



REGULAR CITY COUNCIL MEETING AGENDA
TUESDAY, SEPTEMBER 7, 2021 ~ 6 P.M.
LAW ENFORCEMENT CENTER
1601 EAST MAIN STREET
FREDERICKSBURG, TEXAS 78624

Charlie Kiehne, Mayor
Tom Musselman, Councilmember
Bobby Watson, Councilmember

Jerry M. Luckenbach, Councilmember
Kathy O'Neill, Councilmember
Kent Myers, City Manager

The City of Fredericksburg City Council will meet in a regular session on Tuesday, September 7, 2021 at 6 p.m. This meeting will be held in person and live stream on our YouTube Channel.

Link to City of Fredericksburg YouTube Channel [Fredericksburg, Texas USA - YouTube](https://www.youtube.com/c/FredericksburgTexasUSA)
(<https://www.youtube.com/c/FredericksburgTexasUSA>)

Audio of this meeting will be recorded and uploaded to the City website following the conclusion of the meeting.

1. CALL TO ORDER

2. INVOCATION

(Austin Loza, Area Director of Fellowship of Christian Athletes)

3. PLEDGE OF ALLEGIANCE

4. EMPLOYEE RECOGNITIONS

5. PUBLIC COMMENTS

The City Council welcomes citizen participation and comments at all City Council Regular Meetings. The City Council offers citizens the opportunity to address them by signing up to speak prior to the meeting and to limit comments to 3-minutes.

Written Comments: to be submitted remotely:

- 1) Must be received by 3 p.m. on September 7, 2021.
- 2) Complete the Citizen Comment Form online at [Fredericksburg, TX - Official Website \(fbgtx.org\)](https://fbgtx.org); or
- 3) Email your comments to CitizenComments@fbgtx.org or
- 4) Complete a Citizen Comment Form located inside the Public Access entrance at 126 W. Main Street, Fredericksburg, Texas, and place in the box marked Citizen Comment Form.

Copies of the submitted comments will be provided to the City Council and made public on the City website under the "**September 7, 2021**, City Council Regular Meeting" tab.

Verbal Comments:

- 1) Sign up in-person between 5:30 p.m. and 6 p.m. at the Law Enforcement Center in order to comment.
- 2) You will be limited to 3 minutes to speak.

NOTE: The Texas Open Meetings Act permits a member of the public or a member of the

governmental body to raise a subject that has not been included in the notice for the meeting. However, any discussion of the subject must be limited to a proposal to place the subject on the agenda for a future meeting and any response to a question posed to the City Council is limited to either a statement of specific information or recitation of existing policy. TEX. GOV'T CODE § 551.042.

6. CONSENT

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS PULLED AT THE REQUEST OF A MEMBER OF CITY COUNCIL.

- A. Consider approval of City Council Minutes (Shelley Goodwin, City Secretary)
 - i. August 11, 2021 Workshop
(Agenda Packet Pages 5-8)
 - ii. August 16, 2021 Regular Meeting
(Agenda Packet Pages 9-14)
 - iii. August 23, 2021 Special Meeting
(Agenda Packet Page 15-18)

7. PUBLIC HEARING

- A. Hold a public hearing to receive citizen comments for or against Annexation for properties that have frontage on Post Oak Road between Live Oak Street and Bowie Street, and those properties fronting on the Cherry Street extension to the north of Bowie Street for approximately 83.33 acres, part of the City's Annexation Plan Area 6 A. and 6 B. (1st of 2 public hearings) (Jason Lutz, Development Services Director).
(Agenda Packet Pages 19-22)

8. ORDINANCES AND RESOLUTIONS

- A. Consider the approval of Ordinance 2021-18 amending Article IV - Sales of Alcoholic Beverages, of Chapter 8 -Businesses, of the Code of Ordinances, to modify the issuance of Alcoholic Beverage Licenses, to align with the effective term of permits or licenses issued by the Texas Alcoholic Beverage Commission and providing for an effective date (1st of two readings; City Council may waive 2nd reading) (Daniel Jones, City Attorney).
(Agenda Packet Page 23-26)
- B. Consider the approval of Ordinance 2021-19 amending Chapter 2 - Administration - of the Code of Ordinances, by adopting and adding an Article VII - Administrative Adjudication of Violations - providing for a Civil Administrative hearing process for violations of Ordinances described in Texas Local Government Code Section 54.032 (1st of two readings; City Council may waive 2nd reading) (Daniel Jones, City Attorney)
(Agenda Packet Page 27-36)
- C. Consider the approval of Resolution 2021-09R authorizing execution of an Advance Funding Agreement (AFA) with The Texas Department of Transportation for a Transportation Alternatives Set-Aside (TASA) Project (S. Llano Shared-Use Bridge and Ufer Street sidewalk Project) (Garret Bonn, Assistant City Engineer)
(Agenda Packet Page 37-64)

9. OTHER ACTION ITEMS AND UPDATES

- A. Consider a presentation from Chief Chris McCall, TPCA Representative, for the City of Fredericksburg Police Department receiving the Texas Police Chiefs Association (TPCA)

Best Practices Program to remain a recognized law enforcement agency (Steve Wetz, Police Chief and Lt. Braxton Roemer).
(Agenda Packet Page 65-66)

- B.** Consider the approval of the Texas Rangers Heritage Center's Professional Services Management Agreement at Fort Martin Scott (Andrea Schmidt, Parks and Recreation Director)
(Agenda Packet Pages 67-82)
- C.** Consider the approval of License Agreement with the Morning Rotary Club to add a splashpad in the green space behind Coach Tony Knopp Town Pool (Andrea Schmidt, Parks and Recreation Director)
(Agenda Packet Pages 83-87)
- D.** Consider, discuss, and take action regarding the Fredericksburg Convention and Visitor Bureau (CVB) FY2022 proposed Budget presentation (Kent Myers, City Manager)
(Agenda Packet Pages 88-94)
 - i.** Consider the appointment of three (3) new members to fill vacancies and one (1) current Board member to be reappointed to the Fredericksburg CVB Board Members.
(Agenda Packet Pages 95-98)
- E.** Consider and discuss changes to the proposed FY2022 Budget (Kent Myers, City Manager)
(Agenda Packet Pages 99-106)
- F.** Consider and take action regarding an update report on the Winter Storm 2021 After Action Plan (Justin Calhoun, Emergency Management Officer).
(Agenda Packet Pages 107-118)
- G.** Consider and discuss a report summarizing the Governor's current Executive Orders (GA-38 and GA-39) concerning COVID-19, and the status of related litigation.(Daniel Jones, City Attorney)
(Agenda Packet Pages 119-130)

10. CITY MANAGER REPORT

- A.** Recycling Program
- B.** Relief Route Task Force
- C.** Budget Update
- D.** STR Update
- E.** Texas Tech Workforce Housing Study

11. ITEMS FOR FUTURE AGENDA

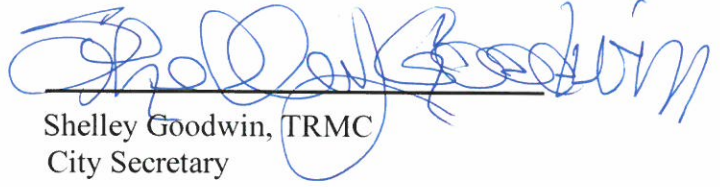
(Agenda Packet Pages 131-132)

12. COUNCIL COMMENTS

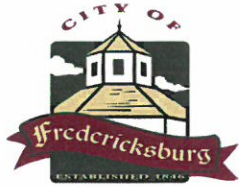
Reports about items of community interest, which no action will be taken.

13. ADJOURN

This is to certify that I, Shelley Goodwin, posted this Agenda at 4:00 p.m. on September 1, 2021, at the main entrance bulletin board of the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.



Shelley Goodwin, TRMC
City Secretary



CITY OF FREDERICKSBURG MINUTES OF CITY COUNCIL WORK SESSION AUGUST 11, 2021

The City of Fredericksburg City Council held their work session on Monday, August 11, 2021 at 4 p.m. This meeting was held in person at the Lady Bird Johnson Golf Course-Cardinal Room.

Members Present:

Mayor Charlie Kiehne
Councilmember Jerry Luckenbach
Councilmember Tom Musselman
Councilmember Kathy O'Neill
Councilmember Bobby Watson

Members Absent:

None

City Staff Present:

Kent Myers, City Manager
Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities
Lynn Bizzell, Fire Chief
Daniel Jones, City Attorney
Steve Wetz, Police Chief
Brian Vorauer, Police Department Lt.
Braxton Roemer, Police Special Services Lieutenant
Eric Whiting, Information Technology Director
Jason Lutz, Development Services Director
Regan Rabke, Fire Marshall
Andrea Schmidt, Parks Department Director
Laura Hollenbeak, Finance Director
David Kellam, Assistant Finance Director
Krista Wareham, City Accountant
Garret Bonn, Assistant Engineer
Tammie Loth, Human Resources Director
Lea Fugue, Public Information Officer
Justin Calhoun, Emergency Management Coordinator
Shelley Goodwin, City Secretary

1. CALL TO ORDER

Mayor Kiehne called the special meeting of the Fredericksburg City Council to order at 4:00 p.m. on Monday, August 11, 2021. Mayor Kiehne announced a quorum of the City Council present.

2. PUBLIC COMMENTS

No one wished to speak.

3. WORK SESSION ITEM

The following item will be considered, discussed, and take appropriate action.

A. Consider and discuss the Fiscal Year (FY) 2021/2022 Proposed Budget (Kent Myers, City Manager and Laura Hollenbeck, Finance Director):

i. Budget Revisions

Kent Myers, City Manager, reviewed the estimated Fund Balance Analysis as of August 5, 2021. He also noted that Municipal Court recently requested \$27,000 be added for a Court Bailiff, which is not included in the proposed budget.

Laura Hollenbeck, Finance Director, reviewed the revisions different fund revenues and expenditure revisions.

The City Council agreed by consensus to add the \$27,000 to the Municipal Court.

The City Council discussed the Sales Tax projections. They agreed by consensus to add another 2% to the Sales Tax projections in the proposed budget.

ii. Employee Salaries

Kent Myers, City Manager, stated currently, the proposed budget includes 2% Cost of Living Adjustment and 2 % Merit raise for those who qualify.

Tammie Loth, Human Resources Director, reviewed the Salary Survey and Step Program for Fire and Police Departments. She also reviewed the different cost options that would move the City towards the market range.

The City Council agreed by consensus to put \$250,000 in the proposed budget to allow time for staff to meet with Department Heads and see which options would be best.

iii. Property Tax Rate

Kent Myers, City Manager, reviewed the different property tax rates.

