resolution voting on individual(s) to the Denton Central Appraisal District Board of Directors.

#### **BACKGROUND INFORMATION:**

The Denton Central Appraisal District (DCAD) has submitted a letter (attached) to all taxing units in Denton County containing the ballot of nominees to the DCAD Board of Directors. There are five positions open and each Director will serve two (2) year terms beginning January 1, 2024.

The City of New Fairview accounts for one (1) of the 5,000 votes because this is based on the property valuations for 2022. Any vote must be done by Resolution and submitted to the Chief Appraiser before December 15, 2023.

#### **FINANCIAL CONSIDERATION:**

None.

#### **RECOMMENDED MOTIONS:**

I move to **Approve/Deny** a Resolution voting \_\_\_\_\_ to the Denton County Appraisal District Board of Directors.

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

1. Denton CAD Board Nominees for the 2024 Year
2. Resolution 202311-03-107



**RESOLUTION NO. 202311-03-107**

**A RESOLUTION OF THE CITY COUNCIL OF NEW FAIRVIEW, TEXAS, VOTING FOR CANDIDATE(S) FOR THE BOARD OF DIRECTORS OF THE DENTON CENTRAL APPRAISAL DISTRICT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The Chief Appraiser of the Denton Central Appraisal District has been charged with the responsibility of conducting the election process to determine the membership of the Board of Directors of the Denton Central Appraisal District, according to the Property Tax Code of Texas; and

**WHEREAS**, each taxing unity in Denton County shall have the right to vote by an official resolution on candidates for each position to be filled as a member of the Board of Directors; and

**WHEREAS**, there are five positions open and the City only has one vote; and

**WHEREAS**, any vote to the Denton Central Appraisal District Board must be submitted to the Chief Appraiser before December 15, 2023.

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

**SECTION 1.** The City Council hereby votes for \_\_\_\_\_ to the Denton Central Appraisal District Board of Directors.

**SECTION 2.** This Resolution shall be effective immediately upon its passage, as provided by law.

**PRESENTED AND PASSED** on this 6<sup>th</sup> day of November 2023, at a regular meeting of the New Fairview City Council.

\_\_\_\_\_  
JOHN TAYLOR, Mayor

**ATTEST:**

\_\_\_\_\_  
BROOKE BOLLER, City Secretary



AGENDA ITEM: 7C

## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

November 6, 2023

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### Finance Contract with Government Capital Corporation

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#### **DESCRIPTION:**

Receive, consider, and act on a Resolution regarding a finance contract with Government Capital Corporation for the purpose of procuring a vehicle, and related equipment.

#### **BACKGROUND INFORMATION:**

During the Fiscal Year 2023-24 Budget discussions, staff discussed the five (5) year Fleet Replacement Plan that included the addition of a one-ton truck for the Public Works Department. This equipment will allow the public works crew to do more street maintenance projects, code enforcement, and work more efficiently. The approved FY 2023-24 Budget contains \$85,000 in the Capital Outlay section of the Public Works Department for this vehicle and additional equipment. The Budget also shows that the \$85,000 would be financed so that the impact will not occur until fiscal year 2024-25 with the first principal and interest payment.

Staff contacted Government Capital Corporation for a proposal to finance the procuring of this equipment. Government Capital Corporation is a leading public finance firm providing professional financial services to all local governmental entities. Since its founding in 1992, the company has successfully completed thousands of municipal financings exceeding \$5 billion in Texas and across the country.

The attached proposed Financing Agreement is designated as a "qualified tax-exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended. The financing of \$85,000 has two payment options, three (3) and five (5) years with interest rates of 5.976% and 6.087% respectively. More details are below in the Financial Consideration section and the Resolution designates the City Administrator or designee, as an authorized signer of the Finance Contract.

The Government Capital Corporation three year plan has a lesser rate of interest, it of course has a shorter repayment period. And, the five year has a higher interest rate, it has roughly a \$11,000 buffer for each of the first three years. This buffer would be helpful in future budget years in case our property tax or building fees end up dropping significantly. A longer term would allow the City some additional financial flexibility to weather either inflation or a recession. Additionally, even the three year plan includes a Legislative Session, which historically have not been kind to municipal finances.

The choice is not dissimilar to those that many property owners make, in electing a 30 year over a 15 year mortgage. Therefore, staff recommends the five (5) year financing option.

Staff issued a Request for Proposals (RFP) on October 26, 2023, through a public notice in the *Wise County Messenger* for competitive sealed bids for a new, 2023/24 model-year, one-ton, crew cab, 4-wheel drive, eight-foot bed pickup, and standard equipment. Any bids received from the RFP will be evaluated based on the criteria in the bid and will be brought to the Dec. 4, 2023 meeting for City Council consideration.

Staff recommend approval of the Resolution.

**FINANCIAL CONSIDERATION:**

The terms of the finance agreement are as follows:

EQUIPMENT COST: \$85,000  
TERM: 3 Annual Payments  
INTEREST RATE: 5.976% Fixed  
PAYMENTS AMOUNTS: \$31,972.19  
PAYMENTS BEGINNING: October 2024, annually thereafter.

OR

EQUIPMENT COST: \$85,000  
TERM: 5 Annual Payments  
INTEREST RATE: 6.087% Fixed  
PAYMENTS AMOUNTS: \$20,345.42  
PAYMENTS BEGINNING: October 2024, annually thereafter.

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny** a Resolution regarding a finance contract with Government Capital Corporation for the \_\_\_\_\_ year option for the purpose of procuring a vehicle, and related equipment.

**ATTACHMENT(S):**

1. Government Capital Proposal
2. Resolution 202311-02-106



**GOVERNMENT CAPITAL**  
**CORPORATION**

October 23, 2023

Mr. John Cabrales Jr.  
New Fairview City Hall  
(817) 638-5366  
John@newfairview.org

Dear Mr. Cabrales,

Thank you for the opportunity to present the proposed financing for the City of New Fairview. I am submitting for your review the following proposed structure:

ISSUER:	City of New Fairview, TX	
FINANCING STRUCTURE:	Public Property Finance Contract issued under Local Government Code Section 271.005	
EQUIPMENT COST:	\$ 85,000.00	
TERM:	3 Payments	5 Payments
INTEREST RATE:	5.976%	6.087%
PAYMENT AMOUNT:	\$ 31,972.19	\$ 20,345.42
PAYMENTS BEGINNING:	One year from signing, annually thereafter	

**Financing for these projects would be simple, fast, and easy due to the fact that:**

- ✓ We have an existing relationship with you and have your financial statements on file, expediting the process. Please keep in mind we may also need current-year statements.
- ✓ We can provide familiar documentation for your legal counsel.

The above payment amount includes all applicable fees expressed as \$500. These costs can include documentation fees, legal fees, issuance expenses, etc. The above proposal is subject to audit analysis and assumes bank qualification and mutually acceptable documentation. The terms outlined herein are based on current markets. Upon credit approval, rates may be locked for up to thirty (30) days. If funding does not occur within this time period, rates will be indexed to markets at such time.

Our finance programs are flexible and as always, my job is to make sure you have the best possible experience every time you interact with our brand. We're always open to feedback on how to make your experience better. If you have any questions regarding other payment terms, frequencies, or conditions, please do not hesitate to call.

With Best Regards,

*Matt Sullivan*

Matt Sullivan  
Municipal Finance Specialist | Client Services  
Direct: 817-722-0212  
Cell: 254-702-8571



**CITY OF NEW FAIRVIEW, TEXAS  
RESOLUTION 202311-02-106**

**A RESOLUTION OF THE CITY OF NEW FAIRVIEW, TEXAS, REGARDING A FINANCE CONTRACT FOR THE PURPOSE OF PROCURING A VEHICLE AND RELATED EQUIPMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Fairview desires to enter into a certain Finance Contract by and between the City of New Fairview and Government Capital Corporation, for the purpose of financing a vehicle, and related equipment. The City of New Fairview desires to designate this Finance Contract as a "qualified tax-exempt obligation" of the City of New Fairview for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended. The City of New Fairview desires to designate the City Administrator or designee, as an authorized signer of the Agreement.

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

**SECTION 1.** That the City of New Fairview enters into a Finance Contract, by and between the City of New Fairview and Government Capital Corporation for the purpose of procuring a vehicle, and related equipment.

**SECTION 2.** That the Financing Agreement, by and between the City of New Fairview and Government Capital Corporation, is designated by the City of New Fairview as a "qualified tax-exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

**SECTION 3:** That the City of New Fairview designates the City Administrator or designee, as an authorized signer of the Finance Contract, by and between the City of New Fairview and Government Capital Corporation as well as any other ancillary exhibit, certificate, or documentation needed for the Contract.

**SECTION 4:** That should the need arise, if applicable, the City of New Fairview will use loan proceeds for reimbursement of expenditures related to the Property, within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

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

**This Resolution has been PASSED upon Motion made by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_ by a vote of \_\_\_\_\_ Ayes to \_\_\_\_\_ Nays and is effective this \_\_\_\_\_, 2023.**

JOHN TAYLOR, Mayor

ATTEST:

\_\_\_\_\_  
BROOKE BOLLER, City Secretary





## CITY COUNCIL AGENDA MEMO

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Prepared By: Brooke Boller, City Secretary

November 6, 2023

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### Official Newspaper of the City

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#### **DESCRIPTION:**

Receive, consider, and act on a Resolution designating the *Wise County Messenger* as the Official Newspaper for Year 2024.

#### **BACKGROUND INFORMATION:**

Section 52.004 of the Local Government Code provides that the City Council of a Type A city shall, as soon as practical after the beginning of each municipal year, designate a public newspaper of the City to be the official newspaper until another is selected.

Sec. 52.004. OFFICIAL NEWSPAPER. (a) As soon as practicable after the beginning of each municipal year, the governing body of the municipality shall contract, as determined by ordinance or resolution, with a public newspaper of the municipality to be the municipality's official newspaper until another newspaper is selected.

(b) The governing body shall publish in the municipality's official newspaper each ordinance, notice, or other matter required by law or ordinance to be published.

The newspaper that has been used in the past to provide official notices for the city is the *Wise County Messenger*. Staff have also used the *Denton Record Chronicle* for notices required in Denton County.

Staff recommends approval of the resolution.

#### **FINANCIAL CONSIDERATION:**

The City must pay for the publishing cost for all required public notices, election notices, passage of certain ordinances, and any other required matters. The annual amount varies and is

based on the activities of the City. In Fiscal Year 2022-23 the City paid approximately \$3,506.90 in required newspaper notice publishings.

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny** a Resolution designating the *Wise County Messenger* as the Official Newspaper for Year 2024.

