

# CITY OF FREDERICKSBURG CITY COUNCIL MEETING

**MONDAY, JUNE 2, 2014 ~ 7:00 p.m.**

Law Enforcement Center ~ 1601 East Main Street

Linda Langerhans, Mayor  
Graham Pearson, Council Member  
Jerry Luckenbach, Council Member

Gary Neffendorf, Council Member  
Bobby Watson, Council Member  
Kent Myers, City Manager

*(REQUEST ALL PAGERS AND PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL.)*

## **A G E N D A**

### **CALL TO ORDER.**

**Page Ref**

### **PLEDGE OF ALLEGIANCE.**

#### **1. ORDINANCES - RESOLUTIONS - ACTION ITEMS**

- A. Ground Transportation Ordinance - 1<sup>st</sup> reading. **1-25**
- B. Consider Resolution for Traffic Signal Agreement (TxDOT) at Heritage Hills on Hwy 290. **26-42**

#### **2. INDIVIDUAL ITEMS FOR CONSIDERATION AND POSSIBLE ACTION**

- A. Consider approval of July 4<sup>th</sup> Parade. **43-44**
- B. Public Works Department Presentation

#### **3. CITY MANAGER'S REPORT**

- A. City Council Retreat
- B. Presentation of Ammonia Nitrate Best Practices
- C. Animal shelter Architectural Services
- D. Downtown Parking Issues
- E. City Employee Recognitions

#### **4. ITEMS FOR FUTURE AGENDA**

5. **PUBLIC COMMENTS** - This time is for citizens to address the City Council on issues and items of concern not on this agenda. There will be no City Council action at this time.

6. **COUNCIL COMMENTS** - No discussion or action may take place.

7. **EXECUTIVE SESSION** - Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney, 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551-74 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551-086 (Economic Development).

A. Executive Session - LCRA Electric Rate Increase.

#### **8. ADJOURN**



## CITY COUNCIL MEMO

---

**DATE:** June 2, 2014

**TO:** Mayor and City Council

**FROM:** Kent Myers, City Manager

**SUBJECT:** Proposed Revisions-Transportation Code

---

**Summary:**

The Transportation Code which regulates taxicabs, tour buses and other ground transportation providers needs to be revised to better protect the public.

**Recommendation:**

It is recommended that the Council conduct the first reading of the attached ordinance and provide any changes prior to the second reading and approval of this ordinance.

---

**Background / Analysis:**

The previous Police Chief identified the need to revise our current Transportation Code (see attached ) due to the fact the City was experiencing an increasing number of transportation providers and he wanted to insure that the public was adequately protected. The review of the Code continued with our current Chief and has involved other City staff, including the City Secretary and City Attorney.



The City of Fredericksburg

Last September, the attached revised transportation code ordinance was presented to the Council. During the Council discussion of the ordinance, several transportation providers voiced concerns about the proposed changes including the provision for permitting vehicles and the requirement for operators to provide the City with drivers licenses for all of their current and future drivers.

During this discussion, Councilman Pearson volunteered to meet with the transportation providers to discuss and try to resolve their concerns. Several meetings were held between the Council member and these providers which resulted in the attached ordinance being presented to the Council for your consideration. If approved, this ordinance would take the City out of the business of permitting and regulating transportation providers on an on-going basis. They could continue to operate as long as they met insurance and signage requirements. Councilman Pearson will explain the reasons that these changes to the ordinance are being proposed.

Following his presentation and Council discussion on the first reading of the ordinance, direction is needed on any changes that the Council would like to make to this ordinance prior to the second reading and adoption.

The City of Fredericksburg

**ARTICLE I. IN GENERAL**

**Secs. 50-1—50-18. Reserved.**

**ARTICLE II. TAXICABS\*****Sec. 50-19. Definition.**

For the purposes of this article, the term "taxicab" shall mean any automobile or other motor-propelled vehicle used for the transportation of passengers for hire over the public streets of the city and not over a defined or fixed route, such vehicles being routed under the directions of the passengers or person hiring the same.  
(Code 1992, § 4.401)

**Sec. 50-20. Application of article.**

It shall be unlawful for any person to drive, operate or cause to be operated over the streets of the city, irrespective of whether or not the operation may extend beyond the limits of the city, any taxicab except under the terms and conditions set out in this article.  
(Code 1992, § 4.402)

**Sec. 50-21. Vehicle license required.**

It shall be unlawful for any person to operate a taxicab or permit the operation of a taxicab owned by him, unless a license for such taxicab has been issued by the city for the current calendar year.  
(Code 1992, § 4.403)

**Sec. 50-22. Application for vehicle license.**

Every person desiring a license required by this article shall file with the city secretary a written application, signed and sworn to by such applicant or by a duly authorized officer if applicant is a corporation, stating:

- (1) Name of the applicant.
- (2) If an individual applicant, the name, residence address, age and customary occupation of the applicant. If a partnership applicant, the name, residence address, age and customary occupation of each

partner. If a corporation applicant, the name, residence address, age and customary occupation of each officer and each stockholder of the corporation.

- (3) The assumed name or fictitious name to be used by the applicant, with a copy of the assumed name certificate that has been filed in the office of the county clerk of the county.
- (4) The name, residence address, driver's license number and social security number of each operator of the taxicabs.
- (5) The make, model, year and license number of each taxicab to be used.
- (6) The stand or stands at which the taxicabs are to be located or are to remain while not in actual service.

Each such applicant shall have attached thereto a financial statement showing the assets and liabilities of the applicant and a certificate of inspection covering the taxicabs to be licensed, which certificate shall conform to the requirements of section 50-23.

(Code 1992, § 4.404)

**Sec. 50-23. Insurance required of applicant.**

(a) Before any license shall be issued under this article, or before any renewal of such license shall be granted, the applicant shall file with the city secretary and thereafter keep in full force and effect a policy of public liability and property damage insurance executed by an insurance company duly authorized to do business in the state and performable in the county, insuring the public against any loss or damage that may result to any person or property from the operation of such vehicle. The minimum amounts shall be as are determined from time to time by ordinance.

(b) In lieu of the policy of liability insurance prescribed by subsection (a), the applicant may file with the city secretary a certificate of state approved self-insurance.

(c) The city manager shall be the sole judge of the sufficiency of any policy or certificate tendered under this article.

(Code 1992, § 4.405)

\*State law reference—Municipal regulation of taxicabs, V.T.C.A., Local Government Code § 215.004.

**Sec. 50-24. Fee.**

The fee for a license required by this article shall be as set forth in the fee schedule found in appendix A to this Code. Such fees shall be paid annually in advance on or before March 31st. The license fees provided for herein shall be used to defray the expenses incurred in administering and enforcing this article.  
(Code 1992, § 4.406)

**Sec. 50-25. Refusal to grant license.**

(a) If any of the representations in any application filed under this article are found to be false or fraudulent, such application may be refused.