The City Council agreed by consensus to set the proposed rate at .220775 to develop the budget.

iv. Electric Rates

Kent Myers, City Manager, reviewed the different options for an Electric Rate increase. He noted the last time the City did an increase was in 2015.

The City Council discussed administering small increases over a few years and also do a Rate Study.

v. Relief Route Task Force Expenses

Kent Myers, City Manager, reviewed the need to add \$25,000 to the proposed budget for the Relief Route county-wide education campaign and survey. He noted the Relief Route Committee is requesting the same amount from the County.

The City Council agreed by consensus to add \$25,000 to the proposed budget.

vi. Additional Changes to Proposed Budget

Kent Myers, City Manager, announced a City Council Special Meeting on Monday, August 23, 2021, at 6 p.m. at the Law Enforcement Center. He noted the purpose of this meeting is to hold a public hearing regarding the FY2022 Proposed Budget and to set the proposed FY2021 Tax Rate.

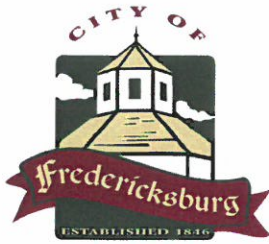
4. ADJOURN

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Musselman, to adjourn the Monday, August 11, 2021, City Council Workshop at 6:10 p.m. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

Charlie Kiehne
Mayor

ATTEST

Shelley Goodwin, TRMC
City Secretary



CITY OF FREDERICKSBURG

MINUTES OF CITY COUNCIL REGULAR MEETING AUGUST 16, 2021

The City of Fredericksburg City Council held their regular session on Monday, August 16, 2021 at 6 p.m. This meeting was held in person at the Law Enforcement Center and live streamed on the Fredericksburg YouTube Channel.

Members Present:

Mayor Charlie Kiehne
Councilmember Jerry Luckenbach
Councilmember Tom Musselman
Councilmember Kathy O'Neill
Councilmember Bobby Watson

Members Absent:

None

City Staff Present:

Kent Myers, City Manager
Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities
Daniel Jones, City Attorney
Steve Wetz, Police Chief
Eric Whiting, Information Technology Director
Andrea Schmidt, Parks and Recreation Director
Jason Lutz, Development Services Director
Leslie Ball-Embrey, Administrative Assistant
Shelley Goodwin, City Secretary

1. CALL TO ORDER

Mayor Kiehne called the regular meeting of the Fredericksburg City Council to order at 6:00 p.m. on Monday, August 16, 2021.

2. INVOCATION

George Studor, led the Invocation.

3. PLEDGE OF ALLEGIANCE

Mayor Kiehne led the Pledge of Allegiance.

4. EMPLOYEE RECOGNITIONS

Kent Myers, City Manager, read the following thank yous:

- From a resident who sent an email regarding Ray Ortegon, Code Enforcement, for making a difference.

- From a resident regarding the high-level customer service by Shelby Collier, Development Services Coordinator, Jason Lutz, Development Service Director, and Shelley Goodwin, City Secretary.
- From a resident who sent an email regarding two lifeguards that jumped into action to save a child.

Kent Myers, City Manager, introduced Ted Boyer, the new Code Enforcement Officer. He also recognized the Fredericksburg PD for reaccreditation by TPCA.

5. PUBLIC COMMENTS

Debra Holbecker, City resident, spoke regarding COVID and Town Pool.

Jerry McCorkle, City resident, spoke and provided a handout regarding 45 Declared Communist Takeover Goals.

Johnny Rodriguez, City resident, spoke regarding renewable energy.

Delbert Irons, City resident, spoke regarding his service in the military and socialism.

Marylee Marschall, City resident, spoke regarding COVID and the hospital.

Tom Marschall, City resident, spoke regarding a proposed Resolution for the City Council to consider at a future meeting.

Kimberly Lams, City resident, spoke regarding personal rights and provided a handout regarding the CDC.

Cord Switzer, City resident, spoke regarding personal rights, Hill Country Medical Center trip, and government regulations.

Heather Davis, Blue Bird Beginnings Child Center, spoke regarding needing help with finding her a new location.

Tonya Benson, City resident, spoke regarding Town Pool and protecting her rights.

Jeannette Hormuth, City resident, spoke regarding the proposed Resolution and encouraged the City Council to approve.

Isla Roof, City resident, spoke regarding the Police Department.

Robert Phoenix, County resident, spoke regarding the citizen comments period.

6. CONSENT

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS PULLED AT THE REQUEST OF A MEMBER OF CITY COUNCIL.

A. Consider approval of City Council Minutes (Shelley Goodwin, City Secretary)

- i. August 2, 2021 Workshop**
- ii. August 2, 2021 Regular Meeting**
- iii. August 4, 2021 Workshop**

- B. Consider approval of a request from Bestfest to close one south-bound traffic lane and parking lane adjacent to Marktplatz on North Adams from Austin to Main Street beginning Friday, October 15, 2021, at 8 a.m. until Sunday, October 17, 2021, at noon (Jennifer Krupa, Special Events Coordinator).**

Councilmember Musselman pulled Agenda Item 6. B. to consider separately.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to approve Consent Agenda items 6. A. i. – iii., with corrections The City Council voted five (4) for, and none (0) opposed. The motion carried unanimously.

The City Council discussed the Health and Safety Plan requirements.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to approve the request from Bestfest to close one southbound traffic lane and parking lane adjacent to Marktplatz on North Adams from Austin to Main Street beginning Friday, October 15, 2021, at 8 a.m. until Sunday, October 17, 2021, at noon. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

7. PUBLIC HEARING

- A. Hold a public hearing to receive citizen comments for or against a request by Steve and Marsha Mengle to consider a Conditional Use Permit (CUP) per Section 3.510 to Construct a first-floor bed and breakfast unit in the Historic Shopping District Overlay on property located at 211 W. Austin (Z-2113) (Jason Lutz, Development Services Director).**

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember O'Neill, to go out of the Regular Meeting into the public hearing at 7 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Mayor Kiehne asked if anyone wished to speak. No one did.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Watson, to go out of the Regular Meeting into the public hearing at 7:02 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

- B. Hold a public hearing to receive citizen comments for or against a request by Wes and Tammy Pack to consider a Conditional Use Permit (CUP) per Section 3.510 to Construct a first-floor bed and breakfast unit in the Historic Shopping District Overlay on property located at 514 W. San Antonio (Z-2114).**

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to go out of the Regular Meeting into the public hearing at 7:03 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Mayor Kiehne asked if anyone wished to speak.

Rebecca Davis, City resident, spoke regarding her sister and how the STR is affecting her.

Jim Richmond, City resident, spoke regarding the effects that adding three more units will have on the neighborhood.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to go out of the Regular Meeting into the public hearing at 7:05 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

8. OTHER ACTION ITEMS AND UPDATES

A. Consider the approval of an Order of Special Election for November 2, 2021 for the purpose of a proposed Measure related to Town Pool Splashpad (1st of two readings; City Council may waive 2nd reading) (Daniel Jones, City Attorney and Shelley Goodwin, City Secretary)

i. Discussion on Town Pool/Splash Pad Information meetings and citizen input (Andrea Schmidt, Parks and Recreation Director).

Andrea Schmidt, Parks and Recreation Director, reviewed the history of the Town Pool and the Splash Pad. She also reviewed the results of the public forums information she received.

Daniel Jones, City Attorney, stated August 16, 2021, is the deadline for calling a Special Election and creating the ballot language.

Motion: A motion was made by Councilmember Musselman, seconded by Mayor Kiehne, to call a Special Election to be held on November 2, 2021, so the voters can decide to keep Town Pool and add a splash pad or to convert Town Pool into a splash pad. The City Council voted one (1) for, and four (4) opposed (Councilmembers Luckenbach, Watson, and O'Neill, and Mayor Kiehne). Motion failed.

Motion: A motion was made by Councilmember Musselman, seconded by Mayor Kiehne, to call a Special Election to be held on November 2, 2021, and include the 3 Options, to keep Town Pool and add a splash pad, or to convert Town Pool into a splash pad, or do nothing at all to Town Pool. The City Council voted two (2) for and three (3) opposed (Councilmembers Luckenbach, Watson, and O'Neill). Motion failed.

The City Council agreed by consensus for Staff to bring back an Agenda Item regarding options related to Town Pool for the City Council to consider.

B. Consider an approval of a request by Steve and Marsha Mengle to consider a Conditional Use Permit (CUP) per Section 3.510 to Construct a first-floor bed and breakfast unit in the Historic Shopping District Overlay on Property Located at 211 W. Austin (Z-2113) (Jason Lutz, Development Services Director)

Jason Lutz, Development Services Director, reviewed the history and noted that the applicant wants to construct an 8-unit STR facility. This facility will include an office, commercial kitchen, and living quarters for an onsite manager. He also reviewed the site plan and noted the Fire Marshall did review this property.

The City Council discussed the occupancy, serving food, and fence. They expressed concerns about the separation of the property on the west side.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, for approval of a request by Steve and Marsha Mengle to consider a Conditional Use Permit (CUP) per Section 3.510 to Construct a first-floor bed and breakfast unit in the Historic Shopping District Overlay on Property Located at 211 W. Austin, with the condition of increasing the fence height for 6' to 8' for the fences proposed between structures along the side property lines. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

C. Consider an approval of a request by Wes and Tammy Pack to consider a Conditional Use Permit (CUP) per Section 3.510 to Construct a first floor bed and breakfast unit in the Historic Shopping District Overlay on Property Located at 514 W. San Antonio (Z-2114) (Jason Lutz, Development Services Director)

Jason Lutz, Development Services Director, reviewed the history of the property. He noted that the Historic Review Board had several concerns regarding the location of the spa areas and parking configuration. Still, they approved the Certificate of Appropriateness based on the renderings and guidelines. He noted that Staff also has concerns with parking layout and location of spa areas.

The City Council discussed the occupancy of the main house, parking, and the STR units. They also discussed the current Ordinance and guidelines.

Motion: A motion was made by Councilmember O'Neill, seconded by Councilmember Luckenbach, to deny the request by Wes and Tammy Pack to consider for a Conditional Use Permit (CUP) per Section 3.510 to Construct a first floor bed and breakfast unit in the Historic Shopping District Overlay on Property Located at 514 W. San Antonio. The City Council voted three (3) for, and two (2) opposed (Councilmembers Musselman and Watson). The motion carried

D. Consider an approval of an annexation agreement related to the request by Mark Cornett for a voluntary annexation for property located at 651 Post Oak Road (Jason Lutz, Development Services Director).

Jason Lutz, Development Services, reviewed the property and the reason for the annexation request.

Mark Cornett, requestor, stated he was present to answer questions.