**ATTACHMENT(S):**

1. Resolution 202311-01-105
2. TML Table of Statutes Requiring Newspaper Publications



**CITY OF NEW FAIRVIEW, TEXAS  
RESOLUTION NO. 202311-01-105**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS,  
DESIGNATING THE WISE COUNTY MESSENGER AS THE OFFICIAL NEWSPAPER OF  
THE CITY OF NEW FAIRVIEW, TEXAS, FOR YEAR 2024; AND PROVIDING AN  
EFFECTIVE DATE**

**WHEREAS**, Section 52.004 of the Local Government Code provides that the City Council shall, as soon as practical after the beginning of each municipal year, designate a public newspaper of the city to be the official newspaper until another is selected; and

**WHEREAS**, the City Council of the City of New Fairview desires to officially designate the official public newspaper of the City; and

**WHEREAS**, the City Council has previously designated the *Wise County Messenger* as the official public newspaper of the City by Resolution (2000-R1007-041, and 202301-02-109).

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

**SECTION 1:** The City Council of the City of New Fairview hereby designates *The WISE COUNTY MESSENGER*, a public newspaper in and of the City of New Fairview, Wise and Denton Counties, Texas, as the official newspaper of said City, the same to continue as such until another is selected, and shall cause to be published therein all ordinances, notices and other matters required by law or by ordinance to be published.

**SECTION 2:** The City Manager is hereby given authority to designate *The WISE COUNTY MESSENGER*, for said newspaper to become the official newspaper of the City of New Fairview.

**SECTION 3:** This resolution shall become effective immediately upon its passage.

**PASSED AND APPROVED this the 6<sup>th</sup> day of November 2023.**

**JOHN T. TAYLOR, Mayor**

**ATTEST:**

**Brooke Boller, City Secretary**

**SAMPLE OF STATUTES REQUIRING CITY NEWSPAPER PUBLICATION**

	<b>STATUTE</b>	<b>SUBJECT/TITLE</b>	<b>STATUTORY LANGUAGE</b>
1	Civ. Prac. & Rem. Code § 125.043	Meeting requested by voters regarding a common nuisance	The district attorney, city attorney, or county attorney receiving the request may: (1) post notice of the purpose, time, and place of the meeting at either the county courthouse of the county or the city hall of the city in which the place that is the subject of the complaints is located and publish the notice in a newspaper of general circulation published in that county or city; and
2	Elec. Code § 4.003	Notice of Election	(a) Except as provided by Subsection (c), notice of an election must be given by any one or more of the following methods: (1) by publishing the notice at least once, not earlier than the 30th day or later than the 10th day before election day: (A) in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice; or (B) in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice; (2) by posting, not later than the 21st day before election day, a copy of the notice at a public place in each election precinct that is in the jurisdiction of the authority responsible for giving the notice; or (3) by mailing, not later than the 10th day before election day, a copy of the notice to each registered voter of the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice.
3	Elec. Code § 61.013	Voting Stations	(d) A county or political subdivision that intends to use this section to provide fewer voting stations that meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) than required by Section 61.012(a)(1)(C) must: (1) provide notice to the secretary of state of that intent not later than the 90th day before the date of the election; and (2) for a county described by Subsection (a)(2), (3), or (4), or a political subdivision located in such a county, publish notice of the location of each voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) in a newspaper of general circulation in the county or political subdivision not later than the 15th day before the date of the start of the period of early voting by personal appearance.
4	Elec. Code § 127.096	Auto. tabulating equipment test	(a) The custodian of the automatic tabulating equipment shall publish notice of the date, hour, and place of the test conducted under Section 127.093(b) in a newspaper, as provided by general law for official publications by political subdivisions, at least 48 hours before the date of the test.
5	Gov't Code § 1251.003	Bond Election	(d) In addition to the notice required by Section 4.003(c), Election Code, notice of the election shall be given by: (1) posting a substantial copy of the election order at: (A) three public places in the county or municipality holding the election; and (B) the county courthouse, if the election is a county election, or the city hall, if the election is a municipal election; and (2) publishing notice of the election in a newspaper of general circulation published in the county or municipality holding the election. (e) The notice required by Subsection (d)(2) must be published on the same day in each of two successive weeks. The first publication must be not less than 14 days before the date of the election.
6	Gov't Code § 1333.001	Bond Revocation Election	(c) A municipality shall hold the election in the same manner as an election to issue bonds in the municipality. (See Gov't Code § 1251.003(d)-(e) above)

7	Gov't Code § 1433.044	Bonds for Development of Employment, Industrial, and Health Resources	(c) The governing body may call an election on the issuance of the bonds. (d) If an election is not called under Subsection (c), the governing body shall publish the resolution once a week for at least two consecutive weeks in at least one newspaper of general circulation in the territorial limits of the issuer. The first publication must be not less than 14 days before the date specified in the resolution for the authorization of the bonds. (See § 1433.002(3) defining "governing body" to include a city for purposes of chapter 1433)
8	Gov't Code § 1433.047	Bonds for Development of Employment, Industrial, and Health Resources	Notice of an election under this subchapter shall be published once a week for at least two consecutive weeks, in at least one newspaper of general circulation within the territorial limits of the issuer. The first publication must be not less than 14 days before the date of the election.
9	Gov't Code § 1501.152	Notice of Intention to Issue Certificates of Indebtedness – Municipal Natural Gas System	(a) The governing body of the municipality may not authorize the issuance of certificates of indebtedness under this subchapter until the municipality gives notice of the municipality's intention to issue the certificates. (b) The notice must: (1) be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, with the first publication being before the 14th day before the date the governing body proposes to adopt the ordinance authorizing the issuance of the certificates of indebtedness; and
10	Gov't Code § 1501.205	Notice of Intention to Issue Bonds - Improvement of Water and Sewer Systems in Municipalities with Population of More Than 275,000	(a) A municipality may not issue bonds under this subchapter until the mayor of the municipality gives notice of the municipality's intention to issue the bonds. (b) The notice must: (1) be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, with the first publication being before the 14th day before the date the governing body of the municipality proposes to adopt an ordinance authorizing the issuance of the bonds; and
11	Gov't Code § 1501.255	Alternative Water Supply Financing Procedure for Municipalities with Population of More Than 275,000	(a) The governing body of the municipality may not adopt an ordinance authorizing the issuance of bonds under this subchapter until the governing body gives notice of the time it proposes to adopt the ordinance. (b) The notice must be published in at least two issues of a newspaper of general circulation in the municipality, with the first publication being not less than 14 days before the date the governing body proposes to adopt the ordinance.
12	Gov't Code § 1505.060	Notice of Intention to Approve Projects, Issue Bonds – Navigational Facilities for Certain Coastal Municipalities	(c) The notice must be published in a newspaper of general circulation in the municipality once a week for four consecutive weeks, with the last publication being before the 20th day before the date set for authorization of the proposed project and issuance of the bonds.

13	Gov't Code § 2007.042	Public Notice	(a) A political subdivision that proposes to engage in a governmental action described in Section 2007.003(a)(1) through (3) that may result in a taking shall provide at least 30 days' notice of its intent to engage in the proposed action by providing a reasonably specific description of the proposed action in a notice published in a newspaper of general circulation published in the county in which affected private real property is located. If a newspaper of general circulation is not published in that county, the political subdivision shall publish a notice in a newspaper of general circulation located in a county adjacent to the county in which affected private real property is located. The political subdivision shall, at a minimum, include in the notice a reasonably specific summary of the takings impact assessment that was prepared as required by this subchapter and the name of the official of the political subdivision from whom a copy of the full assessment may be obtained.
14	Gov't Code § 2051.043	Publication in at Least One Issue	Except as provided by Section 2051.046(b) or 2051.048(d), a notice shall be published in at least one issue of a newspaper.  (See § 2051.041 defining "notice" and § 2051.042 explaining that the subchapter applies only to the extent that the general or special law requiring or authorizing the publication of a notice in a newspaper by a governmental entity or representative does not specify the manner of the publication, including the number of times that the notice is required to be published and the period during which the notice is required to be published.)
15	Gov't Code § 2303.4051	Ordinance or Order for Identification of Local Incentives	e) An ordinance or order adopted under this section is not valid unless the nominating body holds a public hearing before adopting the ordinance or order. Notice of the hearing must be published in a newspaper having general circulation in the municipality not later than the seventh calendar day before the date of the hearing. The notice must contain: . . .
16	Health & Safety Code § 363.112	Prohibition of Processing or Disposal of Solid Waste in Certain Areas	(a) To prohibit the processing or disposal of municipal or industrial solid waste in certain areas of a municipality or county, the governing body of the municipality or county must by ordinance or order specifically designate the area of the municipality or county, as appropriate, in which the disposal of municipal or industrial solid waste will not be prohibited. (b) The ordinance or order must be published for two consecutive weeks in a newspaper of general circulation in the area of the municipality or county, as appropriate, before the date the proposed ordinance or order is adopted by the governing body.
17	Health & Safety Code § 383.025	Pledge of Revenue as Security; Election	(b) Except as provided by Section 383.026, before a municipality or county issues bonds secured under Subsection (a), the municipality or county must publish notice of its intention to issue the bonds at least once in a newspaper of general circulation within the boundaries of the municipality or county. Not later than 30 days after the date of the publication, not less than 10 percent of the qualified voters of the municipality or county may file a petition with the clerk or secretary of the governing body requesting the governing body to order an election on the issuance of the bonds. On the filing of the petition, the governing body shall order an election to be held in the municipality or county to determine whether the bonds may be issued as indicated in the notice. . . .
18	Health & Safety Code § 713.009	Local Possession and Control of Unkept or Abandoned Cemetery	(d) A resolution of the municipality or an order of the court under this section must specify that, not later than the 60th day after the date of giving notice of a declaration of intent to take possession and control, the municipality or corporation, as appropriate, shall present a plan to: (1) remove or repair any fences, walls, or other improvements; (2) straighten and reset any memorial stones or embellishments that are a threat or danger to public health, safety, comfort, or welfare; and (3) take proper steps to restore and maintain the premises in an orderly and decent condition. (e) The notice must be given by mail to all persons shown by the records in the county clerk's office to have an interest in the cemetery, to the Texas Historical Commission, and to all interested persons by publication in a newspaper of general circulation in the municipality.