(b) The city council shall have and hereby reserves the right to determine whether additional taxicab service is required for efficiently and properly meeting and serving public interests and necessity in the city, and without other cause existing, to refuse any application filed unless the council decides that the granting of same will serve public convenience and necessity.  
(Code 1992, § 4.407)

**Sec. 50-26. Expiration of license.**

All licenses issued under this article shall expire at 12:00 midnight March 31st next following the issuance thereof.  
(Code 1992, § 4.408)

**Sec. 50-27. Transfer of license prohibited.**

No license issued under the terms of this article shall be transferred to any other person, nor shall such license be used for the operation of any vehicle except the vehicle for which the license is issued; provided, however, that in the event a vehicle becomes disabled or is withdrawn from service for repairs, another vehicle may be substituted for such disabled vehicle only until same is repaired.  
(Code 1992, § 4.409)

**Sec. 50-28. Cancellation of license.**

Any license granted under this article shall be subject to cancellation and all rights of the licensee may be forfeited at the will of the city council for failure to observe any ordinance of the

city or for the violation of any law of the state or for the failure of the licensee to secure and file the certificate required by section 50-23. Such license may also be cancelled by the council if the licensee should be guilty of immoral conduct, or be found intoxicated in any degree, or should become addicted to the use of any drug calculated to affect the mental or physical powers of such licensee, or be guilty of using obscene, vulgar, or profane language about his place of business or on the streets of the city or in the presence of a passenger, or if the licensee should engage in any character of conduct deemed improper and detrimental to the best interest of the city by the council. Before canceling any such license, the council shall hold a public hearing, notice of which shall be given the licensee at least three days in advance of such hearing.  
(Code 1992, § 4.410)

**Sec. 50-29. Operation of taxi limited to licensee or employee.**

No taxicab for which a license has been issued under this article shall be operated by anyone except the licensee thereof or an employee of the licensee.  
(Code 1992, § 4.411)

**Sec. 50-30. Identification of vehicles.**

No person shall drive a taxicab or permit any taxicab owned by him to be driven unless such taxicab has on each side thereof the name of the owner or operator of the taxicab, or the assumed name under which the owner or operator operates, or the name of the corporation owning the taxicab, together with the telephone number of the owner or operator of the taxicab. The letters and numbers shall be not less than 2½ inches in height.  
(Code 1992, § 4.412)

**Sec. 50-31. Taxation of vehicles and equipment.**

It shall be the duty of every owner of every taxicab operated within the city to render for ad valorem taxes to the city all vehicles or other equipment used in such business. Failure to render for and pay such ad valorem taxes to the city

before they become delinquent shall operate as a revocation of any license authorizing the operation of any taxicab over the public streets, alleys and ways of the city.  
(Code 1992, § 4.413)

taxicab with the intent to defraud the person from which it is hired shall be guilty of a misdemeanor.  
(Code 1992, § 4.418)

**Secs. 50-37—50-60. Reserved.**

**Sec. 50-32. Maximum working hours for drivers.**

No person shall operate or drive any taxicab for more than 12 hours in any 24 hour period.  
(Code 1992, § 4.415)

**Sec. 50-33. Drivers to use direct route.**

Any taxicab driver employed to carry passengers to a definite point shall take the most direct route possible that will carry the passengers safely and expeditiously to their destination.  
(Code 1992, § 4.415)

**Sec. 50-34. Passenger's right of exclusive occupancy.**

When a taxicab is engaged, the passenger shall have the exclusive right to the full and free use of the passenger compartment and it shall be unlawful for the owner or driver of the taxicab to solicit or carry additional passengers therein, except with the consent of the first passenger.  
(Code 1992, § 4.416)

**Sec. 50-35. Posting of rates.**

There shall be posted in a conspicuous place on the inside of each taxicab a card showing the rates charged for use of the taxicab. It shall be the duty of the driver of the taxicab to so post such card. If any owner or driver of any taxicab shall refuse to convey a passenger at the rate specified on the rate card so displayed, or shall demand an amount in excess of the rates so displayed, he shall be deemed guilty of a misdemeanor.  
(Code 1992, § 4.417)

**Sec. 50-36. Failure of passenger to pay.**

It shall be unlawful for any person to refuse to pay the full fare of any taxicab after having hired the same, and any person who shall hire any

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 50, VEHICLES FOR HIRE, OF THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG AMENDING THE ENTIRETY OF ARTICLE II, TAXICABS, AND ADDING ARTICLE III, PEDICABS, PROVIDING FOR DEFINITIONS, REQUIREMENTS FOR GROUND TRANSPORTATION SERVICE VEHICLES, PROVIDERS AND DRIVERS, PROVIDING FOR THE ISSUANCE AND REVOCATION OF PERMITS, AMENDING APPENDIX A OF THE CODE OF ORDINANCES TO PROVIDE FOR THE COLLECTION OF LICENSE FEES, PROVIDING FOR PARTIAL INVALIDITY, REPEAL OF INCONSISTENT PROVISIONS AND AN EFFECTIVE DATE,

WHEREAS, the City Council of the City of Fredericksburg has determined that the City's existing regulations concerning the operation of taxi and other transportation services for hire should be updated and revised; and

WHEREAS, the City Council has also determined that to further promote the safety and welfare of the travelling public and the citizens of the City, that pedicabs for hire should also be regulated

WHEREAS, in order to accomplish the revision and the additional regulation, Chapter 50 of the Code of Ordinances should be amended as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS THAT THE FOLLOWING ORDINANCE BE AND IS HEREBY ENACTED AND THAT CHAPTER 50, VEHICLES FOR HIRE, ARTICLE II BE AND IS HEREBY AMENDED TO READ AS FOLLOWS, AND THAT THE FREDERICKSBURG CITY CODE BE AND IS HEREBY AMENDED BY ADDING A NEW ARTICLE TO BE NUMBERED ARTICLE IV WHICH SHALL READ AS FOLLOWS:

## Chapter 50 GROUND TRANSPORTATION SERVICES

---

Sec. 50-19. - Definitions.

Sec. 50-20. –Offenses and Penalties.

Sec. 50.21 – General Regulations applicable to all GTS.

Sec. 50.22 – Regulations Applicable to Certain GTS Vehicles.

Sec. 50.23 – GTS Licenses: requirements; Application.

Sec. 50.24 - Insurance.

Sec. 50.25- Issuance of license.

Sec. 50.26 - Posting of license; lettering; nontransferability;

Sec. 50.27- Revocation or suspension of license.

Sec. 50.28. - City GTS driver standards.

### **Article IV. Pedicabs**

Sec 50-81- Definitions

Sec 50-82 -Applicability of Regulations

Sec 50-83 -Failure to Pay

### **Appendix A. Fee Secheule**

#### **Sec. 50.19 - Definitions.**

- (a) *Applicant* means any individual, firm or corporation in the process of attaining either a license to operate or a city taxi driver permit.
- (b) *City* means the City of Fredericksburg, Texas.
- (c) *Cruise* or *cruising* means the movement of unoccupied ground transportation service (GST) vehicle over the public streets of the City to be made available to prospective passengers for hire; provided, however, unoccupied, properly permitted GTS vehicles with a properly permitted driver proceeding to answer a telephone call for service from an intending passenger, and GST vehicles returning to the place the same is housed or to the place of discharge of the passenger or passengers, shall not be considered to be cruising.
- (d) *Driver* or *chauffeur* means every person in actual charge of operation of a GTS vehicle whether as owner or agent, servant or employee of the owner.