The City Council discussed the annexation request.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember O'Neill, for the approval of an annexation agreement related to the request by Mark Cornett for a voluntary annexation for property located at 651 Post Oak Road. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

E. Consider the announcements related to the proposed Fiscal Year 2022 Budget (Laura Hollenbeak, Finance Director):

- i. **Filing the proposed Fiscal Year 2022 Budget with the City Secretary.**
- ii. **Public Hearing to receive comments on the Proposed Budget for Fiscal Year 2022, at 6:00 p.m. on Monday, August 23, 2021, at the Law Enforcement Center located at 1601 East Main, Fredericksburg, Texas 78624.**

Laura Hollenbeak, Finance Director, stated the FY 2022 proposed Budget was filed with the City Secretary on August 19, 2021. She also stated a Public Hearing to receive comments on the Proposed Budget for Fiscal Year 2022 will be held at 6:00 p.m. on Monday, August 23, 2021, at the Law Enforcement Center.

9. CITY MANAGER REPORT

A. Budget Update

Kent Myers, City Manager, stated the City Council would consider setting a proposed FY 2021 Tax Rate on August 23, 2021. He noted that if the proposed Tax Rate exceeds the no-new-revenue tax rate, the City Council will need to schedule another public hearing; September 8, 2021, at 6 p.m. in the Fire Training Room.

B. STR Update

Kent Myers, City Manager, stated the new Code Enforcement Officer would receive training for the next 30 days. He also noted that the amendment to the Ordinance is being discussed at a City Council Work Session on September 13, 2021, at 6 p.m. at University Center.

COVID-19

Kent Myers, City Manager, stated that 4 City employees have tested positive, and two employees are in quarantine. COVID positivity rate 24%, EMS have tested 133 people, and 26 of those were positive. He noted there would be a City-wide vaccination at Marktplatz on September 1, 2021.

10. ITEMS FOR FUTURE AGENDA

Kent Myers, City Manager, reviewed the Future Agenda Items.

11. COUNCIL COMMENTS

Councilmember O'Neill stated she had reviewed several of the reports that citizens have shared on vaccines and noted in her opinion this information is misleading.

Councilmember Luckenbach reported on the Gillespie County Commissioner's Court. He also reported on the grants and donations the Marker Square Redevelopment Commission has received. He also read a statement regarding Dr. Edwards that citizens mentioned at the last Regular City Council meeting.

Councilmember Watson reported that fuel sales are up more than 43% this year.

Mayor Kiehne reported on the Water Wheel dedication ceremony, Leadership Summit Pastor Vitek held, and the Fisd Scavenger Hunt.

12. ADJOURN

Motion: A motion was made by Councilmember Watson and seconded by Councilmember Luckenbach, to adjourn the Monday, August 16, 2021, City Council Regular Meeting at 8:35 p.m. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

Charlie Kiehne
Mayor

Shelley Goodwin, TRMC
City Secretary



CITY OF FREDERICKSBURG

MINUTES OF CITY COUNCIL SPECIAL MEETING AUGUST 23, 2021

The City of Fredericksburg City Council held their work session on Monday, August 23, 2021 at 6 p.m. This meeting was held in person at the Law Enforcement Center.

Members Present:

Mayor Charlie Kiehne
Councilmember Jerry Luckenbach
Councilmember Tom Musselman
Councilmember Kathy O'Neill

Members Absent:

Councilmember Bobby Watson (excused)

City Staff Present:

Kent Myers, City Manager
Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities
Lynn Bizzell, Fire Chief
Daniel Jones, City Attorney
Steve Wetz, Police Chief
Brian Vorauer, Police Department Lt.
Braxton Roemer, Police Special Services Lieutenant
Eric Whiting, Information Technology Director
Regan Rabke, Fire Marshall
Laura Hollenbeak, Finance Director
David Kellam, Assistant Finance Director
Krista Wareham, City Accountant
Lea Fugue, Public Information Officer
Justin Calhoun, Emergency Management Coordinator
Shelley Goodwin, City Secretary

1. CALL TO ORDER

Mayor Kiehne called the regular meeting of the Fredericksburg City Council to order at 6:00 p.m. on Monday, August 23, 2021. Mayor Kiehne announced a quorum of the City Council present.

2. PUBLIC COMMENTS

Annette Bennett, City resident, spoke regarding the Tax Rate.

George Studor, City resident, spoke regarding the budget process.

Eric Hammerson, City resident, spoke regarding the Tax Rate.

Gary Neffendorf, City resident, spoke regarding the Tax Rate and fund balances. He also announced his candidacy for County Judge.

Jett Burns, County resident, spoke regarding the Tax Rate.

Moe Saiidi, City resident, spoke regarding the Tax Rate.

Bryan Bierswalt, County resident, spoke regarding the Tax Rate.

Heath Bell, City resident, spoke regarding the Tax Rate.

3. FY 2022 CITY BUDGET

i. Review and discuss the proposed FY 2022 Budget.

Kent Myers, City Manager, provided a PowerPoint presentation regarding the proposed FY 2022. The PowerPoint included the FY2022 Budget overview, proposed fees and taxes, personnel costs, highlights, and FY2022 Budget-next steps.

ii. Hold a public hearing to receive comments on FY2022 Budget.

Motion: A motion was made by Councilmember Musselman, and a second by Councilmember Luckenbach to go out of Regular Session into Public Hearing at 6:34 p.m. The Council voted four (4) for, and none opposed. Motion passed unanimously.

Moe Saiidi, City resident, spoke regarding the proposed FY 2022 Budget.

Eric Hammerson, City resident, spoke regarding County's contribution with the expenses in the proposed FY2022 budget.

George Studor, City resident, spoke regarding the need for storm preparedness in the budget.

Carol Hammerson, City resident, spoke presentation of the budget and affordable housing.

Tracy Knudson, City resident, spoke regarding lowering the FY2022 Budget by 5%.

Derrick Spence, County resident, spoke regarding the need for parking meters.

Jett Burns, County resident, spoke regarding the American Rescue Plan and the FY2022 Budget.

Motion: A motion was made by Councilmember Musselman, and a second by Councilmember O'Neill to go out of Public Hearing into Regular Session at 7:05 p.m. The Council voted four (4) for, and none opposed. Motion passed unanimously.

iii. Announce date, time and location for adoption of FY 2022 City Budget - Monday, September 20, 2021, at 6 p.m. at the Law Enforcement Center- 1601 East Main Street, Fredericksburg, TX 78624.

Kent Myers, City Manager, announced the adoption of FY 2022 City Budget will be held on Monday, September 20, 2021, at 6 p.m. at the Law Enforcement Center- 1601 East Main Street, Fredericksburg, TX 78624.

4. 2021 TAX RATE

i. Review and discuss the proposed 2021 Tax Rate.

Laura Hollenbeck, Finance Director, reviewed the Legislative guidelines and the different proposed Tax Rate options. She also reviewed the 2021 Property Tax Rate Comparison.

Kent Myers, City Manager, reviewed the budget process and how the proposed Tax Rate impacts it.

The City Council requested a summary that takes out one-time expenses in the fund balance.

The City Council discussed setting the proposed Tax Rate with a higher percentage than last year and allow the staff to complete the proposed budget. Then they would come back with possibly a lower Tax Rate.

ii. Approve the proposed 2021 Tax Rate (roll call vote).

Motion: A motion was made by Councilmember Musselman, and a second by Councilmember Luckenbach, to set the proposed FY2021 Tax Rate at 0.225823. On roll call vote:

Councilmember Luckenbach:	aye
Councilmember Watson:	absent
Mayor Kiehne:	nay
Councilmember Musselman:	aye
Councilmember O'Neill	aye

Motion passed three (3) for and one (1) opposed.

iii. Announce date, time and location for adoption of 2021 Tax Rate - Monday, September 20, 2021, at 6 p.m. at the Law Enforcement Center- 1601 East Main Street, Fredericksburg, TX 78624.

Kent Myers, City Manager, stated that with the new proposed Tax Rate amount, a public hearing on September 8, 2021, at 6 p.m. in the Fire Training Room would need to be held. He also announced that the adoption of the 2021 Tax Rate would be on Monday, September 20, 2021, at 6 p.m. at the Law Enforcement Center.

4. ADJOURN

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to adjourn the Monday, August 23, 2021, City Council Workshop at 7:25 p.m. The City Council voted four (4) for and none (0) opposed. The motion carried unanimously.

Charlie Kiehne
Mayor

ATTEST

Shelley Goodwin, TRMC
City Secretary



CITY COUNCIL MEMO

DATE: September 7, 2021

TO: Mayor and City Council Members

FROM: Jason Lutz

SUBJECT: Public Hearing regarding Annexation of Area 6A & 6B of the City's Annexation Plan.

Summary:

The proposed annexation includes all properties that have frontage on Post Oak Road between Live Oak Street and Bowie Street, and those properties fronting on the Cherry Street extension to the north of Bowie Street. The attached map shows the properties in question. Resolution 2019-06R, adopted by the City Council on May 14, 2019, identified the properties in question as Area 6A and 6B. Area 6A included approximately 40.71 acres and area 6B approximately 42.62 acres, a map of the area is attached. The property is characterized by residences, vacant land, and some commercial businesses.

Recommendation:

Discuss the proposed annexation and give staff direction on whether to proceed.

Background / Analysis:

At the retreat in January 2018, the City Council prioritized areas of the community for annexation. After the U.S. Highway 290 East corridor and the W. Live Oak Street area, the Post Oak Road/Cherry Street extension was determined as the next highest priority. In addition, the City Council identified the extension of Cherry Street and improvements to Post Oak Road as one of four roadway priority projects in the Transportation Master Plan and associated Traffic Impact Study. The Council adopted Resolution 2019-06R because the legislature has changed the regulations for annexation, and it is no longer possible for the City to initiate annexation without the consent of the property owners.

This annexation area was originally initiated in November of 2020 but the process needed to be restarted due to COVID issues and change in Council Meeting locations, which affected the original timeline and process.

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If the Council decides to proceed with this annexation, staff will prepare an updated schedule. In doing so, there are several procedural items that must be completed within a very specific time frame to meet the statutory requirements of the law.

Attachments: Map of proposed annexation area & list of property owners within the subject area.