19	Loc. Gov't Code § 8.025	Notice of Election – Change to Type C General-Law City	In addition to the notice required by Chapter 4, Election Code, notice of an election under this subchapter must be published in a newspaper in the municipality before the 30th day before the date of the election, or if there is no newspaper in the municipality, the notice must be posted at three public places in the municipality for the 30 days preceding the date of the election.
20	Loc. Gov't Code § 9.002	Selection of City Charter Commission	(a) The governing body of the municipality may, by an ordinance adopted by at least a two-thirds vote of its membership, order an election by the voters of the municipality on the question: “Shall a commission be chosen to frame a new charter?” The governing body shall by ordinance order the election if presented with a petition signed by at least 10 percent of the qualified voters of the municipality. (b) The election ordinance shall provide for the election to be held on the date of the municipality's next general election scheduled after the 30th day but on or before the 90th day after the date the ordinance is adopted. However, if no general election is scheduled during that period that allows sufficient time to comply with other requirements of law, the election shall be ordered for the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs after the 30th day after the date the ordinance is adopted and published in a newspaper published in the municipality.
21	Loc. Gov't Code § 9.004	City Charter Amendments	(a) The governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller. . . . (c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must: . . .
22	Loc. Gov't Code § 43.0561	Annexation Hearing Requirements	(c) The municipality must post notice of the hearings on the municipality's Internet website if the municipality has an Internet website and publish notice of the hearings in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing. The municipality must give additional notice by certified mail to: . . .
23	Loc. Gov't Code § 43.063	Annexation Hearing Requirements	(c) The municipality must post notice of the hearings on the municipality's Internet website if the municipality has an Internet website and publish notice of the hearings in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing. . . .
24	Loc. Gov't Code § 43.0751	Strategic Partnerships for Continuation of Certain Districts	(d) Before the governing body of a municipality or a district adopts a strategic partnership agreement, it shall conduct two public hearings at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so. Notice of public hearings conducted by the governing body of a municipality under this subsection shall be published in a newspaper of general circulation in the municipality and in the district. The notice must be in the format prescribed by Section 43.123(b) and must be published at least once on or after the 20th day before each date. . . .
25	Loc. Gov't Code § 43.123	Report Regarding Planning Study and Regulatory Plan	(a) Before the 10th day before the date the first hearing required by Section 43.124 is held, the municipality must prepare a report regarding the proposed annexation of an area for limited purposes . . . (b) Notice of the availability of the report shall be published at least twice in a newspaper of general circulation in the area proposed to be annexed. The notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.



26	Loc. Gov't Code § 43.124	Public Hearings – Limited Purpose Annexation	(a) Before instituting proceedings for annexing an area for limited purposes, the governing body of the municipality must hold two public hearings on the proposed annexation. . . . (b) The hearings must be held on or after the 40th day but before the 20th day before the date the annexation proceedings are instituted. A notice of the hearings must be published in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice must be in the format prescribed by Section 43.123(b). . . .
27	Loc. Gov't Code § 43.130	Effect of Annexation on Voting Rights	(a) The qualified voters of an area annexed for limited purposes are entitled to vote in municipal elections regarding the election or recall of members of the governing body of the municipality, the election or recall of the controller, if the office of controller is an elective position of the municipality, and the amendment of the municipal charter. The voters may not vote in any bond election. On or after the 15th day but before the fifth day before the date of the first election held in which the residents of an area annexed for limited purposes are entitled to vote, the municipality shall publish notice in the form of a quarter-page advertisement in a newspaper of general circulation in the municipality notifying the residents that they are eligible to vote in the election and stating the location of all polling places for the residents.
28	Loc. Gov't Code § 43.853	Notice: Including Area in Municipal Annexation Plan	(c) On or before the 90th day after the date an affected municipality adopts or amends its municipal annexation plan to include all or part of the affected unincorporated area, the municipality shall publish a notice of the proposed annexation in at least two newspapers of general circulation within the affected unincorporated area. The municipality shall publish a second notice in the same manner not less than 7 days and not more than 14 days after the first notice is published. If the affected unincorporated area is located within the Mauriceville boundary, the municipality shall publish the notice as provided by this subsection in at least two newspapers of general circulation within the Mauriceville community.
29	Loc. Gov't Code § 43.854	Notice Removing Area from Municipal Annexation Plan	(c) On or before the 90th day after the date an affected municipality adopts or amends its municipal annexation plan to remove all or part of the affected unincorporated area, the municipality shall publish a notice of the removal in at least two newspapers of general circulation within the affected unincorporated area. The municipality shall publish a second notice in the same manner not less than 7 days and not more than 14 days after the first notice is published. If the affected unincorporated area is located within the Mauriceville boundary, the municipality shall publish the notice as provided by this subsection in at least two newspapers of general circulation within the Mauriceville community.
30	Loc. Gov't Code § 52.011	Type A General Law Municipality	(a) If a Type A general-law municipality adopts an ordinance that imposes a penalty, fine, or forfeiture, the ordinance, or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance, shall be published in: (1) every issue of the official newspaper for two days; or (2) one issue of the newspaper if the official newspaper is a weekly paper.
31	Loc. Gov't Code § 52.012	Type B General Law Municipality	(a) Before an ordinance or a bylaw of a Type B general-law municipality may be enforced, the ordinance or bylaw, or a caption that summarizes the purpose of the ordinance or bylaw and the penalty for violating the ordinance or bylaw must be posted in three public places in the municipality or published in a newspaper that is published in the municipality. If no newspaper is published in the municipality, the ordinance, bylaw, or summary may be published in a newspaper with general circulation in the municipality. (b) Unless the publication is in a weekly newspaper, the governing body must post or publish the ordinance, bylaw, or summary for at least two days. If the publication is in a weekly newspaper, the governing body shall publish the ordinance, bylaw, or summary in one issue.
32	Loc. Gov't Code § 52.013	Home Rule Municipalities	(a) The governing body of a home-rule municipality may publish a caption of an adopted ordinance that summarizes the purpose of the ordinance and any penalty for violating the ordinance in lieu of a requirement in the municipality's charter that the text of the ordinance be published. (b) If the charter of a home-rule municipality does not provide for the method of publication of an ordinance, the full text of the ordinance or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance may be published at least twice in the municipality's official newspaper.
33	Loc. Gov't	Publication of	(a) Except as provided by Subsection (b), the ordinance adopting a code of municipal ordinances shall be published in the official publication of the

	Code § 53.002	Adoption of Code of City Ordinances	municipality or in a newspaper published in the municipality or county as provided by law. (b) If the municipality is a special-law municipality and its charter provides for the publication of both civil and criminal ordinances, the municipality shall publish the ordinance in compliance with its charter.
34	Loc. Gov't Code § 54.035	Notice of Proceedings before City Building and Standards Commission	(b) The notice must be posted and either personally delivered or mailed on or before the 10th day before the date of the hearing before the commission panel and must state the date, time, and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the municipality on one occasion on or before the 10th day before the date fixed for the hearing. (See § 54.033 explaining that a buildings and standards commission may be established by the governing body of a municipality to enforce certain municipal ordinances)
35	Loc. Gov't Code § 54.039	Judicial Review of Decision of City Building and Standards Commission	(a) Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of a commission panel may present a petition to a district court, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 calendar days after the date a copy of the final decision of the commission panel is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service, to all persons to whom notice is required to be sent under Section 54.035. The commission panel shall deliver or mail that copy promptly after the decision becomes final. In addition, an abbreviated copy of the order shall be published one time in a newspaper of general circulation in the municipality within 10 calendar days after the date of the delivery or mailing of the copy as provided by this subsection, . . . (See § 54.033 explaining that a buildings and standards commission may be established by the governing body of a municipality to enforce certain municipal ordinances)
36	Loc. Gov't Code § 102.0065	Special Notice by Publication for Budget Hearing	(a) The governing body of a municipality shall publish notice before a public hearing relating to a budget in at least one newspaper of general circulation in the county in which the municipality is located.
37	Loc. Gov't Code § 105.012	Notice – Establishment of City Depository	(a) The designated officer shall give notice to banks, credit unions, and savings associations requesting the submission of applications for the performance of depository services . . . . (c) Notice of the request shall be published at least once no later than 21 days prior to the deadline for receipt of applications for depository services contracts (i) in a newspaper of general circulation in the municipality and (ii) in a financial publication of general circulation published within this state; provided, that the notice required by clause (ii) shall not be required if the governing body has not adopted the written policy described in Section 105.011 (See § 105.001(8) defining designated officer as the treasurer of a municipality or other such designated officer)
38	Loc. Gov't Code § 141.005	Elected Officers in Populous Municipalities	(c) The governing body shall publish notice of the proposed ordinance in a newspaper of general circulation in the municipality for two consecutive weeks immediately preceding the week in which the meeting is to be held at which the proposed ordinance is to be considered. The notice must include: . . .
39	Loc. Gov't Code § 211.006	Procedures Governing Adoption of Zoning Regulations and District Boundaries	(a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

40	Loc. Gov't Code § 211.021	Additional Zoning Regulations	(a) The governing body of a municipality with a population of more than 290,000 that has adopted a comprehensive zoning ordinance under Subchapter A may, by ordinance, divide the municipality into neighborhood zoning areas after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.
41	Loc. Gov't Code § 212.015	Additional Requirements for Certain Replats	(b) Notice of the hearing required under Section 212.014 shall be given before the 15th day before the date of the hearing by: (1) publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and (2) by written notice, . . . (See § 212.001 stating that this chapter refers to a municipality's extraterrestrial jurisdiction)
42	Loc. Gov't Code § 212.0155	Additional Requirements for Certain Replats Affecting a Subdivision Golf Course	(f) The municipality may provide notice of the initial hearing required by Subsection (d) only after the requirements of Subsections (m) and (n) are met. The notice shall be given before the 15th day before the date of the hearing by: (1) publishing notice in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; (2) providing written notice, with a copy of this section attached, by the municipal authority responsible for approving plats to: . . . (See § 212.001 stating that this chapter refers to a municipality's extraterrestrial jurisdiction)
43	Loc. Gov't Code § 212.134	Notice and Public Hearing Requirements - Moratorium	(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality must publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality on the fourth day before the date of the hearing.
44	Loc. Gov't Code § 212.1361	Notice for Extension Required	A municipality proposing an extension of a moratorium under this subchapter must publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing required by this subchapter.
45	Loc. Gov't Code § 214.001	Authority Regarding Substandard Building	(f) Within 10 days after the date that the order is issued, the municipality shall: (1) file a copy of the order in the office of the municipal secretary or clerk, if the municipality has a population of 1.9 million or less; and (2) publish in a newspaper of general circulation in the municipality in which the building is located a notice containing: . . . .
46	Loc. Gov't Code § 214.0011	Additional Authority to Secure Substandard Building	(c) Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by: . . . (3) publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or
47	Loc. Gov't Code § 241.016	Airport Zoning Commission	(a) Before an airport zoning regulation may be adopted, a political subdivision acting unilaterally under Section 241.013 must appoint an airport zoning commission. If the political subdivision has a planning commission or comprehensive zoning commission, that commission may be designated as the airport zoning commission. (b) The commission shall recommend the boundaries of the zones to be established and the regulations for these zones. (c) The commission shall make a preliminary report and hold public hearings on the report before submitting a final report. (d) Before the 15th day before the date of a hearing under Subsection (c), notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the airport hazard area or controlled compatible land use area to be zoned is located (See § 241.003 defining political subdivision as a municipality or county)