- (e) *Ground Transportation Services (GTS) Driver* means a driver of a GTS vehicle meeting the qualifications as described within this Chapter.
- (f) *Ground Transportation Service (GTS) operator or service* means any person who has the control, direction, maintenance and the benefit of revenue derived from the operation of a GTS vehicle on or over the streets of the city, whether as owner or otherwise.
- (g) *Ground Transportation Service (GTS) vehicle* means a transportation service using any taxicab any and every automobile, or motor-propelled vehicle including limousines and all other motor propelled vehicles however classified (whether as a shuttle, airport shuttle, jitney etc,) used for the transportation of passengers for hire over the public streets of the City, irrespective of whether or not the operation extends beyond the City limits, at rates for distance traveled or for waiting time, or for both, or for the trip, or at rates per hour, per day, or per month, which such vehicle is routed to predetermined destinations, regular or irregular routes or destinations under the direction of such passenger or passengers, or such person or persons hiring the same, with the following exceptions:
- (1) Motor buses transporting to or from school or college;
  - (2) Ambulances or other emergency vehicles operating under permit from this City or another City or governmental entity;
  - (3) Vehicles rented or leased for operation by the person actually driving the same, unless such vehicle is transporting for compensation persons other than the one who actually rented or leased the same;
  - (4) Courtesy vehicles operated to or from the airport to hotels, motels, parking lots, or car dealerships or rental agencies by the owners of such entities for their patrons for no compensation; or
  - (5) Any vehicle being operated pursuant to a franchise or permit legally issued by the Texas Railroad Commission or the Interstate Commerce Commission (example: Greyhound Grey-line busses.)
  - (6) Vehicles operated for a funeral home in the performance of funeral services

- (7) Vehicles used in a ride-share/carpool, operated by individual employees or employers to transport a person or persons on a prearranged basis between their homes and places of employment or other places of common destination if free or if only a fee calculated to reasonably cover expenses is charged.
  - (8) Any person, entity or service not licensed hereunder who or which is duly licensed in another jurisdiction who or which is transporting a passenger from a point outside the City to a point within the City and returning to the point of origin but not picking up a new passenger within the City.
  - (9) Vehicles used by or funded by governmental agencies for transit systems (examples: City bus system or Alamo Area Council of Governments)
  - (10) Horse- drawn transportation services and pedicabs are regulated elsewhere in this code of ordinances.
- 
- (h) *License* means the authority granted by the City to operate a GST vehicle or vehicles and shall authorize such operator of a GST vehicle to engage in the business of transportation as set forth herein .
  - (i) *Limousine Service*: shall mean a passenger ground transportation service (GST) operated for hire that uses motor coaches, stretch limousines, luxury or classic vehicles that are used to transport passengers for a fare based on a one (1) hour or more hiring period and (a) and on a pre-arranged basis only; (b) on irregular routes and schedules.
  - (j) *Overcrowding* means that the driver is transporting a greater number of people in the vehicle than has been recommended by the manufacturer of the vehicle or for whom there is no seat belt, inclusive of the driver if seatbelts are required for the vehicle in question.
  - (k) *Solicit prospective passengers* means any physical activity, typically by word or sign, Including directly or indirectly, by a licensee under this ordinance intended to attract passengers while cruising except for responding to a person hailing a taxi. Advertising through electronic media shall not be considered to be such physical activity.
  - (l) *Terminal* means the place the taxicabs shall be housed or parked, and at which place the telephone calls and requests for service may be made, and at which

place a dispatcher may control the movements of the taxicabs; that space and area of land and buildings off of the streets of the City, and off public property, which constitutes the main office of the taxicab operator, and where the taxis are located or are to remain when not in actual service.

- (m) *Tour Service* shall mean a GTS service using any type of vehicle for the transportation of persons around the City and its vicinity to shop, visit wineries, view cultural, historic, artistic or other sites for an extended period of time when the tour is the objective of the transportation, and which charges on a per passenger or per hour basis agreed upon in advance.

#### **Sec. 50-20 Offenses and Penalties**

- (a) It shall be unlawful for any person or entity to operate a GTS when not in compliance the provisions of this chapter.
- (b) It shall be unlawful for any person or entity to violate any provision of this chapter. A holder of a GTS license may not employ, contract with or otherwise allow a person to drive a GTS vehicle unless such person meets and maintains the requirements for drivers hereinafter set out.
- (c) Each violation of this chapter shall constitute a separate offense and each offense shall be punishable as a Class C misdemeanor. Each day the violation exists shall be considered a separate violation for the purpose of punishment. Punishment is governed by Section 1-6 of this Code of Ordinances.

#### **Sec. 50-21 – General Regulations applicable to all GTS .**

- (a) Every GTS service operator shall maintain an off-street terminal of sufficient size to accommodate all of the vehicles utilized in the service. The same shall be located in a zoning district where such commercial activity is permitted.

- (b) Vehicle Standards.

Each GTS vehicle proposed to be operated by a permit holder on the public streets of the City shall be inspected by the City Secretary or his/her designee prior to the issuance of a license or annual renewal of the license. No GTS vehicle shall be operated on the City streets which does not comply with the following minimum standards:

- (1) Each GTS vehicle must have affixed thereto a valid and current state certificate of inspection and state certificate of registration;
  - (2) Each GTS vehicle shall be equipped with a fire extinguisher that is in good operating order;
  - (3) Each GTS vehicle shall be reasonably free from dirt or rubbish and shall be otherwise clean and sanitary;
  - (4) The GTS vehicle identification number and the license number of each must match the numbers listed for that GTS vehicle on the license application.
- (c) It shall be unlawful for any person engaged in GTS service business to overcrowd the GTS vehicle.
  - (d) It shall be unlawful for any driver of any GTS vehicle or for any other person acting for the driver to seek or solicit prospective passengers or patrons for any such GTS vehicle while cruising any road or other public place of the City, or while same is parked on any public street or alley of the City, except for drivers taxicabs in response to calls or hails of prospective passengers.
  - (e) It shall be unlawful for any GTS driver to represent himself or herself as any company other than the one with which he or she is employed.
  - (f) It shall be unlawful for a GTS driver to receive or discharge a passenger in the roadway of any street within fifty (50') feet of an intersection of roads or additionally within the driving roadway of any commercially zoned area of the City.
  - (g) It shall be unlawful for any person to drive any GTS vehicle for more than twelve (12) hours in any twenty four (24) hour period.
  - (h) It shall be unlawful for any person to refuse to pay the legal fare of any GTS service after having hired the same or to hire the same with intent to defraud the person or entity from whom it is hired of the value of such service.
  - (i) It shall be unlawful for the owner or driver of any GTS vehicle to refuse to convey a passenger at the rate posted or contracted for as the case may be, or demand

or receive an amount in excess of such rates. Provided, however, unsolicited tips shall not be considered part of the rate or fare.