Department Approval

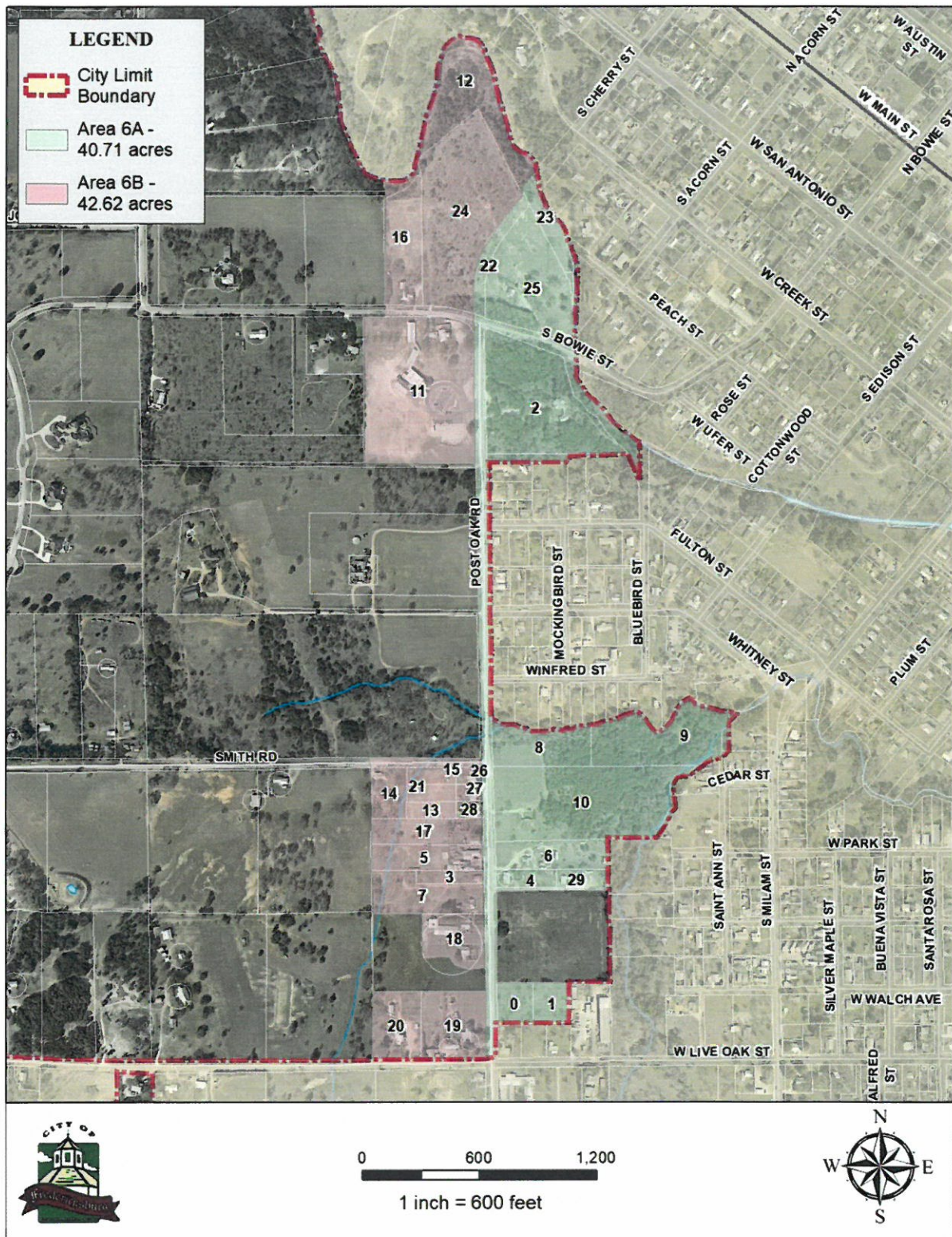


City Attorney Approval



City Manager Approval

The City of Fredericksburg



The City of Fredericksburg

MAP ID	NAME	PREFIX	NUMBER	STREET	SUFFIX	LEGAL DESCRIPTION
0	VILLARREAL, SUSAN & KIRKSCY, LAURIE		0	POST OAK	RD	G E CO #97 .92
1	KLAERNER, YVONNE B	W	618	LIVE OAK	ST	G E CO #97 .92
2	GARY FAMILY TRUST		421	POST OAK	RD	G E CO #609 7.17, ALSO PT LOT 1 BESIER #2
3	MD GATHERING HOLDINGS LLC-SERIES 638 POST OAK RD		638	POST OAK	RD	G E CO #137 0.498
4	MD GATHERINGS HOLDINGS LLC-SERIES 639 POSTOAK		639	POST OAK	RD	G E CO #616 LOT UNMBR & UNMBR OF GE97, 0.723, UNMBR SOUTH OF GE0616
5	MD GATHERING HOLDINGS LLC-SERIES 632 POST OAK		632	POST OAK	RD	G E CO #137 1.78, B&BS
6	OCHOA, VICTOR HUGO		633	POST OAK	RD	G E CO #616 LOT UNMBR, 1.64, UNMBR LOT SOUTH OF GE616-HOMESITE-
7	BROWN, JAMES LOYD		644	POST OAK	RD	G E CO #137 2.444, & HOUSE-POST OAK RD-
8	LEHNE, SANDRA & JAMES A LEHNE		627	POST OAK	RD	G E CO #258 2.0, -HOMESITE-
9	LEHNE, SANDRA & JAMES A LEHNE		627	POST OAK	RD	G E CO #259 2.0
10	LEHNE, SANDRA & JAMES A LEHNE		627	POST OAK	RD	G E CO #616 8.0
11	MASON, CHARLOTTE SCHOOLS INTERNATIONAL INC		406	POST OAK	RD	G E CO #257 LOT 257A & 257B, 9.714
12	PERRY DISTRIBUTION TRUST	W	911	CREEK	ST	G E CO #261 LOT UNMBR, 3.43
13	SMITH, DORAN D & JOYCE		624	POST OAK	RD	SMITH, JAMES & DOREEN SUBD LOT 3-PT, 0.528
14	GONZALES, JESSE & SUSAN		103	SMITH	RD	SMITH, JAMES & DOREEN SUBD LOT 4, 1.12, -HOMESITE-
15	SMITH, JAMES W & MARY LOU		620	POST OAK	RD	SMITH, JAMES & DOREEN SUBD LOT 1-PT, 0.548
16	KING, J CRAIG & SUSAN	S	812	BOWIE	ST	NOVIAN LOT 1 TO 5, 2.828, -RESIDENCE-
17	AGUIRRE, AURORA		630	POST OAK	RD	G E CO #137 1.69
18	ALLEN, STEVE & BEVERLY REVOCABLE TRUST		648	POST OAK	RD	ALLEN ADDN LOT 1288-AR, 3.279
19	ALLEN, STEVE & BEVERLY REVOCABLE TRUST		662	POST OAK	RD	ALLEN ADDN LOT 128A-R PT, 1.16
20	BOBO, TIMOTHY M & LARA (TIM)	W	714	LIVE OAK	ST	ALLEN ADDN LOT 1288-BR, 2.023
21	SMITH, TAMMY		622	POST OAK	RD	SMITH, JAMES & DOREEN SUBD LOT 2-PT, 0.528
22	CITY OF FREDERICKSBURG	S	0	BOWIE		G E CO #261 0.932
23	WENGER, STANLEY R & JANELLE S	W	704	PEACH	ST	F8G ADDN BLK 1 LOT 563, 2.13, -GE0261, & TRACT UNBRD EAST OF GE0261-
24	HUTSON, JEFFREY & KATHERINE	S	804	BOWIE	ST	G E CO #700 MULTIPLE LOTS 7.627, GE261, GE262, PT OF STREET
25	712 S BOWIE LLC	S	712	BOWIE	ST	G E CO #261 4.821, -HOMESITE-AG
26	SMITH, JAMES W & MARY LOU		620	POST OAK	RD	SMITH, JAMES & DOREEN SUBD LOT 1-PT, 0.24, -HOMESITE-
27	SMITH, TAMMY		622	POST OAK	RD	SMITH, JAMES & DOREEN SUBD LOT 2-PT, 0.26, -DUPLEX-
28	SMITH, DORAN D		624	POST OAK	RD	SMITH, JAMES & DOREEN SUBD LOT 3-PT, .26, -HOMESITE-
29	DELA FUENTE, JUAN & UZABETH		610	BLACKWATER	RD	G E CO #616 LOT UNMBR, .65, UNMBR SOUTH OF GE0616-LIZBETH MARTINEZ AREVALO DE LA FUENTE M/H LOCATED ON THIS PROP-

The City of Fredericksburg



CITY COUNCIL MEMO

DATE: for September 7, 2021 meeting

TO: Mayor and City Council

FROM: Daniel Jones, City Attorney

SUBJECT: Consider possible revisions to City alcoholic beverage license ordinance

Summary: The Council will consider the first reading of a revised alcoholic beverage license ordinance, modifying the expiration dates of the City licenses, to align with the effective dates of permits and license issued by the Texas Alcoholic Beverage Commission ("TABC").

Recommendation: Discuss and consider first reading of ordinance, then take action to waive second reading and adopt as presented, or set for a second reading at a future date.

Background / Analysis: Permits and licenses issued to local establishments by the Texas Alcoholic Beverage Commission ("TABC") are effective for a term of two years, but the City's alcoholic beverage license ordinance provides for City licenses that expire annually. The City Council previously adopted an ordinance that will provide for future City alcoholic beverage licenses that expire two years from the date of issuance. However, there remains a need to issue one year licenses for any establishment that obtained their TABC permits or licenses prior to September 1, 2021, as they will have less than two years remaining on their existing TABC permit or license. As presented, the ordinance will allow for continued issuance of one year City licenses as needed, until all remaining TABC permits or licenses issued prior to September 1, 2021 have expired. Following the expiration of all TABC permits or licenses issued prior to September 1, 2021, the City will be issuing two year licenses that align with the term of the related TABC permit or license.

Attachments: Proposed Ordinance (clean version and redline copy indicating revisions)

Daniel Jones
Department Approval

Kent Myers
City Manager Approval

The City of Fredericksburg

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ORDINANCE NO. 2021-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING ARTICLE IV - SALES OF ALCOHOLIC BEVERAGES, OF CHAPTER 8 -BUSINESSES, OF THE CODE OF ORDINANCES, TO MODIFY THE ISSUANCE OF ALCOHOLIC BEVERAGE LICENSES, TO ALIGN WITH THE EFFECTIVE TERM OF PERMITS OR LICENSES ISSUED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS:

Section 1. That, Section 8-88 – entitled “When license to be issued; when license expires”, of Article IV – “Sales of Alcoholic Beverages”, of Chapter 8 – “Businesses”, of the Code of Ordinances, is hereby amended to read as follows:

Sec. 8-88. - When license to be issued; when license expires.

Upon presentation to the City of a license or permit issued by the Texas Alcoholic Beverage Commission (“TABC”), and payment of the fee set forth in Section 8-85, the City tax collector shall issue to each applicant the City alcoholic beverage license. For any license or permit issued by the TABC prior to September 1, 2021, the related City alcoholic beverage license shall expire one (1) year after the date it is issued. For any license or permit issued by the TABC on or after September 1, 2021, the related City alcoholic beverage license shall expire two (2) years after the date it is issued.