48	Loc. Gov't Code § 241.017	Procedural Limitations	<p>(a) The governing body of a political subdivision may not hold a public hearing or take other action concerning an airport zoning regulation until it receives the final report of the airport zoning commission.</p> <p>(b) An airport zoning regulation may not be adopted except by action of the governing body of the political subdivision or a joint airport zoning board after the political subdivision or joint airport zoning board holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.</p> <p>(c) Before the 15th day before the date of a hearing under Subsection (b), notice of the hearing must be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the area to be zoned is located. (See § 241.003 defining political subdivision as a municipality or county)</p>
49	Loc. Gov't Code § 250.006	Graffiti Removal	<p>(a) Except as provided by Subsection (h), a county by order or a municipality by ordinance may require the owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property on receipt of notice from the county or municipality. . . .</p> <p>(d) The notice required by Subsection (a) must be given:</p> <p>(1) personally to the owner in writing;</p> <p>(2) by letter sent by certified mail, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located; or</p> <p>(3) if service cannot be obtained under Subdivision (1) or (2):</p> <p>(A) by publication at least once in a newspaper of general circulation in the county or municipality;</p>
50	Loc. Gov't Code § 252.041	Notice Requirement - Procurement	<p>(a) If the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud. If no newspaper is published in the municipality, the notice must be posted at the city hall for 14 days before the date set to publicly open the bids and read them aloud.</p>
51	Loc. Gov't Code § 253.008	Sale of Real Property	<p>(a) The governing body of a municipality may sell real property owned by the municipality by public auction or by sealed bid under Section 272.001.</p> <p>(b) To sell real property by public auction, the governing body of a municipality shall publish notice of the auction before the 20th day before the date the auction is held. The notice for sale of the real property must be published once a week for three consecutive weeks before the date the auction is held in a newspaper of general circulation in the county in which the municipality is located and, if the real property is located in another county, in a newspaper of general circulation in the county in which the real property is located. The notice must . . . .</p>
52	Loc. Gov't Code § 271.025	Advertisement for Bids	<p>(a) The governmental entity must advertise for bids. The advertisement for bids must include a notice that: . . .</p> <p>(b) The advertisement must be published as required by law. If no legal requirement for publication exists, the advertisement must be published at least twice in one or more newspapers of general circulation in the county or counties in which the work is to be performed. The second publication must be on or before the 10th day before the first date bids may be submitted. (See §271.003(6) defining governmental entity to include municipality)</p>
53	Loc. Gov't Code § 271.049	Notice of Intention to Issue Certificates; Petition and Election	<p>(a) Regardless of the sources of payment of certificates, certificates may not be issued unless the issuer publishes notice of its intention to issue the certificates. The notice must be published once a week for two consecutive weeks in a newspaper, as defined by Subchapter C, Chapter 2051, Government Code, . . . . (See § 271.043(7) defining issuer to include municipality)</p>
54	Loc. Gov't Code	Notice to Bidders	<p>(b) If an issuer gives notice under this subsection, the notice must:</p> <p>(1) be published once a week for two consecutive weeks in a newspaper, as defined by Subchapter C, Chapter 2051, Government Code, that is of general circulation in the area of the issuer, with the date of the first publication to be before the 14th day before the date set for the public opening of the bids and the</p>

	§ 271.055		reading of the bids aloud; and . . . (See § 271.043(7) defining issuer to include municipality)
55	Loc. Gov't Code § 271.112	Applicability	(d) For a contract entered into by a municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority under any of the methods provided by this subchapter, the municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in that county, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located . . .
56	Loc. Gov't Code § 272.001	Notice of Sale or Exchange of Land by Political Subdivision; Exceptions	(a) Except for the types of land and interests covered by Subsection (b), (g), (h), (i), or (j), and except as provided by Section 253.008, before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication.
57	Loc. Gov't Code § 344.205	Approval of Budget	(a) Not later than the 45th day before the date each fiscal year begins, the governing body of the municipality that created the district shall hold a public hearing to consider the budget adopted by the board and submitted to the governing body. (b) The governing body must publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.
58	Loc. Gov't Code § 363.205	Approval of Budget by Governing Body of Creating Political Subdivision	(a) Not later than the 45th day before the date each fiscal year begins, the governing body of the political subdivision that created the district shall hold a public hearing on the budget adopted by the board and submitted to the governing body. (b) The governing body must publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.
59	Loc. Gov't Code § 372.009	Hearing	(a) A public improvement district may be established and improvements provided by the district may be financed under this subchapter only after the governing body of the municipality or county holds a public hearing on the advisability of the improvement. . . . (c) Notice of the hearing must be given in a newspaper of general circulation in the municipality or county. If any part of the improvement district is to be located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be given in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is to be located or in which the improvements are to be undertaken. . . .
60	Loc. Gov't Code § 372.010	Improvement Order	(a) During the six-month period after the date of the final adjournment of the hearing under Section 372.009, the governing body of the municipality or county may authorize an improvement district if, by majority vote of all members of the governing body, the members adopt a resolution authorizing the district in accordance with its finding as to the advisability of the improvement. (b) An authorization takes effect when it has been published one time in a newspaper of general circulation in the municipality or county. If any part of the

			improvement district is located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the authorization does not take effect until the notice is also given one time in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is located or in which the improvements are to be undertaken.
61	Loc. Gov't Code § 372.016	Assessment Roll	(a) After the total cost of an improvement is determined, the governing body of the municipality or county shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter. (b) The governing body shall file the proposed assessment roll with the municipal secretary or other officer performing the functions of the municipal secretary or in a district formed by a county, the county tax assessor-collector. The proposed assessment roll is subject to public inspection. The governing body shall require the municipal secretary or other officer or county tax assessor-collector to publish notice of the governing body's intention to consider the proposed assessments at a public hearing. The notice must be published in a newspaper of general circulation in the municipality or county before the 10th day before the date of the hearing. If any part of the improvement district is located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be published, before the 10th day before the date of the hearing, in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is located or in which the improvements are to be undertaken.
62	Loc. Gov't Code § 374.011	Resolution; Election	(a) Except as provided by Section 374.012, a municipality may not exercise a power granted under this chapter unless: (1) the governing body of the municipality adopts a resolution that finds that a slum area or blighted area exists in the municipality and that the rehabilitation, the conservation, or the slum clearance and redevelopment of the area is necessary for the public health, safety, morals, or welfare of the residents of the municipality; . . . (b) Before adopting the resolution, the governing body must give notice of the proposed resolution and must hold an election on the question. The notice must be published at least twice in the newspaper officially designated by the governing body and must state that, . . .
63	Loc. Gov't Code § 374.014	Municipal Urban Renewal Plan	(c) The governing body must hold a public hearing on the proposed urban renewal plan before it may approve the urban renewal plan. The governing body shall publish notice of the hearing three times in a newspaper of general circulation in the municipality. . . .
64	Loc. Gov't Code § 374.017	Disposition of Property	(g) A municipality that sells real property in an urban renewal area to a private person must conduct the sale through competitive sealed bids after advertising the offer in the official publication or a newspaper of general circulation. . . .
65	Loc. Gov't Code § 374.024	Agency Personnel; Report	(b) On or before March 31 of each year, an urban renewal agency shall file with the municipality a report of its activities for the preceding calendar year. If requested by the governing body of the municipality, the agency shall file a quarterly report. The report must include a complete financial statement by the agency that shows its assets, liabilities, income, and operating expenses as of the end of the reporting period. (c) At the time the report is filed, the agency shall publish notice of the filing in a newspaper of general circulation in the municipality. . . . (See § 374.021 stating that a "municipality may exercise urban renewal project powers through a board or through municipal officers selected by the governing body of the municipality by resolution")
66	Loc. Gov't Code § 374.026	Urban Renewal Bonds	(f) A bond issued under this section may be sold at not less than par at a public sale held after notice is published in a newspaper of general circulation in the area of operation and in any other medium of publication determined by the urban renewal agency and . . . (See § 374.021 stating that a "municipality may exercise urban renewal project powers through a board or through municipal officers selected by the governing body of the municipality by resolution")

67	Loc. Gov't Code § 374.035	Tax Increment Bonds	(c) A bond issued under this section may be sold at not less than par at a public sale after notice published in a newspaper of general circulation in the municipality and in any other medium of publication determined by the governing body or may be exchanged for other bonds on a par basis. A bond issued under this section is fully negotiable.
68	Loc. Gov't Code § 374.037	Municipal Annual Report	(a) Before July 2 each year, the governing body of the municipality shall submit to the chief executive officer of each taxing entity a report on the status of each urban renewal district. The report must include . . . . (b) On or before July 1 each year, the governing body shall publish a statement in a newspaper of general circulation in the municipality showing: (1) the tax increment received and expended during the previous year; (2) the original market value and captured market value of all property located within the urban renewal project; (3) the amount in outstanding indebtedness incurred in aid of the urban renewal project; and (4) any additional information the governing body considers necessary.
69	Loc. Gov't Code § 375.305	Hearing on Creation of Authority	(a) Not earlier than the 60th day or later than the 30th day before the date the governing body of the municipality creates the authority, the governing body of the municipality shall hold two public hearings to consider the creation of the proposed authority. The municipality must publish notice of each public hearing in a newspaper of general circulation in the area of the proposed authority at least seven days before each public hearing.
70	Loc. Gov't Code § 379B.0045	Eminent Domain	(a) An authority or an authority whose subject property is within the territorial limits of a municipality may exercise the power of eminent domain to acquire property in the base property or in an area surrounding the base only in the manner provided by Chapter 21, Property Code. (b) Before the authority initiates an eminent domain proceeding to acquire property, the board must: (1) adopt a master development and redevelopment plan for the property in the base property or in an area surrounding the base and incorporate and approve the plan as part of the master plan of the municipality in which the base property is located; and (2) find, after conducting a public hearing, that: (A) notice of the hearing was published in a newspaper of general circulation in the municipality in which the base property is located not later than the 15th day before the date of the hearing; . . . .
71	Loc. Gov't Code § 395.044	Notice of Hearing on Land Use	(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. (See § 395.001(7) defining political subdivision to include municipality)
72	Loc. Gov't Code § 395.049	Notice of Hearing on Impact Fees	(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. (See § 395.001(7) defining political subdivision to include municipality)
73	Loc. Gov't Code § 395.0575	Determination That No Update of Land Use Assumptions, Capital Improvements Plan or Impact Fees is Needed	(a) If, at the time an update under Section 395.052 is required, the governing body determines that no change to the land use assumptions, capital improvements plan, or impact fee is needed, it may, as an alternative to the updating requirements of Sections 395.052-395.057, do the following: . . . (2) The political subdivision shall publish notice of its determination once a week for three consecutive weeks in one or more newspapers with general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one-quarter page of a standard-size or tabloid-size