- (j) It shall be unlawful for the driver of any GTS vehicle, upon receiving full payment of a fare to refuse to give a receipt upon the request of the passenger making such payment.

#### **50-22 Regulations Applicable to certain GTS Vehicles**

- (a) Each GTS vehicle shall have the business name and phone number affixed to both front doors, with lettering not less than two and one-half inches in height, with the exception of limousine services or tour services.
- (b) All GTS vehicles shall be required to affix the license permit to the lower left corner of the front windshield above the vehicle inspection and registration stickers.
- (c) It shall be unlawful for a driver of a taxicab or, employed to carry passengers to a definite point to fail to take the most direct route that will carry such passengers safely and expeditiously to their destination unless otherwise requested by the passenger.
- (d) When a taxicab or limousine, or livery service is engaged, the passenger shall have the exclusive right to the full and free use of the passenger compartment and it shall be unlawful for the owner or driver of such vehicle to solicit or carry additional passengers therein, except with the consent of the first passenger.
- (e) Fares.
  - (1) This Section shall not apply to operators of tour services, charter services, livery services, or limousine services which operate on a prearranged appointment basis when such prearrangement is made not less than one hour in advance for service.
  - (2) All persons owning or operating any GST vehicle or taxicab under this section, not exempted under (e) (1) above, in the City shall post, in a conspicuous place in such vehicle or taxicab, a printed schedule of prices and shall keep the same so posted during the continuance of the license.

All rates shall be posted in a conspicuous place on the inside of each taxicab so as to be visible to passengers in the front and back seats.

- (3) No driver, owner, corporation or other entity licensed by the City as a taxicab operator or driver shall fix or charge a greater or lesser rate of fare than that submitted with the application for license. Scheduled rates may encompass the following:

- A. Mileage;
- B. Waiting time;
- C. Charter;
- D. Extra passengers;
- E. Excessive baggage; exclusive of medically necessary devices;
- F. Animals; exclusive of animals specially trained to assist the disabled, when accompanying such persons.

- (4) Changes in any rate schedule shall require notification of the City Secretary at least 30 days prior to changes being enacted.

- (f) Tour services

Operators of Tour services shall require all employees and drivers, and drivers of tour services shall at all times have and maintain a Texas Alcoholic Beverage Commission certificate for drivers.

**Sec. 50.23 – GTS License; requirements; application.**

- (a) It shall be unlawful for an individual, firm, corporation or other entity to operate or cause to be operated any GTS service or vehicle the transportation for hire of persons upon or over any street in the City unless there has first been obtained for such service, an annual license duly issued by the City as hereinafter provided. Such license shall expire on March 31 of each calendar year regardless of the date of issuance.
- (b) Application. Application for GTS service within the City shall be filed with the City Secretary on a form provided by the department. Applications for renewal for existing permits shall be filed annually prior to expiration of the license. The applicant shall provide the following information on such form:
- (1) Name of the owner, or person by whom such permit is desired;

- (2) Name of company, and any assumed names to be used, and the accompanying substantiating documentation;
- (3) Address of company;
- (4) Telephone number of company;
- (5) If corporation or other entity, name and address of major officers of corporation and major owners/stockholders and the accompanying substantiating documentation;
- (6) If partnership or association, trade, partnership, or association name, name and address of partners and the accompanying substantiating documentation;
- (7) If sole proprietorship, name and address of owner;
- (8) Description of make, horsepower, vehicle identification or factory number, the seating capacity, vehicle owner's name and address, and license number of every vehicle to be used as a service vehicle;
- (9) Information for each driver operating vehicles for the company as is required by Section 50.28 below. Such information shall be kept current during the year. Failure to provide or maintain such information to the City Secretary for each driver operating a GTS service vehicle within the City shall be a violation and/or grounds for revoking the service license;
- (10) Written proof each vehicle has passed the City inspection as required by this chapter;
- (11) A schedule of rates to be charged to passengers if applicable; and
- (12) A statement that the applicant has not been finally convicted of any felony or other offense involving moral turpitude within the past ten (10) years, along with a copy of the applicant's criminal history if the applicant is an individual.
- (13) The location of the terminal to be used.
- (14) A sample of the signage to be placed on the vehicles if required.
- (15) A description of the operations of the proposed GTS. The operations of the GTS will be limited to that described in the application.

- (c) The application shall include a sworn statement by the applicant that all information provided in the application is true and correct and shall further state that the City is authorized to check the driving record and criminal history, if any, of the applicant or any GTS Driver. The police department is authorized investigate the facts stated in the application.
- (d) Each application shall be accompanied by a nonrefundable license fee as set forth in the City's schedule of fees.

**Sec. 50.24- Insurance.**

- (a) Before a license is issued, each applicant shall deliver to the City Secretary a certificate of insurance reflecting insurance coverage as herein prescribed. The applicant shall keep in full force and effect during the term of the service license a policy of public liability insurance, issued by an insurance company fully authorized to do business in this state and performable in this county, insuring the public against any loss or damage that may result to any person or property from the operation of such vehicle or vehicles. The certificates of insurance shall contain a provision that coverage under such policies shall not be canceled or materially changed until at least 30 days prior written notice has been given to the City. Passenger liability exclusions are expressly prohibited.
- (b) The minimum amounts of public liability and property damage insurance required for the operation of a GTS, shall be the minimum of five hundred thousand (\$500,000.00) per occurrence for each vehicle and must cover the following categories:
  - (1) Damages arising out of bodily injury to or death of one (1) person in any one (1) accident;
  - (2) Damages arising out of bodily injury to or death of two (2) or more persons in any one (1) accident; and
  - (3) Damages arising out of bodily injury to or destruction of property in any one (1) accident.

The coverage required may carry a deductible of no more than five thousand and no/100 (\$5,000,00) dollars.

- (c) Each current driver, and the City must be included as an additional insured on each policy. The licensee is responsible for paying all applicable deductibles.

- (d) In the event that any insurance policy is canceled, and no other insurance policy is filed by the license holder before the cancellation date, the GTS service license shall be automatically terminated. GTS service may not be operated at any time the insurance required hereby is not on effect. Reinstatement will require a new application and permit to be issued.
- (e) Every policy of insurance issued to comply with the provisions hereof shall be issued by an insurance company with a minimum "A. B. Best" rating of at least B+.

**Sec. 50.25. - Issuance of license.**

- (a) An application for a license is not complete until all required documentation is submitted and is complete, and the fee paid. In the event the City Secretary determines that the documentation is not complete, that the information provided is not true or that the applicant has been convicted of the offenses described, the license shall not be issued.
- (b) The City Secretary will issue a GTS service license permit to the applicant for each qualified vehicle upon the filing of written proof of insurance as required herein and upon a determination that all requirements of this Chapter have been met. The GTS service license shall be issued for a one-year period subject to expiration on March 31 as described above. The license shall state the year for which it is valid and shall include the make of the vehicle, the vehicle identification number, and the current license number. The City Secretary shall provide a list of current permittees and GTS Drivers to the Police Department.