{End of code text}

Section 2. Severability or 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.

Section 3. Repealer. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall become effective on September 1, 2021.

PASSED AND APPROVED on this the ____ day of _____, 20__.

Charlie Kiehne, Mayor
City of Fredericksburg, Texas

ATTEST:

Shelley Goodwin, TRMC, City Secretary

APPROVED AS TO FORM:

Daniel D. Jones, City Attorney



CITY COUNCIL MEMO

DATE: For the September 7, 2021 meeting

TO: Mayor and City Council

FROM: Daniel Jones, City Attorney

SUBJECT: Discussion of establishing an alternative civil process to handle City ordinance violations

Summary: By adopting an ordinance to establish an alternative adjudication process, City code violations are enforced as an administrative civil matter, rather than as a Class C misdemeanor criminal case.

Recommendation: Discuss and consider the adoption of the attached Ordinance establishing an alternative adjudication process for City code violations.

Background / Analysis: The City Council will consider adoption of an ordinance to create an alternative approach to handle City ordinance violations, through a civil administrative hearing process. By using an alternative adjudication process, code violations are treated as a civil administrative matter, rather than as a Class C misdemeanor criminal case. The goals are to promote code compliance and increase efficiency of code enforcement, while improving the City-public relationship by disposing of cases in a less adversarial manner.

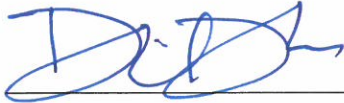
Texas Local Government Code, Section 54.044, provides the required procedure for administrative adjudication of certain ordinances. Under an alternative adjudication process, a typical code violation case would start with the issuance of an “administrative citation” by a Code Enforcement officer. This administrative citation serves as the summons with notice of a specific hearing date/time, and as the allegation for the violation charged. When a citation is received, an individual may respond in one of two ways: (1) pay the penalty amount, which constitutes an admission of liability and disposes of the case without a hearing; or (2) contest the allegation by appearing at the designated hearing date and time. A person issued an administrative citation in due and proper form, and who fails to appear at the designated hearing, is deemed to have admitted liability and is assessed the civil penalty. When an individual appears at the hearing to contest the allegation, the hearing is informal. The individual has the right to rebut the alleged violation, and following the hearing, the individual may appeal the final administrative order to the Municipal Court.

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Benefits of an alternative adjudication process may include faster disposition of cases, more flexibility in penalties assessed due to absence of statutory court costs, and the removal of the "criminal" stigma attached to Class C misdemeanor code cases enforced by prosecution in the municipal court.

Attachments: Comparison chart of Criminal Court vs. an Alternative Adjudication process; Proposed ordinance.



Daniel Jones
Department Approval



Kent Myers
City Manager Approval

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**Comparison of processing code violation cases in
Criminal Court vs. an Alternative Adjudication process**

	Criminal Court	Alternative Adjudication Hearing
Type of Hearing	Jury trial or trial by court in Municipal Court. Formal trial procedure; Rules of Evidence apply.	Administrative Hearing. Simplified and informal procedure; Rules of Evidence do not apply.
Pleadings	Strict requirements for filing criminal complaint	Pleading by citation from Code Enforcement officer
Burden of Proof	Beyond a Reasonable Doubt. City must prove all elements of offense.	Preponderance of the Evidence. Proof of violation by citation, rebuttable by person charged.
Failure of Defendant to Appear	Results in arrest warrant, additional criminal charge for FTA.	Results in default judgment, penalty assessed.
Court Costs	Mandatory, shared with State.	Not mandatory, allows for flexibility in penalty assessed.
Case Type	Criminal case, Class C Misdemeanor	Civil administrative case, no criminal record created

ORDINANCE NO. 2021-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING CHAPTER 2 - ADMINISTRATION - OF THE CODE OF ORDINANCES, BY ADOPTING AND ADDING AN ARTICLE VII - ADMINISTRATIVE ADJUDICATION OF VIOLATIONS - PROVIDING FOR A CIVIL ADMINISTRATIVE HEARING PROCESS FOR VIOLATIONS OF ORDINANCES DESCRIBED IN TEXAS LOCAL GOVERNMENT CODE SECTION 54.032.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS:

Section 1. That, Chapter 2 - ADMINISTRATION, of the Code of Ordinances, is hereby amended by the addition of Article VII as follows:

Article VII. ADMINISTRATIVE ADJUDICATION OF VIOLATIONS.

§ 2-250 DEFINITIONS.

In this Article:

- (1) CODE OFFICIAL means the city employee designated by the City Manager as the Director of the City of Fredericksburg Civil Code Enforcement Department.
- (2) HEARING COORDINATOR means the Code Official's designee that manages the administrative hearing process created by this Article.
- (3) ISSUING OFFICER means a City civil code enforcement officer or City employee with the authority to issue administrative citations for violations described in Section 2-252 (*Violations Subject to Administrative Adjudication*).
- (4) VIOLATOR means the person charged with violating an ordinance described in Section 2-252 (*Violations Subject to Administrative Adjudication*).

§ 2-251 PURPOSE; ESTABLISH ADMINISTRATIVE HEARING PROCESS.

- (A) The purpose of this Article is to protect the health, safety, and welfare of the citizens of the City, by providing for an administrative hearing process for violations of ordinances described in Texas Local Government Code Section 54.032 (*Ordinances Subject to Quasi-Judicial Enforcement*). The City Council hereby implements Subchapter C (*Quasi-Judicial*

Enforcement of Health and Safety Ordinances) of Texas Local Government Code Chapter 54.

- (B) This Article establishes a procedure for administrative hearings pursuant to and consistent with Texas Local Government Code Section 54.044 (*Alternative Procedure for Administrative Hearing*).

§ 2-252 VIOLATIONS SUBJECT TO ADMINISTRATIVE ADJUDICATION.

- (A) The administrative hearing process established in this Article may be used to enforce City ordinances:
 - (1) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
 - (2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
 - (3) relating to dangerously damaged or deteriorated buildings or improvements;
 - (4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
 - (5) relating to a building code or to the condition, use, or appearance of property in a municipality; or
 - (6) relating to water conservation measures, including watering restrictions.
- (B) Nothing in this Article shall preclude the City's pursuit of any and all other remedies allowed under the civil and criminal statutes, under this Code of Ordinances, and in equity, to address violations of City ordinances described in this Section 2-252.

§ 2-253 HEARING OFFICER.

- (A) One or more hearing officers shall be appointed by the City Council to administratively adjudicate violations of ordinances described in Section 2-252 (*Violations Subject to Administrative Adjudication*). The hearing officer shall not be appointed for a definite term, but may be removed at the will and pleasure of the City Council by an affirmative vote of the majority of the entire council.
- (B) A hearing officer may:
 - (1) administer oaths;
 - (2) issue orders that compel the attendance of witnesses and the production of documents;
 - (3) issue an order that includes the disposition of the hearing and the amount of penalties and costs; and
 - (4) act pursuant to the authority granted in Texas Local Government Code Section 54.044 (*Alternative Procedure for Administrative Hearing*).

- (C) An order to compel the attendance of witnesses and the production of documents is enforceable by the Municipal Court.

§ 2-254 ADMINISTRATIVE CITATIONS.

- (A) An administrative citation must be on a form prescribed by the Code Official and must include:
 - (1) the nature, date, and location of the violation;
 - (2) a notification that the violator has the right to a hearing;
 - (3) the time and place of the hearing;
 - (4) a notification that failure to appear for a hearing is considered an admission of liability for the violation charge and will result in the assessment of penalties and costs; and
 - (5) the name of the Issuing Officer.
- (B) The original or copy of an administrative citation is kept in the ordinary course of City business and is rebuttable proof of the facts it states.

§ 2-255 HEARING FOR AN ADMINISTRATIVE CITATION.

- (A) A hearing to adjudicate an administrative citation described in this Article shall be conducted by a hearing officer appointed pursuant to Section 2-253 (*Hearing Officer*).
- (B) The Texas Rules of Evidence do not apply to a hearing under this Article.
- (C) The hearing officer shall hear and consider:
 - (1) evidence presented by the person charged;
 - (2) presumptions and prima facie evidence established by this Article or other applicable law;
 - (3) evidence presented by the issuing officer, if required to attend the hearing; and
 - (4) evidence presented by individuals who attend the hearing.
- (D) The hearing officer shall make a decision based on a preponderance of the evidence.
- (E) The testimony at the hearing shall be recorded. If an audio recording is made, each voice shall be identified.
- (F) The recorded testimony, documents, and other evidence shall constitute the record for appeal. The acceptance of documents or other evidence shall be noted on the record.
- (G) The issuing officer is not required to attend a hearing, except as set forth in Subsection 2-255(H) below.
- (H) The issuing officer shall attend a hearing:
 - (1) if requested in writing by the violator; and
 - (2) the request is filed with the hearing coordinator at least five (5) business days before the scheduled hearing date.

- (I) A scheduled hearing may be reset for cause if the violator submits a written request for a reset to the hearing coordinator at least five (5) business days before the scheduled hearing date. If the hearing coordinator does not respond to a request for a reset, the request is denied, and the violator must appear as scheduled.
- (J) At the conclusion of the hearing, the hearing officer shall issue an order that:
 - (1) finds the violator liable and assesses penalties and costs; or
 - (2) finds the violator not liable for the violation.
- (K) The hearing officer's order shall be filed with the City Clerk in a separate index and file.

§ 2-256 FAILURE TO APPEAR AT A HEARING.

If a violator fails to attend a scheduled hearing, including an appeal hearing, the violator is considered to admit liability for the violation charged.

§ 2-257 ESTABLISHING A PENALTY.

- (A) Except as provided in Subsections 2-257(D) and 2-257(F), the penalty range that may be assessed against a violator found liable under this Article shall be no more than \$1,000.00 and:
 - (1) not less than \$25.00 for a first violation;
 - (2) not less than \$250.00 for a second violation of the same charge; and
 - (3) not less than \$750.00 for a third or subsequent violation of the same charge.
- (B) In addition to the penalty assessed, the hearing officer may assess against the violator found liable under this Article any costs of the adjudication as set by separate ordinance.
- (C) In determining the amount of penalty to be assessed, the hearing officer shall consider the following factors:
 - (1) the gravity of the violation;
 - (2) any actions taken by the violator to correct or cure the violation;
 - (3) any previous violations committed by the violator;
 - (4) indigence of the violator; and
 - (5) any other relevant evidence, as determined by the hearing officer.
- (D) Except as provided in Subsection 2-257(F), the penalty range that may be assessed against a violator found liable under this Article for violating Appendix B of the City's Code of Ordinances (*Zoning Ordinance*) shall be no more than \$1,000.00 and:
 - (1) not less than \$150.00 for a first violation;
 - (2) not less than \$500.00 for a second violation; and
 - (3) not less than \$750.00 for a third or subsequent violation.
- (E) A violator who has been found liable for a violation may assert a financial inability to pay the penalty. If a violator asserts a financial inability to pay the penalty, the hearing officer

must make a determination of financial inability to pay. The determination must be made based on documentary evidence provided to the hearing officer.