			newspaper, and the headline on the notice must be in 18-point or larger type. (See § 395.001(7) defining political subdivision to include municipality)
74	Loc. Gov't Code § 397A.053	Hearing on Creation of Commission	(a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory. (See § 397A.052 defining a municipality as capable of creating a RMSC)
75	Loc. Gov't Code § 397A.056	Regional Compatible Development Standards	(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall: (1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and (2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory. (See § 397A.052 defining a municipality as capable of creating a RMSC)
76	Loc. Gov't Code § 397A.103	Hearing on Creation of Commission	(a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory. (See § 397A.052 defining a municipality as capable of creating a RMSC)
77	Loc. Gov't Code § 397A.106	Regional Compatible Development Standards	(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall: (1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and (2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory. (See § 397A.052 defining a municipality as capable of creating a RMSC)
78	Loc. Gov't Code § 504.153	Public Hearing Preceding Election	Before an election may be held under Section 504.152, a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published in a newspaper with general circulation in the municipality in which the project is located. The notice should be published on a weekly basis until the date of the hearing.
79	Loc. Gov't Code § 505.203	Public Hearing Preceding Election – Sports Venue Projects	Before an election may be held under Section 505.202, a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published each week until the date of the hearing in a newspaper with general circulation in the municipality in which the project is located
80	Loc. Gov't Code § 505.259	Election Requirement for Certain Municipalities	The election requirement under Section 505.251 is satisfied and another election is not required if the voters of the authorizing municipality approved the imposition of an additional one-half cent sales and use tax at an election held before March 28, 1991, under an ordinance calling the election that: (1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and . . .
81	Loc. Gov't	Contract with Water	(c) A contract under this section is not binding until approved by a majority of the qualified voters of the municipality who vote on the question at an election

	Code § 552.019	Improvement District	held for the purpose. The governing body of the municipality may order the election. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 10th day before the date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted . . . .
82	Loc. Gov't Code § 552.020	Contract with Water District	(f) A municipality may not contract under this section without first obtaining the approval of a majority of the qualified voters of the municipality who vote on the question at an election held for the purpose. The governing body of the municipality shall order the election. The governing body may submit to the voters the question of authorizing the municipality to make a water supply contract, a lease and water supply contract, or both. Both issues may be submitted as a single proposition. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 14th day before the date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted . . . .
83	Loc. Gov't Code § 552.045	Adoption of System	(c) Before adopting the ordinance, the governing body must publish a notice in a newspaper of general circulation in the municipality stating the time and place of a public hearing to consider the proposed ordinance. The proposed ordinance must be published in full in the notice. The governing body shall publish the notice three times before the date of the hearing. The first publication must occur on or before the 30th day before the date of the hearing.
84	Loc. Gov't Code § 552.069	Notice and Hearing Requirements	(b) The municipality shall deliver the notice required under this section in writing by mailing the notice to the address of the owner of the property or to the person who last paid taxes on the property as determined by the municipal tax rolls. The municipality must mail the notice before the 10th day before the date set for the hearing and must publish the notice at least three times in a newspaper of general circulation in the municipality in which the special assessment tax is to be imposed. The municipality shall publish the first notice before the 10th day before the date set for the hearing. Proof of the mailing and publication constitutes proof that all the notice requirements of this section have been met.
85	Loc. Gov't Code § 572.054	Notice	(a) The governing body of each public entity shall publish notice of its intention to create a public utility agency in a newspaper of general circulation in the county in which the entity is domiciled. (b) A notice under this section must be published once a week for two consecutive weeks. The first publication must appear at least 14 days before the date set for passage of the concurrent ordinance. (See § 572.001(3) including municipality in the definition of public entity)
86	Loc. Gov't Code § 601.022	Creation of Authority	(b) A notice, including the text of the ordinance creating the authority, a synopsis of the articles of incorporation of the authority, and a reference to this subchapter, must be published once weekly for four consecutive weeks in a newspaper of general circulation in the municipality. The municipality shall file the ordinance with the secretary of state within 10 days after the date of the passage of the ordinance.
87	Loc. Gov't Code § 601.038	Examination of Accounts	(b) If the authority fails to make the required audit, an auditor or accountant designated by the municipality may examine, at the expense of the authority, the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and other matters relating to its finances, operation, and affairs. (c) The attorney general may examine the books, accounts, and other records of an authority. (d) A concise financial statement shall be published annually in a newspaper of general circulation in the municipality in which the principal office of the authority is located. If the publication is not made by the authority, the municipality shall publish the statement at the expense of the authority.
88	Spec. Dist. Code § 1001.155	Notice of Ratification Election – City of	(a) The governing body shall give notice of an election under Section 1001.154 by publishing once a week for two consecutive weeks a substantial copy of the election order in a newspaper with general circulation . . . . (See § 1001.001(3) defining governing body as the governing body of the City of Amarillo)

		Amarillo Hosp. Dist.	
89	Tax Code § 11.14	Tangible Personal Property not Producing Income	(c) The governing body of a taxing unit, by resolution or order, . . . may provide for taxation of tangible personal property exempted under Subsection (a). . . . (e) A political subdivision choosing to tax property otherwise made exempt by this section . . . may not do so until the governing body of the political subdivision has held a public hearing on the matter . . . notice of the hearing must be: (1) published in a newspaper having general circulation in the political subdivision and in a section of the newspaper other than the advertisement section; (2) not less than one-half of one page in size; and (3) republished on not less than three separate days during the period beginning with the 10th day prior to the hearing and ending with the actual date of the hearing. (See § 1.04(12) defining taxing unit to include a city)
90	Transp. Code § 311.075	Election Notice	(a) Notice of the election must be published in a daily newspaper in the municipality for at least 20 successive days before the date of the election.
91	Transp. Code § 312.041	Hearing Required	(c) Notice of the hearing shall be published at least three times in a newspaper published in the municipality in which the assessment is to be made. If that municipality does not have a newspaper, notice shall be published in the newspaper that is published nearest to the municipality and that is of general circulation in the county in which the municipality is located.
92	Transp. Code § 312.063	Notice of Assessment	(b) Notice under this section may be served personally or by publication in a newspaper of general circulation published in the municipality.
93	Transp. Code § 313.047	Notice of Hearing on Assessment	(b) Notice of the hearing shall be published at least three times in a newspaper published in the municipality in which the assessment tax is to be imposed. If the municipality does not have a newspaper, the notice shall be published in the newspaper that is published nearest to the municipality and that is of general circulation in the county in which the municipality is located.
94	Transp. Code § 314.022	Notice of Condemnation	(a) The commission or the clerk, secretary, or recording officer of a municipality shall give written notice of a hearing before the commission to: (1) each owner of property proposed to be condemned or damaged; and (2) each person with an interest in or lien on the property. . . . (d) Notice of the hearing shall be given by publication for not less than three days in a newspaper of general circulation in the county in which the property is located beginning not later than the 10th day before the date of the hearing.
95	Transp. Code § 314.042	Notice to Owner of Assessment	(b) The governing body or commission shall publish three times before the hearing reasonable notice of the hearing in a newspaper of general circulation in the municipality beginning not later than the 10th day before the date of the hearing.
96	Transp. Code § 315.041	Advertisement for Bid	(a) On approval and adoption of plans and specifications by the governing body of a municipality, the municipal secretary or other officer designated by the governing body shall advertise for sealed bids for installing the lighting improvements according to the specifications. (b) The advertisement shall be published in a daily newspaper of general circulation in the municipality and shall state the time within which bids may be received.
97	Transp. Code § 315.065	Notice of Hearing	(a) After the governing body of a municipality has examined and approved a statement prepared under Section 315.064, the governing body by resolution shall direct publication of notice of a hearing to owners of abutting property. (b) Notice shall be published for 10 consecutive days in a daily newspaper of general circulation in the municipality where the lighting improvements are to be made.

98	Transp. Code § 454.022	Notice of Ordinance Authorizing Issuance	Before adopting an ordinance authorizing the issuance of bonds or notes under this chapter, the governing body of a municipality shall give notice of the time when the ordinance is to be adopted. The notice shall be published in a newspaper of general circulation in the municipality, in at least two issues, with the first publication occurring at least 14 days before the date on which the ordinance is to be adopted.
99	Util. Code § 163.061	Construction Contracts	(b) The agency shall publish notice of intent to receive bids once a week for two consecutive weeks in a newspaper of general circulation in this state. The first publication must appear before the 14th day before the date bids are to be received. (See § 163.051 defining agency as a municipal power agency)
100	Water Code § 16.350	Eligible Counties and Municipalities to Adopt Rules	(a) A county or municipality that applies for or receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code must adopt and enforce the model rules developed under Section 16.343 of this code to be eligible to participate in this program. The county or municipality by order or ordinance shall adopt and enter the model rules in the minutes of a meeting of its governing body and shall publish notice of that action in a newspaper with general circulation in the county or municipality. . . .



## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

November 6, 2023

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### Ordinance for Atmos Energy Corporation Franchise Agreement

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#### **DESCRIPTION:**

Receive, consider, and act on an Ordinance granting a franchise agreement with Atmos Energy Corporation.

#### **BACKGROUND INFORMATION:**

The City was approached by Atmos Energy Corporation (Atmos) about entering into a franchise agreement for Atmos to construct, maintain and operate pipelines and equipment in the city, for the transportation, delivery, sale, and distribution of gas in, out of, and through the city. Atmos has agreed to pay the City a five percent (5%) franchise fee of the gross revenues received within the city, for the use of the public rights-of-ways. The City agrees that this franchise fee will be paid in lieu of other required fees and charges for the use of the rights-of-ways. Also, this is a non-exclusive agreement, so the City can enter into other similar agreements for the transportation and sale of gas.

The term of the agreement is from January 1, 2024, through December 31, 2039. The Franchise shall be extended under the same terms and condition for up to two (2) additional five (5) year terms, unless written notice of intent to renegotiate is provided by either the City or Company at least 180 days prior to the expiration of any term. In the event either party does not wish to renew the Franchise under the same terms and conditions, the parties agree to enter into good faith negotiations of the Franchise. This obligation to engage in negotiations does not obligate either party to agree to any specific changes in the Franchise as a result of such negotiations.

The terms state that Atmos must obtain any permits required by the City for construction within City Rights-of-Way, but shall not be required to pay for street cutting, street excavation or other special permits related to excavations in public rights-of-way. The City shall provide Atmos with its annual capital improvements plan as well as any updates or changes as soon as the plan, update, or change becomes available. The City shall notify Atmos as soon as reasonably possible of any projects that will affect Atmos Energy's facilities located in the public rights-of-way. When required by City to remove or relocate its mains, laterals, and/or other

facilities lying within public rights-of-way, Atmos shall do so as soon as practically possible, but shall not be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to Atmos Energy by City.