**Sec. 50.26. - Posting of license; lettering; nontransferability; .**

- (a) The GTS service license permit and lettering shall be posted by the applicant on the vehicle as set forth in section 50-22 (a) and (b) above, and it shall be a unlawful to fail to do so or to maintain the same for the entire licensing period.
- (b) No license shall be transferrable to any other person.

**Sec. 50.27. - Revocation or suspension of license.**

- (a) The City Secretary is hereby authorized and empowered to revoke or suspend any license issued hereunder upon his/her finding that any GTS service licensee has violated any of the provisions of this chapter or those set forth in subsection

(b) below. Such revocation or suspension shall take effect upon delivery of written notice thereof to the GTS service operator, with such delivery being made in person or by certified mail through the United States Postal Service to the address listed on the application or which has been submitted to the City Secretary; provided, however, that the GTS service operator shall have the right to appeal to the City Manager from any such action of the City Secretary by delivering such appeal to the City Manager, with a copy delivered to the City Secretary, not more than five days after the action appealed from. In the event the GTS service operator shall fail to deliver such notice to the City Manager within the time prescribed, the action of the City Secretary in revoking or suspending the license shall be final. If the GTS service operator timely delivers the notice to the City Manager, the City Manager or his/her designee, shall hear the appeal not more than 20 days after the filing of the notice of appeal.

(b) A license shall be additionally revoked or suspended by the City Secretary or City Manager upon appeal for any of the following reasons:

- (1) The GTS service operator has been finally convicted of a felony or other offense involving moral turpitude;
- (2) The license was obtained by an application in which any material fact was intentionally omitted or falsely stated;
- (3) The GTS service operator has persisted in the operation of motor vehicles that are in violation of any law;
- (4) The GTS service operator has violated or failed to comply with any of the provisions hereof or any policies or rules set out pursuant to this chapter;
- (5) The GTS service operator has charged, or allowed to be charged, rates in excess of the rate schedule filed with the City Secretary as applicable;
- (6) The GTS service operator or any agent thereof has been guilty of operating said service in a negligent manner;
- (7) The GTS service operator has allowed any of its vehicles or equipment to become damaged, deteriorated or unclean to the extent that it is unsatisfactory for public use;
- (8) The GTS service operator has allowed any driver or attendant to drive taxicabs after final conviction of an offense as described below or if the

GTS Driver fails or ceases to otherwise meet the driver requirements set forth below.

**Sec. 50.28 – GTS Driver standards.**

- (a) Every individual desiring to drive a GTS vehicle in the City, before driving it, shall meet the following standards. Such license shall expire one year from the date of issuance, subject to expiration on March 31 as described above. A GTS service licensee may not cause or otherwise allow a person to drive a GTS vehicle for hire which is owned, controlled or operated by the licensee unless the driver has met the standards of GTS Drivers set forth herein.
- (b) Every GTS license applicant or license holder shall furnish under oath the following information for each GTS Driver on forms provided by the City Secretary along with its application for a GTS License or an amendment to the same if currently licensed:
  - (1) Name, residence address, date of birth, and telephone number;
  - (2) Texas driver's license number, expiration date and three-year driving record and a copy of the GTS Driver's criminal history for the past ten (10) years;
  - (3) A statement that the driver has not been finally convicted of:
    - a. Prostitution or related offenses;
    - b. Driving while intoxicated;
    - c. Violations of the Controlled Substance Act;
    - d. Theft over \$500.00; or
    - e. A felony or other offense involving moral turpitude.
    - f. Three or more moving traffic violations in the preceding 12-month period.
  - (4) Two color photographs of the proposed GTS Driver taken within the three months prior to employment by the GTS Service;
  - (5) Proof that the Driver is over the age of 19.
  - (6) Proof that the proposed GTS Driver is included on the insurance of the GTS Licensee.
  - (7) A current copy of TABC training certificates for all drivers if applicable.

- (c) Proof that the GTS Driver has been registered with the City Secretary shall be maintained by a GTS Driver at all times and shall be displayed to any peace officer upon request.

## **ARTICLE IV. PEDICABS**

### **Sec. 50-81 Definitions**

- (a) *Pedicab* shall mean a device with three (3) or four (4) wheels propelled by human power exerted through a belt, chain, or gears capable of carrying a driver and one (1) or more passengers, with a maximum of four (4) on a platform made as part of the device. A pedicab may have an electric assist motor to help the driver move the pedicab.
- (b) *Pedicab service* shall mean a Ground Transportation Service (GTS) operated for hire that uses pedicabs in the operation of the service and includes, but is not limited to, a facility from which the service is operated, pedicabs used in the operation of the service and a person who owns and/or operates said service.

### **Sec. 50-82 Applicability of regulations**

- (a) It shall be unlawful for any person or entity to operate a Pedicab service when not in compliance the provisions of this Article.
- (b) Pedicab services and pedicab drivers, as applicable shall be required to comply with Sections 50-20, 50-21 subsections (a), (b) (3), (c), (e), (f), (g), (h), (i), and (j) 50-22 subsections (a),(b),(c),and (d), 50-23, 50-24, 50-25, 50-27 subsections (a), (b) (1),(b)(2),(b)(4), (b)(6), (b)(7) and (b)( 8) and 50-28. Whenever reference is made therein to Ground Transportation Services, or to taxicabs the same shall likewise apply to Pedicabs, Pedicab Drivers or Pedicab services as applicable.

## **Sec 50-83 Failure to pay**

It shall be unlawful for any person to refuse to pay the legal fare of any Pedicab after having hired the same or to hire any Pedicab with intent to defraud the person or entity from whom it is hired of the value of such service.

## **APPENDIX A FEE SCHEDULE**

### **ARTICLE 10.000 LICENSE FEE FOR GROUND TRANSPORTATION SERVICES**

The application fee for an original Ground Transportation Service license shall be \$100.00 and \$10.00 for each vehicle. Thereafter, the annual renewal for the same is \$20.00 and \$10.00 for each vehicle.

-----End of Code Text-----

### **Severability / Invalidity.**

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

### **Repealer**

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

### **Penalties**

Without limiting any other remedies available to the City of Fredericksburg, penalties

provided for in the Code Ordinances of the city of Fredericksburg shall apply to violations hereof.

Effective Date

This ordinance shall take effect from and after the date of its passage and publication in accordance with the law.

PASSED AND APPROVED this the 3rd day of September, 2013.