- (F) If the hearing officer determines that the violator does not have the financial ability to pay the penalty, the hearing officer must make the finding in writing and must reduce the penalty to an amount that is within the violator's ability to pay.
- (H) A violator cannot appeal the hearing officer's determination related to the violator's financial inability to pay.
- (I) A violator who has been found liable for a violation may request to pay the penalty in installments during the six months from the date the hearing officer issues an order. A violator must request to pay the penalty in installments within 20 calendar days from the date the hearing officer issues the order and must waive the appeal described in Section 2-258 (*Appeal from a Hearing*). The Code Official is authorized to grant a request to pay the penalty as described in this subsection.

§ 2-258 APPEAL FROM A HEARING.

- (A) A violator found liable by a hearing officer may appeal the determination by:
 - (1) filing a petition with the Clerk of the Municipal Court within ten (10) business days following the date that the hearing officer's determination is filed with the City Clerk; and
 - (2) paying a non-refundable filing fee of \$50.00.
- (B) A violator that fails to appear at a hearing described in Section 2-255 (*Hearing for an Administrative Citation*) is not entitled to an appeal hearing.
- (C) An appeal hearing is conducted by a municipal court judge.
- (D) The judge shall review the record and hear oral arguments of the parties at the appeal hearing.
- (E) The judge may receive evidence of procedural irregularities alleged to have occurred at the hearing that are not reflected in the record.
- (F) The judge may not substitute his or her judgment for that of the hearing officer as to the weight of the evidence given by the hearing officer for questions that fall within the hearing officer's discretion.
- (G) The court may reverse the hearing officer's order or remand the case for a rehearing if the appellant's substantial rights have been violated because the administrative findings or orders:
 - (1) violate constitutional or statutory provisions;
 - (2) exceed statutory authority;
 - (3) are made upon unlawful procedure;
 - (4) are affected by other error of law;
 - (5) are not supported by substantial evidence, as that term is used in Texas Local Government Code Section 54.039 (*Judicial Review*), in light of the reliable and probative evidence in the record as a whole; or

- (6) are arbitrary, capricious, characterized by abuse of discretion, or clearly unwarranted exercise of discretion.
- (H) If the findings of the hearing officer are affirmed, the penalties and costs may not be modified, except that additional costs of the appeal as set by separate ordinance may be added.

§ 2-259 ENFORCEMENT OF ORDER.

- (A) An order issued under this Article may be enforced by:
 - (1) filing a civil suit for the collection of a penalty assessed against the violator; and
 - (2) obtaining an injunction that:
 - (a) prohibits specific conduct that violates the ordinance; or
 - (b) requires specific conduct necessary for compliance with the ordinance.
- (B) Unless the violator posts a bond with the Fredericksburg Code Department before filing an appeal, an appeal of an order issued under this Article does not stay enforcement and collection of the penalties and costs.
- (C) The amount of the bond shall equal to fifty percent (50%) of all penalties and costs assessed against the violator.

{End of code text}

Section 2. Severability or 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.

Section 3. Repealer. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective on December 1, 2021.

PASSED AND APPROVED on this the ____ day of _____, 20__.

Charlie Kiehne, Mayor
City of Fredericksburg, Texas

ATTEST:

Shelley Goodwin, TRMC, City Secretary

APPROVED AS TO FORM:

Daniel D. Jones, City Attorney



CITY COUNCIL MEMO

DATE: September 7, 2021

TO: Mayor and City Council

FROM: Garret Bonn, P.E., CFM - Assistant City Engineer

SUBJECT: S. Llano Shared-Use Bridge & Ufer St. Sidewalk Project Resolution & Advanced Funding Agreement

Summary:

A resolution authorizing and directing the City Manager to execute an Advanced Funding Agreement (AFA) with TxDOT for the S. Llano Shared-Use Bridge & Ufer St. Sidewalk Project.

Recommendation:

Staff recommends approval of the resolution authorizing and directing the City Manager to execute an AFA with TxDOT.

Background / Analysis:

The S. Llano Shared-Use Bridge and E. Ufer Street Sidewalk project will connect E. San Antonio St. to E. Ufer St. via a shared-use bridge that will cross Barons Creek in the S. Llano Right of Way and provide much needed connectivity between the historic shopping district and many other areas on the south side of Barons Creek such as Old Fair Park, the City's Recycling Center, etc. (refer to attached exhibit). In 2019, after submittal of an application for funding to TxDOT under the Transportation Alternatives Set-Aside Program, the City received word that the project had been approved for future funding considerations under the Small Urban Transportation Alternative (TA) Funds Conditional project approval list with an 80%

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state/20% local cost share. As part of a development agreement between the City of Fredericksburg and Hamuk, LLC, who is developing a hotel at the northwest corner of S. Llano and Ufer St, the developer is responsible for contributing \$100,000 towards the cost of the shared-use bridge project which may be included as part of the 20% local match required by the program.

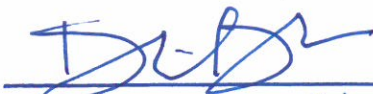
On April 29, 2021, the Texas Transportation Commission formally approved the project and awarded \$902,748 in federal funding. The current total estimated project cost is \$1,128,435 which includes design, environmental/floodplain clearance, construction, TxDOT administrative costs, and a 15% contingency. After execution of the attached AFA, City staff will issue a Request for Qualifications (RFQ) for selection of a qualified engineering design consultant to begin the design phase of the project. The project is currently scheduled to be let (bid) in December of 2022.

Attachments:

Exhibit
Resolution
Draft Advanced Funding Agreement

Department Approval

City Manager Approval


City Attorney

The City of Fredericksburg



City of Fredericksburg S. Llano Shared Use Bridge and Ufer Street Sidewalks A - Project Location Information



0 400
 SCALE IN FEET

RESOLUTION 2021-09R
AUTHORIZING EXECUTION OF AN
ADVANCE FUNDING AGREEMENT (AFA) WITH THE
TEXAS DEPARTMENT OF TRANSPORTATION FOR A
TRANSPORTATION ALTERNATIVES SET-ASIDE (TASA) PROJECT

WHEREAS, on April 29, 2021, via Minute Order 116003, the Texas Transportation Commission authorized the S. LLANO SHARED USE BRIDGE & E. UFER ST. SIDEWALK project (the "Project") to receive Transportation Alternatives Set-Aside (TASA) funds for project construction and Texas Department of Transportation (TxDOT or the State) oversight; and

WHEREAS, the TASA funds require a local match, the City of Fredericksburg commits to provide the match. The local match is comprised of cash, plus in-kind contributions, if any; and

WHEREAS, the City of Fredericksburg is responsible for all non-reimbursable costs and 100% of overruns, if any; and

WHEREAS, the City Council of the City of Fredericksburg desires to reaffirm its support of the Project and approve and authorize the execution of an Advance Funding Agreement (AFA) with TxDOT for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG THAT the City Manager is hereby authorized to enter into an AFA with TxDOT for this Project.

DULY PASSED by majority vote of all members of City Council of the City of Fredericksburg on the 7th day of September 2021.

ATTEST:

THE CITY OF FREDERICKSBURG, TEXAS

Shelley Goodwin
City Secretary, City of Fredericksburg

Charlie Kiehne
Mayor, City of Fredericksburg

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STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
FOR A TRANSPORTATION ALTERNATIVES
SET-ASIDE (TASA) PROGRAM PROJECT
TxDOT-Selected Off-System**

This Advance Funding Agreement for a Transportation Alternatives Set-Aside (TASA) Program Project ("Agreement") is made between the State of Texas (State), acting through the Texas Department of Transportation, and the City of Fredericksburg (Local Government), acting through its duly authorized officials.

WITNESSETH

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

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, Federal law, 23 USC §134 and 49 USC §5303, requires that State and Metropolitan Planning Organizations (MPOs) develop transportation plans and programs for urbanized areas of Texas, 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 has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the rules and procedures for the Transportation Alternatives Set-Aside Program (TASA) are established in 23 USC §133(h), and 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418, and

WHEREAS, the Local Government prepared and submitted to the State or Metropolitan Planning Organization (MPO) a project nomination package for TASA funding consideration, which is briefly described as S. Llano Shared Use Bridge & E. Ufer St. Sidewalks (Project), and

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WHEREAS, the Texas Transportation Commission (Commission) passed Minute Order Number 116003 (MO) dated April 29, 2021 awarding funding for TASA projects in the TASA Program Call of the State, including Project, and

WHEREAS, the governing body of the Local Government has approved entering into this Agreement by resolution or ordinance dated {enter date of resolution}, which is attached to and made a part of this Agreement as Attachment A, Resolution or Ordinance. A map showing the Project location appears in Attachment B, Project Location Map, which is attached to and made a part of this Agreement, and

NOW, THEREFORE, the State and the Local Government agree as follows:

AGREEMENT

1. Period of Agreement and Performance

- A. Period of 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 terminated as provided below.
- B. Period of Performance.
 - 1. The Performance Period for each phase of work begins on the date specified in the Federal Project Authorization and Agreement (FPAA) for that phase of work. Local Government may not begin work until issued the State Letter of Authority (SLOA) for that phase of work.
 - 2. The Performance Period for each phase of work ends on the date specified in the FPAA for that phase of work.

2. Scope of Work and Use of Project

- A. The scope of work for Project consists of construction of a shared use bridge and sidewalks in the city of Fredericksburg along the South Llano St. right of way between East San Antonio Street and East Ufer Street. Sidewalks are also proposed along East Ufer Street from South Llano Street to South Lincoln Street and along South Lincoln Street to improve pedestrian facilities in and around the City's Recycling Center, Boys and Girls Club of the Texas Hill Country, and the City of Fredericksburg's Old Fair Park.
- B. Any project changes proposed must be submitted in writing by Local Government to State. Substantive changes may also require an amendment to this Agreement and the approval of the FHWA, State, MPO, or the Commission. Any changes undertaken without written approval and amendment of this Agreement may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

3. Project Sources and Uses of Funds

The total estimated development cost of the Project is shown in Attachment C, Project Budget Estimate and Source of Funds (Attachment C).