If City, in constructing its sewers, drainage, water lines, streets, or utilities, should request that Atmos remove or relocate its mains, laterals, and other facilities lying within public rights-of-way, Atmos shall do so at its own expense for facilities that are in conflict, unless such work is for the primary purpose of beautification or to accommodate a private developer. If Atmos is required by the City to remove or relocate its mains, laterals, or other facilities lying within public rights-of-way for any reason other than the construction or reconstruction of sewers, drainage, water lines, streets, or utilities by City, Atmos shall be entitled to reimbursement from City or others of the cost and expense of such removal or relocation. If the City abandons any public rights-of-way in which Atmos has facilities, such abandonment shall be conditioned on Atmos' right to maintain its use of the former public right-of-way and on the obligation of the party to whom the public right-of-way is abandoned to reimburse Atmos for all removal or relocation expenses if Atmos agrees to the removal or relocation of its facilities following abandonment of the public right-of-way.

Atmos shall have the right to lease, license or otherwise grant to a party other than Atmos the use of its facilities within the City's public rights-of-way.

The financial impact of this agreement is listed in the Financial Consideration section of the proposed agreement is attached.

The vision for Atmos Energy is to be the SAFEST provider of natural gas services. Atmos invests more than \$1 billion per year on system upgrades in order to be the safest provider of natural gas services. To enhance safety further, Atmos has an AMLD vehicle traveling through customer and business neighborhoods in communities, sniffing for possible natural gas leaks. In the last year thousands of leaks, within the 25 counties representing the Mid-Tex Division, were detected, and managed before the customer realized there was a problem. Atmos does have franchise agreements with the cities of Aurora, Boyd, Bridgeport, Decatur, Justin, Newark, Northlake, Paradise, Rhome, and Runaway Bay.

Atmos Energy has been serving Wise and Denton County for more than 30 years. They have a service center available for any emergencies or issues in Boyd as well as Denton. They follow strict protocols to ensure step-by-step measures are followed to resolve natural gas issues as soon as safely possible. Atmos also tries to support communities through donations to nonprofits, schools, and first responders. In the last year, more than \$35,000 has been donated to organizations in Wise County alone.

This was discussed by the council at the June 20, 2022, meeting and staff was directed to bring back an ordinance for this franchise agreement. On July 18, 2022 the City Council approved an Ordinance (202207-03-240) granting a Franchise Agreement to Atmos Energy Corporation. Unfortunately, Atmos did not approve the Franchise Agreement because the template that was

used was outdated. Staff and the City Attorney have worked with Atmos attorney on revising the originally approved Agreement to come up with the current Agreement in this Ordinance.

Staff recommend approval of the ordinance.

### **FINANCIAL CONSIDERATION:**

Atmos Energy agrees to pay the City, on or before May 15, 2024, and shall be for the privilege period of January 1 through March 31, 2024. Each succeeding payment shall be for the privilege period of the quarter preceding the quarter in which the payment is due. The final payment under the initial term of this franchise shall be due on or before February 15, 2040, and shall be for the privilege period of October 1 through December 31, 2039. The sum of money shall be equivalent to five percent (5%) of the Gross Revenues.

Gross Revenues shall mean:

1. all revenues received by the Company from the sale of Gas to all classes of Customers (excluding Gas sold to another non-affiliate gas utility in the city for resale to its Customers within the City) within the City including base rate revenues and revenues from the Company's purchased gas adjustment tariff;
2. all revenues received by the Company from the transportation of Gas through the System of the Company within the City to Customers located within the City (excluding Gas transported to another non-affiliate gas utility in the city for resale to its Customers within the City);
3. the value of Gas transported by the Company for Transport Customers through the System of the Company within the City (excluding Gas transported to another non-affiliate gas utility in the city for resale to its Customers within the City), with the value of such Gas to be established by utilizing Company's monthly Weighted Average Cost of Gas charged to industrial Customers as reasonably near the time as the transportation services is performed; and
4. "Gross Revenues" shall also include state gross receipts tax, contributions in aid of construction ("CIAC") and the following "miscellaneous charges": charges to connect, disconnect or reconnect Gas and charges to handle returned checks from consumers within the City.

Gross Revenues shall not include:

1. revenues billed but not ultimately collected or received by Company;
2. the revenue of any affiliate or subsidiary of Company;
3. sales tax and franchise fees paid to the City;

4. interest or investment income earned by Company; and
5. monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City's right of way.

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny** an ordinance granting a franchise agreement with Atmos Energy Corporation.

**ATTACHMENT(S):**

1. Atmos Energy Franchise Agreement Ordinance 202311-01-103



**ORDINANCE NO. 202311-01-103**

**AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF NEW FAIRVIEW, DENTON AND WISE COUNTIES, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; RESERVING MUNICIPAL AUTHORITY; PROVIDING FOR INDEMNITY TO THE MUNICIPALITY AND INSURANCE BY ATMOS ENERGY CORPORATION; REQUIRING BOOK AND RECORD KEEPING; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE CITY RIGHTS-OF-WAY; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; PROVIDING AN EFFECTIVE DATE AND TERM; AND REPEALING ANY PREVIOUS GAS FRANCHISE ORDINANCES.**

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

**SECTION 1. DEFINITIONS:**

- 1.1. “City” shall mean the City of New Fairview, Texas, a municipality operating under the laws of the State of Texas, and includes the territory as currently is or may in the future be included in its boundaries.
- 1.2. “City Council” shall mean the governing body of the City of New Fairview, Texas.
- 1.3. “City Administrator” shall mean the City Administrator of the City, or his or her duly authorized representative.
- 1.4. “City Rights-of-Way” shall mean the area on, below, or above a public roadway, highway, street, sidewalk, alley, waterway, or utility easement of the City, as they now exist or may hereafter be constructed, opened, laid out, or extended within the present limits of the City, or in such territory as may hereafter be added to, consolidated or annexed to the City.
- 1.5. “Company” shall mean the Mid-Tex Division of the Atmos Energy Corporation, a corporation organized and existing under and by virtue of the laws of the State of Texas and Virginia, authorized to transact and actually transacting business in the State of Texas, acting by and through its duly authorized legal representatives.
- 1.6. “Customer” shall mean any person or organization being billed for gas services, including transportation, whether used by him or her, or by others.
- 1.7. “Emergency” is defined as sudden and unforeseeable damage or malfunction of a portion of the Company’s System that creates a threat to life, health, or property.
- 1.8. “Franchise” shall mean this Ordinance, and all rights and obligations established herein.
- 1.9. “Gas” shall mean natural gas and any synthetic gas distributed by the Company through its System.

1.10. “Gross Revenues” shall mean:

- (a) all revenues received by the Company from the sale of Gas to all classes of Customers (excluding Gas sold to another non-affiliate gas utility in the city for resale to its Customers within the City) within the City including base rate revenues and revenues from the Company’s purchased gas adjustment tariff;
- (b) all revenues received by the Company from the transportation of Gas through the System of the Company within the City to Customers located within the City (excluding Gas transported to another non-affiliate gas utility in the city for resale to its Customers within the City);
- (c) the value of Gas transported by the Company for Transport Customers through the System of the Company within the City (excluding Gas transported to another non-affiliate gas utility in the city for resale to its Customers within the City), with the value of such Gas to be established by utilizing Company’s monthly Weighted Average Cost of Gas charged to industrial Customers as reasonably near the time as the transportation services is performed; and
- (d) “Gross Revenues” shall also include state gross receipts tax, contributions in aid of construction (“CIAC”) and the following “miscellaneous charges”: charges to connect, disconnect or reconnect Gas and charges to handle returned checks from consumers within the City.
- (e) “Gross Revenues” shall not include:
  - i. revenues billed but not ultimately collected or received by Company;
  - ii. the revenue of any affiliate or subsidiary of the Company;
  - iii. sales tax and franchise fees paid to the City;
  - iv. interest or investment income earned by the Company; and
  - v. monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City’s right of way.

1.11. “System” or “System Facilities” shall mean all of the Company’s pipes, pipelines, gas mains, laterals, feeders, regulators, meters, fixtures, connections and any other equipment or instrumentalities used in or incident to providing delivery, transportation, distribution, supply and sales of Gas for heating, lighting, power, and any other purpose for which Gas may now or hereafter be used, located within the corporate limits of the City.

1.12. “Transport Customer” shall mean any person or entity for which Company transports Gas through the System of Company within the City to Customers within the City.

## **SECTION 2. GRANT OF AUTHORITY:**

2.1. The City hereby grants to the Company consent to use and occupy the present and future City Rights-of-Way for the purpose of constructing, maintaining, operating, and replacing all or any portion of the System used for the delivery of Gas to Customers located within the City’s boundaries, as they may be amended from time to time said consent being granted for a term ending December 31, 2039. The Franchise shall be extended under the same terms and condition for up to two (2) additional five (5) year

terms, unless written notice of intent to renegotiate is provided by either the City or Company at least 180 days prior to the expiration of any term. In the event either party does not wish to renew the Franchise under the same terms and conditions, the parties agree to enter into good faith negotiations of the Franchise. This obligation to engage in negotiations does not obligate either party to agree to any specific changes in the Franchise as a result of such negotiations.

2.2. Nothing in this agreement shall prevent the Company from assigning this Franchise provided the City is informed of such assignment. It is not necessary to inform the City of a corporate reorganization not involving a third party. An assignment is valid only if the assignee accepts all of the terms and conditions contained herein.

### **SECTION 3. CITY'S RESERVATION OF RIGHTS AND AUTHORITY:**

3.1. In granting this Franchise, it is understood that the lawful power vested in the City to regulate all public utilities within the City, to regulate the local rates of public utilities within the City, and to require all persons or corporations to uphold and perform all prescribed duties and undertakings is expressly reserved. Except as expressly provided in this Ordinance, the City does not, in granting this Franchise, surrender, lose, waive, impair, or lessen its powers under the City's charter (if any), ordinances and other applicable law. The rights, privilege, and franchise granted hereunder are non-exclusive, and are subject to such lawful changes by any charter provision or ordinance as may be necessary to the public health and safety by the City in the exercise of its lawful police powers.

3.2. The City reserves to itself the general right and power at all times to exercise, in the interest of the public and in accordance with state law, regulation and control of the Company's use of the City Rights-of-Way to ensure the rendering of efficient public service and the maintenance of the Company's System in good repair throughout the term of this Franchise.

3.3. Nothing herein shall impair the right of the City to fix, within constitutional and statutory limits, a reasonable price to be charged for Gas or to provide and fix a scale of prices for Gas and other charges to be charged by the Company to residential, commercial, and industrial Customers, or any combination of such Customers, within the territorial limits of the City.