---

Jeryl Hoover, Mayor  
City of Fredericksburg

Attest:

---

Shelley Britton, City Secretary  
City of Fredericksburg

Approved as to form:

---

Pat McGowan, City Attorney  
City of Fredericksburg

5/14/14

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 50, VEHICLES FOR HIRE, OF THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG AMENDING THE ENTIRETY OF ARTICLE II, TAXICABS, PROVIDING FOR DEFINITIONS, INSURANCE AND SIGNAGE REQUIREMENTS FOR TAXI AND PEDICAB SERVICE, PROVIDING FOR PARTIAL INVALIDITY, REPEAL OF INCONSISTENT PROVISIONS AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Fredericksburg has determined that the City's existing regulations concerning the operation of taxi and other transportation services for hire should be revised; and

WHEREAS, the City Council has also determined that to further promote the safety and welfare of the travelling public and the citizens of the City, Pedicabs for hire should also be regulated; and

WHEREAS, in order to accomplish the revision and the additional regulation, Chapter 50 of the Code of Ordinances should be amended as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS THAT THE FOLLOWING ORDINANCE BE AND IS HEREBY ENACTED AND THAT CHAPTER 50, VEHICLES FOR HIRE, ARTICLE II BE AND IS HEREBY AMENDED TO READ AS FOLLOWS, AND THAT THE FREDERICKSBURG CITY CODE BE AND IS HEREBY AMENDED BY ADDING A NEW ARTICLE TO BE NUMBERED ARTICLE IV WHICH SHALL READ AS FOLLOWS:

**Chapter 50 GROUND TRANSPORTATION SERVICES**

Sec. 50-19.- Definitions.

Sec. 50-20. - Offenses and Penalties.

Sec. 50-21 - Sign Regulations.

Sec. 50-22 - Insurance Required.

## **Sec. 50-19 - Definitions.**

- (a) *City* means the City of Fredericksburg, Texas.
- (b) *Driver* or *chauffeur* means every person in actual charge of operation of a GTS vehicle whether as owner or agent, servant or employee of the owner.
- (c) *Ground Transportation Service (GTS)* means a transportation service using any taxicab, any and every automobile or motor-propelled vehicle including limousines and all other motor propelled vehicles however classified (whether as a shuttle, airport shuttle, jitney etc,) used for the transportation of passengers for hire over the public streets of the City, and shall include Pedicabs. The same shall be subject to the provisions of this chapter irrespective of whether the operation extends beyond the City limits, or whether the service charges rates for distance traveled or for waiting time, or for both, or for the trip, or at rates per hour, per day, or per month, or whether such vehicle is routed to predetermined destinations, regular or irregular routes or destinations under the direction of such passenger or passengers, or such person or persons hiring the same, with the following exceptions:
  - (1) Motor buses transporting to or from school or college,
  - (2) Ambulances or other emergency vehicles operating under permit from this City or another City or governmental entity,
  - (3) Vehicles rented or leased for operation by the person actually driving the same, unless such vehicle is transporting for compensation persons other than the one who actually rented or leased the same,
  - (4) Courtesy vehicles operated to or from the airport to hotels, motels, parking lots, or car dealerships or rental agencies by the owners of such entities for their patrons for no compensation,
  - (5) Any vehicle being operated pursuant to a franchise or permit legally issued by the Texas Railroad Commission or the Interstate Commerce Commission (example: Greyhound Grey-line busses),
  - (6) Vehicles operated for a funeral home in the performance of funeral services,
  - (7) Vehicles used in a ride-share/carpool, operated by individual employees or employers to transport a person or persons on a prearranged basis between their homes and places of employment or other places of common destination if free or if only a fee calculated to reasonably cover expenses is charged or

- (8) Vehicles used by or funded by governmental agencies for transit systems (examples: City bus system or Alamo Area Council of Governments).
- (d) *Taxicab* means a chauffeured motor vehicle having a rated passenger capacity of eight or less which typically operates on irregular routes and schedules and on a call-and-demand basis.
- (e) *Pedicab* shall mean a device with three (3) or four (4) wheels propelled by human power exerted through a belt, chain, or gears capable of carrying a driver and one (1) or more passengers, with a maximum of four (4) on a platform made as part of the device. A pedicab may have an electric assist motor to help the driver move the pedicab.

#### **Sec. 50-20- Offenses and Penalties**

- (a) It shall be unlawful for any person or entity to own or operate a GTS when not in compliance with the provisions of this chapter.
- (b) Each violation of this chapter shall constitute a separate offense and each offense shall be punishable as a Class C misdemeanor. Each day the violation exists shall be considered a separate violation for the purpose of punishment. Punishment is governed by Section 1-6 of this Code of Ordinances as set forth for health, safety and welfare violations.

#### **Sec. 50-21 - Sign Regulations.**

Each Taxicab and Pedicab shall have the business name and phone number affixed to both front doors with lettering clearly visible and readable.

#### **Sec. 50-22- Insurance Required.**

- (a) Each GTS shall have and maintain insurance and a certificate of insurance reflecting insurance coverage as herein prescribed. The GTS shall keep in full force and effect while providing GTS service a policy of public liability insurance, issued by an insurance company fully authorized to do business in this state and performable in Gillespie County, Texas, insuring the public against any loss or damage that may result to any person or property from the operation of such service, vehicle or vehicles.

(b) The minimum amounts of public liability and property damage insurance required for the operation of a GTS, shall be as follows:

- (1) One Million (\$1,000,000) Combined Single Limit or
- (2) Five Hundred Thousand (\$500,000) per person with One Million (\$1,000,000) each accident bodily injury and Two Hundred Fifty Thousand \$250,000 property damage.

The coverage required may carry a deductible of no more than Five Thousand (\$5,000) dollars.

Passenger liability exclusions are expressly prohibited.

Each driver shall be specifically listed as an approved driver on such policy of insurance.

- (c) In the event that any insurance policy is canceled the GTS service shall be terminated until the required insurance is reinstated. GTS service may not be operated at any time the insurance required hereby is not in effect.
- (d) Every policy of insurance issued to comply with the provisions hereof shall be issued by an insurance company with a minimum "A. B. Best" rating of at least B+.
- (e) All GTS drivers shall maintain a copy of the required insurance within the GTS vehicle at all times and display the same to any peace officer upon request.
- (f) No person shall drive a GTS vehicle with passengers without being then covered by the insurance required herein and listed thereon as an approved driver.

-----End of Code Text-----

Severability / Invalidity.

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

Repealer

All ordinances and parts of ordinances in conflict with the provisions of this ordinance

are hereby repealed.

#### Penalties

Without limiting any other remedies available to the City of Fredericksburg, penalties provided for in the Code Ordinances of the city of Fredericksburg shall apply to violations hereof.

#### Effective Date

This ordinance shall take effect from and after the date of its passage and publication in accordance with the law.

PASSED AND APPROVED this the \_\_\_\_ day of April, 2014.

---

Jeryl Hoover, Mayor

City of Fredericksburg

Attest:

---

Shelley Britton, City Secretary

City of Fredericksburg

Approved as to form:

---

Pat McGowan, City Attorney

City of Fredericksburg

---



## CITY COUNCIL MEMO

---

**DATE:** June 2, 2014

**TO:** Mayor and City Council

**FROM:** Clinton Bailey, P.E., Director of Public Works and Utilities

**SUBJECT:** Consider Traffic Signal Agreement with TXDOT at Heritage Hills Dr and US Hwy 290

---

**Summary:**

This item consists of City Council approval of a resolution for the execution of an Advanced Funding Agreement (AFA) between the City of Fredericksburg and the Texas Department of Transportation (TXDOT) for the construction of a four-way traffic signal located at the intersection of Heritage Hills Drive and US Highway 290 within the City of Fredericksburg. The total estimated cost of the traffic signal is \$227,844. Costs will be allocated based on 80% Federal funding and 20% State Match of which the City's obligation for local participation will be \$10,386. Because installation of the traffic signal will benefit both the Former Texas Rangers Heritage Center that is currently under construction and the existing Heritage Hill Country development, representatives from each of these facilities have agreed to participate in the cost of the traffic signal by paying half of the City's obligation for local participation (approximately \$2,596 each).