- A. If Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must

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complete training. If federal funds are being used, the training must be completed 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 and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, Local Government shall provide the certificate of qualification to State. The individual who receives the training certificate may be an employee of Local Government or an employee of a firm that has been contracted by Local Government to perform oversight of the Project. State in its discretion may deny reimbursement if Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

- B. The total estimated project cost as shown in Attachment C includes the Local Government's estimated itemized cost of real property, utilities, environmental assessments, construction, and other construction related costs. To be eligible for reimbursement or as in-kind contribution, costs must have been included in the nomination form approved by the Texas Transportation Commission or MPO in consultation with State. Local Government must submit to State evidence of payment for eligible in-kind costs at least once per calendar quarter using the State's In-Kind Match Reporting form.
- C. State and the Federal Government will not reimburse Local Government for any work performed outside the Performance Period. After federal funds have been obligated, State will send to Local Government a copy of the formal documentation showing the obligation of funds including federal award information. Local Government is responsible for 100 percent of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- D. The Project budget and source of funds estimate based on the budget provided in the application is included in Attachment C. Attachment C shows the percentage and estimated dollar amounts to be contributed to Project by state and local sources, as well as the maximum amount in federal TASA funds assigned by the Commission or MPO in consultation with State. This Agreement may be amended from time to time as required to meet the funding commitments based on revisions to the TASA, FPAA, or other federal documents.
- E. State will be responsible for securing the federal share of funding required for the development and construction of Project, in an amount not to exceed 80 percent of the actual cost of the work up to the amount of funds approved for Project by the Texas Transportation Commission or MPO in consultation with State. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to issuance of the SLOA are not eligible for reimbursement.
- F. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment C and for overruns in excess of the amount specified in Attachment C to be paid by the Local Government. If the Project was State-

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selected, the State may apply a portion of any excess program funds to cover all or a portion of any overrun based on criteria provided by 43 Tex. Admin. Code §11.411(d).

- G. The budget in Attachment C will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment C. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Following execution of this Agreement, but prior to the performance of any plan review work by State, Local Government will pay to State the amount specified in Attachment C for plan review. At least 60 days prior to the date set for receipt of the construction bids, Local Government shall remit its remaining local match as specified in Attachment C for State's estimated construction oversight and construction cost.
- J. In the event State determines that additional funding is required by Local Government at any time during Project, State will notify Local Government in writing. Local Government is responsible for the percentage of the authorized Project cost shown in Attachment C and 100 percent of any overruns above the federally authorized amount. Local Government will make payment to State within 30 days from receipt of State's written notification.
- K. Whenever funds are paid by Local Government to State under this Agreement, Local Government will remit a warrant made payable to the "Texas Department of Transportation". The warrant will be deposited by State and managed by State. Funds may only be applied by State to Project.
- L. Upon completion of Project, State will perform a final accounting of Project costs. Any funds due to Local Government, State, or the Federal Government will be promptly paid by the owing party.
- M. In the event Project is not completed, State may seek reimbursement from Local Government of the expended federal funds. Local Government will remit the required funds to State within 60 days from receipt of State's notification.
- N. If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal regulations, or if any other locally proposed changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by Local Government. The cost of providing right of way acquired by State shall mean the total expenses in acquiring the property interests through negotiations, including, but not limited to, expenses related to relocation, removal, and adjustment of eligible utilities.
- O. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the Agreement or indirectly through a contract or subcontract under the Agreement. Acceptance of funds directly under the Agreement

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or indirectly through a contract or subcontract under this Agreement 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.

- P. State will not pay interest on any funds provided by Local Government.
- Q. State will not execute the contract for the construction of Project until the required funding has been made available by Local Government in accordance with this Agreement.
- R. 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 State no more frequently than monthly, and no later than 90 days after costs are incurred. If Local Government submits invoices more than 90 days after the costs are incurred, and if federal funding is reduced as a result, State shall have no responsibility to reimburse Local Government for those costs.
- S. If Local government is an Economically Disadvantaged County (EDC) and if State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.

4. Termination of the Agreement

- A. This Agreement may be terminated by any of the following conditions:
 - 1. By mutual written consent and agreement of all parties;
 - 2. By any party with 90 days written notice; or
 - 3. By either party, upon the failure of the other party to fulfill the obligations as set forth in this Agreement. Any cost incurred due to such breach of contract shall be paid by the breaching party.
- B. If the potential termination of this Agreement is due to the failure of Local Government to fulfill its contractual obligations, State will notify Local Government that possible breach of contract has occurred. Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- C. The Agreement may be terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination;
- D. If Local Government withdraws from Project after this Agreement is executed, Local Government shall be responsible for all direct and indirect Project costs as identified by the State's cost accounting system and with 2 CFR Part 200 recapture requirements.
- E. A project may be eliminated from the program as outlined below. If Project is eliminated for any of these reasons, this Agreement will be appropriately terminated. A project may be eliminated from the program, and this Agreement terminated, if:

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1. Local Government fails to satisfy any requirements of the program rules cited in 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418.
 2. The implementation of Project would involve significant deviation from the activities proposed in the nomination form and approved by the Texas Transportation Commission or MPO in consultation with State.
 3. Local Government withdraws from participation in Project.
 4. State determines that federal funding may be lost due to Project not being implemented and completed.
 5. Funds are not appropriated, in which case this Agreement shall be terminated immediately with no liability to either party. Payment under this Agreement beyond the current fiscal biennium is subject to availability of appropriated funds.
 6. A construction contract has not been awarded or construction has not been initiated within three years after the date that the Commission or MPO selected the project or by a letting date determined by the state and agreed to by the Local Government.
 7. Local Government fails to attend progress meetings at least twice yearly, as scheduled by State.
- F. State, at its sole discretion, may terminate this Agreement if State does not receive project invoice from Local Government within 270 days of FPAA.

5. Amendments

This Agreement may be amended due to changes in the work, the amount of funding required to complete Project, or the responsibilities of the parties. Such amendment must be made through a mutually agreed upon, written amendment that is executed by the parties.

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

Local Government shall be responsible for the adjustment, removal, or relocation of utilities or utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to State of a delay resulting from Local Government's failure to ensure that utilities or utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. At the State's discretion, State may reimburse Local Government for minor, incidental utility adjustments that are identified during the preliminary engineering phase if they are eligible for federal reimbursement. Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, Local Government shall provide, at State's request, a certification stating that Local Government has completed the adjustment of all utilities that must be adjusted before construction begins. Additional utility work may be required due to unknown conditions discovered during construction. These costs may be eligible for TASA participation if the following conditions are met: (1) the activity is required to complete Project; (2) the cost is

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incidental to Project; and (3) TASA funding is available. Any change orders must be approved by State prior to incurring any cost for which reimbursement is sought.

8. **Environmental Assessment and Mitigation**

Development of 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 **Local Government** is responsible for the identification and assessment of any environmental problems associated with the development of Project.
- B. Local Government is responsible for the cost of any environmental problem's mitigation and remediation. These costs will not be reimbursed or credited towards Local Government's financial share of Project unless specified in the nomination form and approved by State or MPO in consultation with State.
- C. Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment, including any public hearing requirements that may be necessary when adding a bike lane.
- D. Before the advertisement for bids, Local Government shall provide to State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

9. **Compliance with Accessibility Standards**

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 standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

10. **Architectural and Engineering Services**

- A. Architectural and engineering services for preliminary engineering will be provided by the **Local Government**. In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if Project is federally funded and Local Government will be seeking reimbursement for these services or if these services will be used as in-kind contributions; and with Texas Government Code Subchapter 2254.A., in all cases. Professional services contracts for federally funded projects must conform to federal requirements. For State-selected projects, architectural and engineering services are not eligible for TASA reimbursement.
- B. The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be developed in accordance with State's applicable Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges and the two American Association of State Highway and Transportation Officials' ("AASHTO") publications, "A Policy on Geometric Design of Highways and Streets" and "Guide for the Development

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of Bicycle Facilities,” as applicable. All design criteria for bicycle and pedestrian bridges must comply with TxDOT’s Bridge Design Manual and AASHTO’s Load and Resistance Factor Design (LRFD) Guide Specifications for the Design of Pedestrian Bridges (latest edition) as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges. The use of other systems of specifications shall be approved by State in writing in advance.

- C. When architectural and engineering services are provided by or through Local Government, Local Government shall submit any plans it has completed to State for review and approval on an agreed upon schedule. Local Government may also submit the plans to State for review any time prior to completion. Local Government shall make the necessary revisions determined by State. Local Government will not let the construction contract until all required plans have received State approval.
- D. When architectural and engineering services are provided by or through State, then the State is responsible for the delivery and performance of any required architectural or preliminary engineering work. Local Government may review and comment on the work, including any proposed changes to the scope of work, as required to accomplish Project purposes. State will cooperate with Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

11. Construction Responsibilities

- A. The **Local Government** shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of 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. To ensure federal funding eligibility, projects must be authorized by State prior to advertising for construction.
- B. All contract letting and award procedures must be approved by State prior to letting and award of the construction contract, whether the construction contract is awarded by State or by Local Government.
- C. All contract change order review and approval procedures must be approved by State prior to start of construction.
- D. If the Local Government is the responsible party, the State must review and approve change orders.
- E. Upon completion of Project, the party constructing Project will issue and sign a “Notification of Completion” acknowledging Project’s construction completion.
- F. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements provided in 23 CFR Parts 633 and 635, 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 Subpart 635.B.
- G. Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by State and Local Government prior to authorizing the contractor to perform the work. Prior to

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completion of Project, the party responsible for construction will notify the other party to this Agreement of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

12. Project Maintenance

- A. Upon completion of Project, Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period commensurate with the federal investment or State rules, whichever is greater. Should Local Government at any time after Project completion decide it can no longer maintain and operate Project for its intended purpose, Local Government shall consult with State and the FHWA as to the disposal or alternate uses, consistent with Project's original intent. State may require Local Government to return the federal funds in accordance with 2 CFR Part 200 federal recapture requirements. Should Local Government consider conveying the property, State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction, detailing any required recapture, must be obtained from FHWA prior to the transaction. Advance notice from Local Government of their intended action must be submitted to State for an FHWA review a minimum of 90 days prior to any action being taken by Local Government. Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- B. Any manufacturer warranties extended to Local Government as a result of Project shall remain in the name of Local Government. State shall not be responsible for honoring any warranties under this Agreement.
- C. Should Local Government derive any income from the development and operation of Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property shall be set aside for future maintenance. A project income report shall be submitted to State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures and with the property management standards established in 2 CFR Part 200.
- D. Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of Project.

13. Right of Way and Real Property Acquisition

- A. Right of way and real property acquisition shall be the responsibility of Local Government. Title to right of way and other related real property must be acceptable to State before funds may be expended for the improvement of the right of way or real property.