### **SECTION 4. CONSTRUCTION, MAINTENANCE, OPERATION & RELOCATION OF COMPANY FACILITIES:**

4.1. The Company is hereby authorized to lay, maintain, construct, operate, and replace its System within City Rights-of-Way, but before any work is to be performed, the Company must obtain any permits required by the City for construction within City Rights-of-Way in accordance with the ordinances or process in place at the time the work is performed. Under no circumstances shall the Company or its agents be required to pay for any permit. It shall not be necessary for the Company to obtain Right-of-way permits for the laying of service lines from the mainline pipes of the Company to its Customers if no work will take place in City Rights-of-Way. It shall not be necessary for the Company to obtain a permit in advance of resolving an Emergency. In the event of an Emergency, the Company shall notify the City Administrator no later than ten (10) days after the last day of the Emergency, along with information that describes the circumstances of the Emergency.

4.2. The Company's System shall be located, installed, and maintained so that, to the extent practicable, the system does not interfere with any improvements the City may deem proper to make. The Company also agrees not to unreasonably obstruct the free use of the City Rights-of-Way.

The Company shall construct its System Facilities in conformance with City ordinances or regulations adopted pursuant to authority delegated by ordinance, in order to minimize interference with traffic. The location of all the Company's System Facilities shall be fixed in coordination with and under the supervision of the City, and as provided in the permit issued by the City. When the Company makes, or causes to be made, excavations, or places, or causes to be placed, obstructions in any City Rights-of-Way, Company shall place, erect, and maintain barriers and lights to identify the location of such excavations or obstructions.

4.3 In determining the location of Company's System Facilities within City, Company shall work with the City to minimize interference with then-existing underground structures of City or other utility franchisees. Likewise, in determining the location of the facilities of the City and other utility franchisees within City, City shall minimize interference with the existing System Facilities of Company and, to the extent allowed by law, shall require other utility franchisees to minimize interference with existing System Facilities of Company. In the event of a conflict between the location of Company's System Facilities and the location of the facilities of City or other utility franchisees within City Rights-of-Way that cannot otherwise be resolved, City or an authorized agent of City shall resolve the conflict and determine the location of the respective facilities.

4.4 If Company desires to install System Facilities on or under public parkland or other City-owned property that is not a City Rights-of-Way, it shall seek specific permission for such installation from City and shall proceed in coordination with City and in compliance with all applicable State laws, including Chapter 26 of the Texas Parks and Wildlife Code, and with all applicable City ordinances, rules, and regulations.

4.5 The Company shall designate an individual or individuals as the person or persons primarily responsible for communications with the City and authorized to speak for and represent the Company in such communications. The City shall be entitled to contact the designated individual or individuals on any matters associated with the Company's use of the City Rights-of-Way, and Company's performance of its obligations under this Franchise. Company shall promptly communicate with the City of New Fairview Emergency Contact in the event Company becomes aware of Gas leaks on its system or significant unplanned disruption of service to multiple Customers within the City for reasons other than non-payment, meter tampering, or other Customer-driven reason. The Company shall also notify the City when the Company expects to undertake work that will result in disruption of service for a significant period of time to multiple Customers.

4.6. A copy of the City's capital improvement plan ("CIP") for the upcoming budget year shall be made available on the City's website or upon request. The City should notify the Company's local representative of any major change to the CIP. The Company or contractors working on behalf of the Company shall not be required to pay fees for permits that must be obtained from the City for street cutting, excavations, or other work in City Rights-of-Way in connection with the Company's operations. When required by the City to remove or relocate its mains, laterals, and/or other facilities lying within City Rights-of-Way, the Company shall do so as soon as practically possible with respect to the scope of the project. In no event shall the Company be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to the Company by the City.

4.7 Upon reasonable request by City for a public health, safety, or welfare purpose, or to generally inform the City's planning for public projects, the Company shall provide maps in a digital format showing the location of its System Facilities and shall cooperate with the City in locating its System

Facilities when necessary to avoid conflict and protect the health and safety of the public. Under no circumstances shall the City rely solely on maps previously provided by the Company for the purpose of avoiding conflict with the Company's System Facilities. All maps temporarily provided by the Company to the City shall be deemed confidential and proprietary, and will be provided solely for the City's use.

4.8. If, during the period of this Franchise, the City shall elect to alter or change the grade or alignment of the City Rights-of-Way, or any water pipe, wastewater pipe, or any City owned overhead or underground structure for a governmental purpose, so as to conflict with the System Facilities of the Company, the Company shall remove or relocate, as necessary, all of its facilities at its expense, unless such work is for the primary purpose of beautification. However, if such work is being performed because of, or in conjunction with, a private development project, the private developer may be required to reimburse the Company for the cost of removal or relocation of its facilities. Schedules for this work shall be developed by the designated representatives of the Company and the City. If such representatives cannot agree on the schedule, the City Administrator, after consultation with the Company, shall establish a schedule.

This schedule shall provide for a minimum of thirty (30) days to exist between the time the schedule is furnished to the Company and the time that any specific work to be done by the Company covered in the schedule is to begin. When the Company is required by City to relocate its System Facilities, the City shall work with the Company to obtain a safe and suitable alternative location. The Company shall be required to relocate facilities in accordance with the terms of this Franchise and the City's Rights-of-Way permit. The Company shall not be required to relocate System Facilities to a depth greater than four (4) feet, unless to avoid conflict with the City's infrastructure and prior agreement is reached between the City and Company.

4.9. When the Company is required to remove or relocate its System Facilities to accommodate work by the City without reimbursement from the City, or at the City's direction, the Company shall have the right to seek recovery of relocation costs as provided by state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of the Company to seek or recover a surcharge from Customers for the cost of relocation pursuant to applicable state and/or federal law. The City shall not oppose recovery of relocation costs when the Company is required by the City to perform the relocation. City shall not require that Company document its request for reimbursement as a pre-condition to recovery of such relocation costs. Notwithstanding any provision of this agreement, the City shall have the right to participate and challenge any other capital costs or expenses of the Company and request full documentation to the full extent provided by state law.

4.10. Whenever the City applies to be reimbursed by the state or federal government for a public improvement which includes the removal or relocation of System Facilities by the Company, the City shall attempt to notify the Company about such application within a reasonable amount of time for the Company to provide the City with cost and expense documentation, so that the City can include such information in the application. This does not apply if the inclusion of the Company's costs and expenses would diminish the amount of funds available to the City. Upon receipt of reimbursement funds from the federal or state agency, the City shall remit to the Company, within thirty (30) days of receipt, the Company's portion of the funds related to the relocation or removal of its facilities.

4.11. If the City transfers or abandons any City Rights-of-Way in which the Company has System Facilities, the City will condition the abandonment or transfer of such property on preserving the Company's right-of-way. If the party to whom the City Right-of-Way is transferred or abandoned requests Company to remove or relocate its System Facilities and Company agrees to such removal or

relocation, such removal or relocation shall be done at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another City Right-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

4.12 When performing work within City Rights-of-Way, the Company shall place, or cause to be placed, appropriate barriers to mark excavations or obstructions. The Company must endeavor to minimize interference with traffic on City Rights-of-Way. If Company personnel damage any City facilities (excluding City Rights-of-Way), the Company shall notify the City and shall reimburse the City for its cost of repairing the damage. When constructing or repairing facilities in City Rights-of-Way, City agrees to minimize interference with then existing facilities of the Company and shall instruct other users of City Rights-of-Way to minimize interference with existing facilities of the Company. If City personnel damage a part of the System, the City shall notify the Company and shall reimburse its cost of repairing the damage. Requests for reimbursement under this section are limited to actual, documented costs for the repair, including lost product, materials, equipment, and labor. Reimbursement does not include lost profits, administrative costs, or other incidental costs. City and Company agree to notify the appropriate personnel whenever such restoration becomes necessary. The Company and City may separately agree to enter into a reciprocal arrangement for limited circumstances creating an exception to this section where each party bears the cost and/or responsibility of repairing or replacing damaged facilities or pavement.

4.13. For new construction served from a main that lies in City Right-of-Way, Company agrees to install meters adjacent to a building on that property when practical and may only install a meter within a City Right-of-Way if the City Administrator agrees with the location of the placement. For any premises served from a main that lies in alley right-of-way, the Company may install the meter at the alley if the City Administrator agrees with the location of the placement. Nothing in this Franchise will require the Company to install a meter adjacent to a building when repairing or replacing existing meters. Nothing in this Franchise shall prevent a property owner from requesting that a meter be moved adjacent to a building so long as it is operationally feasible and the property owner agrees to pay the costs of relocation, including any additional service line necessary to accommodate the request. If a new meter is installed in or near a City Right-of-Way, Company agrees to discuss with the City Administrator the aesthetics of meter placement, provided that aesthetic accommodations will not endanger the public or the integrity of the System. This section does not require the Company to install any non-standard equipment and in no event shall underground meters be required.

4.14 Whenever City shall decide to make public improvements in the City Rights-of-Way in which the Company's System Facilities already exist or in which the Company may propose to install its System Facilities, the Company will be provided the opportunity, at no expense to City, in advance of such improvements to renew such System Facilities, if defective or inadequate in size and to lay System Facilities, or renew same, if inadequate in size or defective, to the property lines where buildings may be located provided such activities do not delay the City's public improvements.

The Company shall be given written notice of the intention of the City to make major public improvements in any such City Rights-of-Way. Within ninety (90) days from receipt of such notice, the Company, if it has determined a need, shall initiate work, and thereafter proceed in a workman-like manner to completion of the necessary work and shall complete such work within three (3) months of being granted a permit to preclude the delay of said public improvements. The Company shall take reasonable measures to ensure uninterrupted service to its Customers and shall reconnect all customer service lines disconnected in the normal course of construction at its own expense. If the Company should

fail to so proceed, and any street or alley is thereupon paved, except in an Emergency or in response to a request for initiation of new service, the Company shall for three (3) years thereafter not be allowed to cut such pavement or excavate in such paved street or alley for any purpose except in response to an Emergency or a request for initiation of new service. All pavement cuts or excavations within the three-year period, except in response to an Emergency or in response to a request for initiation of new service, shall be performed only upon written permission of the City under such terms and conditions as the City may prescribe.