**Recommendation:**

(26)

The City of Fredericksburg

Staff recommends that the City Council approve the resolution for the execution of the AFA between the City of Fredericksburg and TXDOT for the construction of a traffic signal located at the intersection of Heritage Hills Drive and US Highway 290.

---

**Background / Analysis:**

As part of the planning process for construction of the Former Texas Rangers Heritage Center on US Highway 290, City staff asked TXDOT to perform a traffic engineering study on US Highway 290 at the intersection of Heritage Hills Drive and US Highway 290 to determine if a traffic signal would be needed at this location. Based on a projected increase in both pedestrian and vehicular traffic associated with the new Former Texas Ranger's facility, this intersection met warrants for the installation of a four-way traffic signal at this intersection.



The City of Fredericksburg

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG  
APPROVING THE ADVANCE FUNDING AGREEMENT FOR THE CONSTRUCTION OF  
A TRAFFIC SIGNAL AT US 290 AND HERITAGE HILLS DRIVE IN THE CITY OF  
FREDERICKSBURG

WHEREAS, the City Council of the City of Fredericksburg has determined that it is in the best interests of the citizens of the City of Fredericksburg that a traffic signal be constructed at the intersection of US Highway 290 and Heritage Hills Drive within the City of Fredericksburg ("City"), and

WHEREAS, the State of Texas by and through the Texas Department of Transportation will construct said traffic signal with participation in the cost by the City and has provided an Advance Funding Agreement for such project, and

WHEREAS, the City Council has determined that the City should execute such agreement, and that this resolution should be enacted to permit and approve such agreement, and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG that the Advance Funding Agreement attached to this resolution with the State of Texas, by and through the Texas Department of Transportation for the construction of a traffic signal at US Highway 290 and Heritage hills Drive be and is hereby approved, and that the City Manager of the City be and is hereby authorized to execute the same on behalf of the City.

This resolution is PASSED, APPROVED and is EFFECTIVE this the 2<sup>nd</sup> day of June, 2014.

\_\_\_\_\_  
Linda Langerhans, Mayor  
City of Fredericksburg

Attest:

\_\_\_\_\_  
Shelley Britton, City Secretary  
City of Fredericksburg

STATE OF TEXAS       §  
COUNTY OF TRAVIS   §

**ADVANCE FUNDING AGREEMENT  
For A  
Transportation Improvement  
Project (Signals)**

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation called the "State", and the City of Fredericksburg, acting by and through its duly authorized officials, called the "Local Government."

**WITNESSETH**

**WHEREAS**, federal law establishes federally funded programs for transportation improvements to implement its public purposes; and

**WHEREAS**, the Texas Transportation Code, Sections 201.103 and 222.052 establish that the State shall design, construct and operate a system of highways in cooperation with local governments; and

**WHEREAS**, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

**WHEREAS**, the Texas Transportation Commission passed Minute Order Number 113791, authorizing the State to undertake and complete a highway improvement generally described as US 290 at Heritage Hills Traffic Signal called the "Project"; and,

**WHEREAS**, the Governing Body of the Local Government has approved entering into this agreement by resolution or ordinance dated \_\_\_\_\_, 20\_\_, which is attached to and made a part of this agreement as Attachment "A" for the improvement covered by this agreement. A map showing the Project location appears in Attachment "B," which is attached to and made a part of this agreement.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this agreement, it is agreed as follows:

**AGREEMENT**

**1. Period of the Agreement**

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed. This agreement shall remain in effect until the Project is completed or unless terminated as provided below.

## 2. Scope of Work

Installation of a traffic signal at US 290 and Heritage Hills intersection as shown on Attachment "B".

## 3. Local Project Sources and Uses of Funds

- A. The total estimated cost of the Project is shown in the Project Budget – Attachment "C", which is attached to and made a part of this agreement. The expected cash contributions from the Federal or State government, the Local Governments, or other parties is shown in Attachment "C". The State will pay for only those project costs that have been approved by the Texas Transportation Commission. The State and the Federal Government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- B. If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- C. This Project cost estimate shows how necessary resources for completing the Project will be provided by major cost categories. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the Federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-state participation costs associated with the Project, including any overruns in excess of the approved local project budget unless otherwise provided for in this agreement or approved otherwise in an amendment to this agreement.
- F. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering for the Project. At least thirty (30) days prior to construction

beginning, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.

- G. In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.
- H. Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied to the State Project.
- I. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Local Government, the State, or the Federal government will be promptly paid by the owing party. If, after final Project accounting, excess funds remain in the escrow account, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- J. The State will not pay interest on any funds provided by the Local Government.
- K. If a waiver has been granted, the State will not charge the Local Government for the indirect costs the State incurs on the local Project, unless this agreement is terminated at the request of the Local Government prior to completion of the Project.
- L. If the Project has been approved for a "fixed price" or an "incremental payment" non-standard funding or payment arrangement under 43 TAC §15.52, the budget in Attachment C will clearly state the amount of the fixed price or the incremental payment schedule.
- M. If the Local government is an Economically Disadvantaged County and if the State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.
- N. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- O. Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.
- P. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly, and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

- Q.** The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this agreement.

**4. Termination of this Agreement**

This agreement shall remain in effect until the project is completed and accepted by all parties, unless:

- A.** The agreement is terminated in writing with the mutual consent of the parties;
- B.** The agreement is terminated by one party because of a breach, in which case any cost incurred because of the breach shall be paid by the breaching party;
- C.** The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D.** The Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this agreement.

**5. Amendments**

Amendments to this agreement due to changes in the character of the work, terms of the agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

**6. Remedies**

This agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this agreement and shall be cumulative.

**7. Utilities – Not Applicable**

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is completed.

**8. Environmental Assessment and Mitigation**

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- A.** The State is responsible for the identification and assessment of any environmental problems associated with the development of a local project governed by this agreement.

- B. The State is responsible for the cost of any environmental problem's mitigation and remediation.
- C. The State is responsible for providing any public meetings or public hearings required for development of the environmental assessment. Public hearings will not be held prior to the approval of project schematic.
- D. The State is responsible for the preparation of the NEPA documents required for the environmental clearance of this Project.
- E. Before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained. - **Not Applicable.**

**9. Compliance with Texas Accessibility Standards and ADA**

All parties to this agreement shall ensure that the plans for and the construction of all projects subject to this agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

**10. Architectural and Engineering Services**

The State has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable *State's Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the state highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the state highway system, the design shall, at a minimum, conform to applicable *American Association of State Highway and Transportation Officials* design standards. In procuring professional services, the parties to this agreement must comply with federal requirements cited in 23 CFR Part 172 if the project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters.

**11. Construction Responsibilities**

- A. The State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. The State will use its approved contract letting and award procedures to let and award the construction contract.
- C. Prior to their execution, the Local Government will be given the opportunity to review contract change orders that will result in an increase in cost to the Local Government.

CSJ # 0914-00-323  
District # 14 - AUS  
Code Chart 64 #15150  
Project: US 290 at Heritage Hills  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

- D. Upon completion of the Project, the party constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion.
- E. For federally funded contracts, the parties to this agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

## 12. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads after completion of the work and the State shall be responsible for maintenance of state highway system after completion of the work if the work was on the state highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

## 13. Right of Way and Real Property

The State is responsible for the provision and acquisition of any needed right of way or real property.

## 14. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

| Local Government:                | State:                               |
|----------------------------------|--------------------------------------|
| City Manager                     | Director of Contract Services Office |
| City of Fredericksburg           | Texas Department of Transportation   |
| 126 W. Main Street               | 125 E. 11 <sup>th</sup> Street       |
| Fredericksburg, Texas 78624-3708 | Austin, Texas 78701                  |

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

## 15. Legal Construction

If one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

## 16. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and

deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**17. Ownership of Documents**

Upon completion or termination of this agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

**18. Compliance with Laws**

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

**19. Sole Agreement**

This agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the agreement's subject matter.

**20. Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

**21. Procurement and Property Management Standards**

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

**22. Inspection of Books and Records**

The parties to this agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA), and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation, or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

### 23. Civil Rights Compliance

The Local Government shall comply with the regulations of the United States Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

### 24. Disadvantaged Business Enterprise (DBE) Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address [http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf).
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

### 25. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this

agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

## **26. Lobbying Certification**

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A.** No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C.** The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **27. Insurance**

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

## **28. Federal Funding Accountability and Transparency Act Requirements**

- A.** Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:  
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and  
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B.** The Local Government agrees that it shall:
1. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR website whose address is: <https://www.sam.gov/portal/public/SAM/>;
  2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows Federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
  3. Report the total compensation and names of its top five (5) executives to the State if:
    - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
    - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

## **29. Single Audit Report**

- A.** The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B.** If threshold expenditures of \$750,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at  
<http://www.txdot.gov/inside-txdot/office/audit/contact.html>.
- C.** If expenditures are less than \$750,000 during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$750,000 expenditure threshold and therefore, are not required to have a single audit performed for FY \_\_\_\_."
- D.** For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

## **30. Signatory Warranty**

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

CSJ # 0914-00-323  
District # 14 - AUS  
Code Chart 64 #15150  
Project: US 290 at Heritage Hills  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**THIS AGREEMENT IS EXECUTED** by the State and the Local Government in duplicate.

**THE LOCAL GOVERNMENT**

\_\_\_\_\_  
Signature

Kent Myers  
\_\_\_\_\_  
Typed or Printed Name

City Manager  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**THE STATE OF TEXAS**

\_\_\_\_\_  
Kenneth Stewart  
Interim Director of Contract Services  
Texas Department of Transportation

\_\_\_\_\_  
Date

CSJ # 0914-00-323  
District # 14 - AUS  
Code Chart 64 #15150  
Project: US 290 at Heritage Hills  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**ATTACHMENT A**  
**RESOLUTION OR ORDINANCE**

CSJ # 0914-00-323  
District # 14 - AUS  
Code Chart 64 #15150  
Project: US 290 at Heritage Hills  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**ATTACHMENT B**  
**LOCATION MAP SHOWING PROJECT**



CSJ # 0914-00-323  
 District # 14 - AUS  
 Code Chart 64 #15150  
 Project: US 290 at Heritage Hills  
 Federal Highway Administration  
 CFDA # 20.205  
 Not Research and Development

## ATTACHMENT C PROJECT BUDGET

Costs will be allocated based on 80% Federal funding and 20% Local Government funding until the federal funding reaches the maximum obligated amount.

The Local Government participation is a fixed cost.

| Description                                     |                       | Total<br>Estimated<br>Cost | Federal<br>Participation |                  | State<br>Participation |                 | Local Participation |                 |
|-------------------------------------------------|-----------------------|----------------------------|--------------------------|------------------|------------------------|-----------------|---------------------|-----------------|
|                                                 |                       |                            | %                        | Cost             | %                      | Cost            | %                   | Cost            |
| Construction (By State)(LG Fixed Contribution): |                       | \$10,386                   | 0%                       | \$0              | 0%                     | \$0             | 100%                | \$10,386        |
| Construction (By State):                        |                       | \$185,525                  | 80%                      | \$148,420        | 20%                    | \$37,105        | 0%                  | \$0             |
| <b>Subtotal</b>                                 |                       | <b>\$195,911</b>           |                          | <b>\$148,420</b> |                        | <b>\$37,105</b> |                     | <b>\$10,386</b> |
| Direct<br>State<br>Costs=<br>\$3,918            | Environmental<br>(5%) | \$196                      | 80%                      | \$157            | 20%                    | \$39            | 0%                  | \$0             |
|                                                 | Engineering<br>(95%)  | \$3,722                    | 80%                      | \$2,978          | 20%                    | \$744           | 0%                  | \$0             |
| Construction Direct State Costs                 |                       | \$18,553                   | 80%                      | \$14,842         | 20%                    | \$3,711         | 0%                  | \$0             |
| Indirect State Costs (4.83%)                    |                       | \$9,463                    | 80%                      | \$7,570          | 20%                    | \$1,893         | 0%                  | \$0             |
| <b>Subtotal</b>                                 |                       | <b>\$31,933</b>            |                          | <b>\$25,547</b>  |                        | <b>\$6,387</b>  |                     | <b>\$0</b>      |
| <b>TOTAL</b>                                    |                       | <b>\$227,844</b>           |                          | <b>\$173,967</b> |                        | <b>\$43,492</b> |                     | <b>\$10,386</b> |

Initial Payment by Local Government to TXDOT: 0\$  
 Payment by the Local Government to the State before construction: \$10,386.

(42)



## CITY COUNCIL MEMO

---

**DATE:** June 2, 2014

**TO:** Mayor and City Council

**FROM:** Kent Myers, City Manager

**SUBJECT:** 4<sup>th</sup> of July Parade

---

**Summary:**

The organizers of the 4<sup>th</sup> of July Parade have requested that the City continue to officially sponsor this event in order for the Parade volunteers to be covered by the City's liability insurance.

**Recommendation:**

It is recommended that the Council approve the City serving as the designated sponsor of the 4<sup>th</sup> of July Parade.

---

**Background / Analysis:**

Last year the City was approached by the organizers of the 4<sup>th</sup> of July Parade who had concerns that, as an independent organization, they did not have any insurance covering personal liabilities. They requested that the City sponsor the event so that we could include this activity as part of our liability insurance coverage. The cost for adding this coverage was \$250 and this was reimbursed to the City.

(43)

The City of Fredericksburg

by the Parade organizers. The event was a big success and drew a large crowd of both local citizens and visitors. There was no problems with the event that would cause liability concerns.

The Parade Committee has once again requested that the City sponsor the Parade and have agreed to reimburse us for this additional coverage at a cost of \$250.



The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861