## **SECTION 5. INDEMNITY & INSURANCE:**

**5.1 IN CONSIDERATION OF THE GRANTING OF THIS FRANCHISE, THE COMPANY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS CITY, ITS OFFICERS, AGENTS, EMPLOYEES (CITY AND SUCH OTHER PERSONS AND ENTITIES BEING COLLECTIVELY REFERRED TO HEREIN AS “INDEMNITEES”), FROM AND AGAINST ALL SUITS, ACTIONS OR CLAIMS OF INJURY TO ANY PERSON OR PERSONS, OR DAMAGES TO ANY PROPERTY BROUGHT OR MADE FOR OR ON ACCOUNT OF ANY DEATH, INJURIES TO, OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR FOR DAMAGE TO OR LOSS OF PROPERTY ARISING OUT OF, OR OCCASIONED BY THE COMPANY’S INTENTIONAL AND/OR NEGLIGENT ACTS OR OMISSIONS IN CONNECTION WITH THE COMPANY’S CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, REPAIR, USE, OPERATIONS, OR DISMANTLING OF SYSTEM FACILITIES OR THE COMPANY’S PROVISION OF SERVICE; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO THE EXTENT ANY LIABILITY IS DETERMINED TO HAVE RESULTED FROM NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES. IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH THE COMPANY AND CITY, RESPONSIBILITY, AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY OF THE DEFENSES OF THE PARTIES UNDER TEXAS LAW. FURTHER, IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH THE COMPANY AND CITY, RESPONSIBILITY FOR ALL COSTS OF DEFENSE SHALL BE APPORTIONED BETWEEN CITY AND THE COMPANY BASED UPON THE COMPARATIVE FAULT OF EACH.**

5.2 By entering into this Franchise Ordinance, the City does not consent to suit, waive any governmental immunity available to the City under Texas Law, or waive any defenses of the parties under Texas law.

5.3 In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, the Company shall, upon notice from any of the Indemnitees, at Company’s sole cost and expense, resist and defend the same with legal counsel selected by Company, provided however, that Company shall not admit liability in any matter on behalf of the Indemnitees without their written consent and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of the Company. The Company’s obligation to defend shall apply regardless of whether Company is solely or concurrently negligent provided that Indemnitees may be held responsible for the cost of such defense paid for by the Company. Indemnitees shall give the Company prompt notice of the making of any claim or commencement of any action, suit, or other

proceeding covered by the provision of this Section. Nothing herein shall be deemed to prevent the Indemnitees at their election and their own expense from cooperating with the Company and participating in the defense of any litigation by their own counsel.

5.4 In fulfilling its obligation to defend and indemnify City, the Company shall have the right to select defense counsel, subject to City's approval, which shall not be unreasonably withheld. The Company shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Franchise. If the Company fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and the Company shall be liable for all defense costs incurred by City, except as otherwise set out in this Section.

#### **SECTION 6. COMPANY'S DUTIES TO PUBLIC:**

6.1. The Company shall furnish reasonably adequate service to the public at reasonable rates and charges; therefore, and Company shall maintain its property, equipment, and appliances in good order and condition.

6.2. The Company shall not discriminate against any person, corporation, firm, or association in the charge for Gas service or in the services rendered under like circumstances to Customers of the same classification. The Company shall not arbitrarily refuse to provide service to any person that it is economically feasible for the Company to serve. The Company shall not directly or indirectly grant any discount, rebate, or use any other device to circumvent the applicable rate schedule.

6.3. The Company shall, at all times during the existence of this Franchise, endeavor to furnish an adequate supply of Gas necessary for the requirements of its Customers in the City.

#### **SECTION 7. PAYMENTS TO CITY:**

7.1. As compensation for the rights and privileges conferred by this franchise, the Company shall pay to the City a sum of money equal to five percent (5%) of Gross Revenues. Except as outlined below, payments shall be made quarterly on or before the 45th day following the last day of each calendar quarter on which the franchise fee is based, unless that day falls on a state or federal holiday or a weekend, in which case payment shall be made no later than the next business day. The initial payment for the rights and privileges under this franchise shall be on or before May 15, 2024, and shall be for the privilege period of January 1 through March 31, 2024. Each succeeding payment shall be for the privilege period of the quarter preceding the quarter in which the payment is due. The final payment under the initial term of this franchise shall be due on or before February 15, 2040, and shall be for the privilege period of October 1 through December 31, 2039. The franchise fee amounts that are due based on CIAC shall be paid at least once annually on or before April 30 each year based on the total CIAC recorded during the preceding calendar year. The initial CIAC franchise fee amount will be paid on or before April 30, 2025, and will be based on the calendar year January 1 through December 31, 2024. The final CIAC franchise fee amount under the initial term will be paid on or before April 30, 2040, and will be based on the calendar year January 1 through December 31, 2039.

7.2. Payments received after the due date shall be subject to interest charged at the greater of the rate of the prime rate for the due date or the rate for customer deposits under Texas Utilities Code Section 183.003 in effect for the time period involved, from such due date until payment is received by City.



7.3. The Company shall provide a report with each payment, which sets forth the total, in dollars and cents, of the Gross Revenues. At a minimum, the report will show, by Customer class, Gross Revenues and resulting franchise fee attributable to sale of Gas and other miscellaneous charges. In addition, the report will show the amount of franchise fee collected from transportation Customers attributable to the value of Gas transported for the Customers.

7.4. It is also expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charge (whether levied as an ad valorem, special, or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that City may now impose or hereafter levy and collect from the Company or Company's agents, excepting only the usual general or special ad valorem taxes that City is authorized to levy and impose upon real and personal property. If the City does not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of taxes, licenses, fees, street or alley rentals or charges, easement or franchise taxes or charges aforesaid, then City agrees that it will apply so much of said sums of money paid as may be necessary to satisfy the Company's obligations, if any, to pay any such taxes, licenses, charges, fees, rentals, easement, or franchise taxes or charges aforesaid.

7.5. If the Company should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in the Company's Mid-Tex Division, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its City Rights-of-Way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise due City under this Ordinance, then the franchise fee to be paid by the Company to the City pursuant to this Ordinance may, at the election of the City, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to City were the franchise fee provisions of that other franchise ordinance applied to City. The City acknowledges that the exercise of this right is conditioned upon the City's acceptance of all terms and conditions of the other municipal franchise *in toto*. The City may request waiver of certain terms and the Company may grant, in its sole reasonable discretion, such waiver.

7.6. The City shall, within thirty (30) days of final approval, give the Company notice of annexations and disannexations of territory by the City, which notice shall include a map and addresses, if known. Upon receipt of said notice, the Company shall promptly initiate a process to reclassify affected Customers into the city limits no later than sixty (60) days after receipt of notice from the City. The annexed areas added to the city limits will be included in future franchise fee payments in accordance with the sales tax effective date of the annexation if notice was timely received from the City. Upon request from City, the Company will provide documentation to verify that affected customers were appropriately reclassified and included for purposes of calculating franchise fee payments. In no event shall the Company be required to add premises for the purposes of calculating franchise payment prior to the earliest date that the same premises are added for the purpose of collecting sales tax.

## **SECTION 8. FRANCHISE FEE RECOVERY TARIFF:**

8.1. The Company may file with the City a tariff or tariff amendment(s) to provide for the recovery of the franchise fees under this agreement.

8.2. City agrees that (i) as regulatory authority, it will adopt and approve the ordinance, rates, or tariff which provide for 100% recovery of such franchise fees as part of the Company's rates; (ii) if the City

intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the Company's franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by the Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by the Company.

8.3. The City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by the Company.

## **SECTION 9. BOOKS AND RECORDS:**

9.1. The Company shall keep complete and accurate books of accounts and records of its business and operations under and in connection with this Franchise. All such books of accounts and records shall be kept at the Company's principal office.

9.2. Upon reasonable request of the City, the Company shall present any and all records, accounts, and books for inspection relative to the Gross Revenues of the Company within the corporate limits of the City.

9.3. The City may, if it sees fit, upon reasonable notice to the Company, have the books and records of the Company examined by a representative of the City to ascertain the correctness of the reports agreed to be filed therein. The Company shall make available to the auditor such personnel and records as the City may request in order to complete such audit, and shall make no charge to the City therefore. The Company shall assist the City in its review by providing all requested information no later than fifteen (15) days after receipt of a request.

9.4. The City may conduct an audit or other inquiry or may pursue a cause of action in relation to the payment of the franchise fee only if such audit, inquiry, or pursuit of a cause of action concerns a payment made less than three (3) years before the commencement of such audit, inquiry, or pursuit of a cause of action. Each party shall bear its own costs of any audit or inquiry, unless, if after receiving reasonable notice from the City of the City's intent to perform an audit, the Company fails to provide data, documents, reports, or information required to be furnished or fails to reasonably cooperate with the City during an audit properly performed, the Company shall be liable for payment of the City's reasonable and necessary expenses (including reasonable attorney's fees) incurred in obtaining such data, documents, reports or information.

9.5. In the event that a dispute arises regarding an audit performed on the Company's books and records, the Company agrees to participate in mediation in an attempt to resolve the dispute. The Company agrees that it will consult with the City and the parties will mutually agree on a Mediator to preside over the mediation.

9.6. The Company shall keep and maintain complete books, records, accounts, documents, and papers pertaining to the Company's System Facilities within the City and all the underlying books, records, and working papers on which the Gross Revenue calculations were based in accordance with the Company's record retention policy or for a period of four years, whichever is greater.

## **SECTION 10. REPEAL:**

This ordinance repeals all previously adopted franchise ordinances by the City Council of the

City of New Fairview, Texas which granted the Company the right to use the City Rights-of-Way.

**SECTION 11. SEVERABILITY AND CONFLICT:**

If any section, paragraph, sentence, clause, phrase, or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable. It is further agreed that if part of this Ordinance is determined to be invalid, either the City or the Company may open negotiations solely with respect to a substitute for such Section, or portion of this Ordinance within two (2) weeks after a ruling has been made. In the event of a conflict between this Franchise and the City's Code of Ordinances, this Franchise controls, except that by the granting of this Franchise the City does not render or to any extent lose, waive, impair, or lessen the lawful powers and rights, now or hereafter vested in the City under the Constitution and statutes of the State of Texas and of the United States of America.

**SECTION 12. ACCEPTANCE OF FRANCHISE:**

To accept this franchise, the Company must file with the City Secretary its written acceptance of this Franchise Ordinance within sixty (60) days after its final passage and approval by the City Council. If such written acceptance of this Franchise Ordinance is not filed by the Company, the Franchise Ordinance shall be rendered null and void. Once this Franchise has been accepted, the terms herein may not be modified except by an ordinance duly adopted by the City, and subsequently accepted by the Company in the same manner as the Franchise.

**SECTION 13. EFFECTIVE DATE:**

This Franchise shall be effective only after its final passage by the City Council and receipt by the City of Company's acceptance as required above. Provided that has taken place, this Franchise shall be effective as of January 1, 2024.

**SECTION 14. NOTICES:**

Any notices required to be sent to the parties under this Franchise shall be sent to the following:

CITY:  
City Administrator  
999 Illinois Ln  
New Fairview, TX 76078-3940

COMPANY:  
Public Affairs Manager  
5808 Ashleyanne Circle  
Wichita Falls, TX 76310

PASSED, ADOPTED and APPROVED the 6<sup>th</sup> day of November, 2023, at a regular meeting of the City Council of the City of New Fairview, Texas, by a vote of \_\_\_\_\_ Ayes and \_\_\_\_\_ Nays.

ATTEST:

CITY OF NEW FAIRVIEW:

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Brooke Boller  
City Secretary

John R. Taylor  
Mayor