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- B. If Local Government is the owner of any part of Project site under this Agreement, Local Government shall permit State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C. Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC §4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR §24.2(g). Documentation to support such compliance must be maintained and made available to State and its representatives for review and inspection.
- D. Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use to the real property required for development of Project. Evidence of title or right of use shall be acquired in the name of (1) State, if the real property is to be made part of the State Highway System, or (2) Local Government, if the real property is not to be made part of the State Highway System. The evidence of title or rights shall be acceptable to State, and be free and clear of all encroachments. Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop Project according to the approved Project plans. Local Government shall be responsible for securing any additional real property required for completion of Project.
- E. Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to State for approval prior to Local Government acquiring the real property. Tracings of the maps shall be retained by Local Government for a permanent record.
- F. Local Government shall determine property values for each real property parcel to be purchased with federal funds using methods acceptable to State and shall submit to State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations must list the parcel numbers, ownership, acreage, and recommended compensation. The tabulation must be accompanied by an explanation to support the estimated values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by Local Government in performing this work may be eligible for reimbursement after Local Government has received written authorization by State to proceed with determination of real property values. State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market values. Local Government will not be reimbursed for right-of-way costs on state-selected projects.
- G. For State-selected TASA projects, Local Government shall not use eminent domain or condemnation to acquire real property for this TASA Project.
- H. Reimbursement for real property costs will be made to Local Government for real property purchased in an amount not to exceed 80 percent of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed 80 percent of State's predetermined fair market value of each parcel, or the net cost thereof, whichever is less. In addition, reimbursement will be made to Local Government for necessary

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- payments to appraisers for expenses incurred in order to assure good title. Local Government will not be reimbursed for right-of-way costs on state-selected projects.
- I. Local Government and current property owner are responsible for any costs associated with the relocation of displaced persons and personal property as well as incidental expenses incurred in acquiring property to implement Project. State will not pay any of these costs.
 - J. If Project requires the use of real property to which Local Government will not hold title, a separate agreement between the owners of the real property and Local Government must be executed prior to execution of this Agreement. The separate agreement between Local Government and the current property owner must establish that Project will be dedicated for public use for a period of time not less than ten years after project completion and commensurate with the federal investment. For State-selected projects, this is outlined in 43 Tex. Admin. Code §11.417. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of Project after completion. The separate agreement must be approved by State prior to its execution and a copy of the executed separate agreement shall be provided to State.
 - K. Local Government shall execute individually or produce a legal document as necessary to provide for Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
 - L. Local governments receiving federal funds must comply with 23 CFR Part 710 and 49 CFR Part 24, and with the procedures provided in Chapter 6 of the State's Local Government Project Policy Manual. Local Government agrees to monitor Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the Federal funds, as appropriate. Local Government agrees to the review of their Project accounts and site visits by State during the development of Project at any time. Upon Project completion, State will continue to perform periodic visits to confirm Project's continued use and upkeep.
 - M. Before the advertisement for bids, Local Government shall provide a certification to State that all real property has been acquired.

14. Insurance

- A. Should this Agreement authorize Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide State with a fully executed copy of 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 State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and State may recover damages and all costs of completing the work.
- B. For projects including buildings, Local Government agrees to insure the building according to Department specifications and further agrees to name the Federal Government as a "Loss Payee" should the building be destroyed.

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15. Notices, Invoices, Payments, and Project Inquiries

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 of Fredericksburg ATTN: City Manager 126 W. Main St. Fredericksburg, TX 78624	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 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.

Invoicing, payment, and project inquiries must be sent to the following address, which the State may change by sending written notice of the change to the Local Government:

Texas Department of Transportation
ATTN: Joseph Muck, P.E.
Assistant Area Engineer
Austin District – Burnet Area Office
3029 E. SH 29
Burnet, TX 78611

All invoicing, payment, and project inquiries must include the following information:

County: Gillespie
Local Government: City of Fredericksburg
CSJ No.: 0914-19-034
Project Name: S. Llano Shared Use Bridge & E. Ufer St. Sidewalks
Highway or Roadway: E. Ufer St.

16. Legal Construction

In case 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.

17. Responsibilities of the Parties

Neither party is an agent, servant, or employee of the other party and each party is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

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18. Ownership of Documents

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

19. Document and Information Exchange

Local Government agrees to electronically deliver to State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft Word or similar format. If requested by State, Local Government will use State's document template. Local Government shall also provide a detailed construction time estimate, including types of activities and month in which the activity will be completed, in the format required by State. This requirement applies whether Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of State, Local Government shall submit any information required by State in the format directed by State.

20. 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, Local Government shall furnish State with satisfactory proof of this compliance.

21. 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.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR Part 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. 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 FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from

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the date of final reimbursement by FHWA under this Agreement 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.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives

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issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38.
- I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

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- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. Disadvantaged Business Enterprise Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise ("DBE") Program requirements established in 49 CFR Part 26.
- B. Local Government shall adopt, in its totality, State's federally approved DBE program.
- C. Local Government shall set an appropriate DBE goal consistent with State's DBE guidelines and in consideration of Local market, project size, and nature of the goods or services to be acquired. Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. Local Government shall follow all other parts of 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.
- E. Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. 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. 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 Local Government of its failure to carry out its approved program, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC § 3801 et seq.).
- F. Each contract Local Government signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) 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."

28. Debarment Certifications

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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, 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 Agreement shall require any party to a contract, subcontract, or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. 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 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 be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite imposed by 31 USC §1352 for making or entering into this transaction. 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.

30. 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

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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. Local Government agrees that it shall:

1. Obtain and provide to State a System for Award Management (SAM) number (Federal Acquisition Regulation (FAR) Subpart 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://sam.gov/SAM/pages/public/index.jsf>
2. Obtain and provide to State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five executives to State if:
 - a. More than 80 percent of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - b. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. 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 2 CFR Part 200.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during Local Government's fiscal year, Local Government must submit a statement to TxDOT's Compliance Division as follows: *We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____.*
- D. For each year Project remains open for federal funding expenditures, 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 Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

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

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Each party is signing this agreement on the date stated under that party's signature.

THE STATE OF TEXAS	THE LOCAL GOVERNMENT
_____	_____
Signature	Signature
_____	_____
Kenneth Stewart	Kent Myers
Typed or Printed Name	Typed or Printed Name
_____	_____
Director of Contract Services	City Manager
Typed or Printed Title	Typed or Printed Title
_____	_____
Date	Date

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**ATTACHMENT A
RESOLUTION OF LOCAL GOVERNMENT**

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ATTACHMENT B

PROJECT LOCATION MAP



CSJ #	0914-19-034	Project Name:	S. Llano Shared Use Bridge and E. Ufer St. Sidewalks
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ATTACHMENT C
PROJECT ESTIMATE AND SOURCE OF FUNDS
 LG Performs PE Work or Hires Consultant / LG Lets Project for Construction

Work Performed by Local Government ("LG")							
Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation Includes percentage for TDC apportionment on MPO-selected projects where applicable		State Participation Includes authorized EDC amounts		Local Government Participation Includes authorized EDC reduction	
		%	Cost	%	Cost	%	Cost
Planning/Maps/Education/Non-CST	\$0	0%	\$0	0%	\$0	0%	\$0
Preliminary Engineering	\$201,506	80%	\$161,205	0%	\$0	20%	\$40,301
Environmental Cost	\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way	\$0	0%	\$0	0%	\$0	0%	\$0
Utilities	\$0	0%	\$0	0%	\$0	0%	\$0
Construction Cost	\$806,025						
Eligible In-Kind Contribution Value	\$						
Total Construction Value (sum of construction cost and in-kind value)	\$806,025	80%	\$644,820	0%	\$0	20%	\$161,205
Work by LG Subtotal	\$1,007,531		\$806,025		\$0		\$201,506
Work Performed by the State (Local Participation paid up front by LG to TxDOT)							
Preliminary Engineering ¹	\$0	0%	\$0	0%	\$0	0%	\$0
Environmental Cost ¹	\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way ³	\$0	0%	\$0	0%	\$0	0%	\$0
Utilities ²	\$0	0%	\$0	0%	\$0	0%	\$0
Construction Cost ²	\$						
Eligible In-Kind Contribution Value	\$						
Total Construction Value (sum of construction cost and in-kind value)	\$0	0%	\$0	0%	\$0	0%	\$0
Work by State Subtotal	\$0		\$0		\$0		\$0

CSJ #	0914-19-034	Project Name:	S. Llano Shared Use Bridge and E. Ufer St. Sidewalks
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Direct and Indirect State Costs Incurred for Review, Inspection, Administration & Oversight							
Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation Includes percentage for TDC apportionment on MPO-selected projects where applicable		State Participation Includes authorized EDC amount		Local Government (LG) Participation Includes authorized EDC reduction	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering ¹	\$18,136	80%	\$14,509	0%	\$0	20%	\$3,627
Environmental Cost ¹	\$12,090	80%	\$9,672	0%	\$0	20%	\$2,418
Right of Way ¹	\$3,627	80%	\$2,902	0%	\$0	20%	\$725
Utilities ¹	\$2,418	80%	\$1,934	0%	\$0	20%	\$484
Construction ²	\$84,633	80%	\$67,706	0%	\$0	20%	\$16,927
Direct State Costs Subtotal	\$120,904	80%	\$96,723	0%	\$0	20%	\$24,181
Indirect State Cost	\$36,432		\$0	100%	\$36,432		\$0
TOTAL PARTICIPATION	\$1,164,867		\$902,748		\$36,432		\$225,687
In-kind Contribution Credit Applied						0%	\$0
TOTAL REMAINING PARTICIPATION AFTER IN-KIND CONTRIBUTION							\$225,687

- The estimated total participation by Local Government is \$225,687, plus 100% of overruns.
- Total estimated payment by Local Government to State is \$24,181.
- ¹Local Government's first payment of \$7,254 is due to State within 30 days from execution of this contract.
- ²Local Government's second payment of \$16,927 is due to State within 60 days prior to the Construction contract being advertised for bids.
- ³If ROW is to be acquired by State, Local Government's share of property cost will be due prior to acquisition.
- The local match must be 20% or greater and may include eligible in-kind contributions, EDC adjustments, or TDCs if authorized as part of project selection.
- This is an estimate; the final amount of Local Government participation will be based on actual costs.
- Maximum federal TASA funds available for Project are \$902,748.



CITY COUNCIL MEMO

DATE: August 26th, 2021

TO: Mayor and City Council

FROM: Lt. Braxton Roemer

SUBJECT: Texas Police Chiefs Association Re-Recognition Presentation.

Summary:

The Fredericksburg Police Department completed the process of the Texas Police Chiefs Association (TPCA) Best Practices Program to remain a recognized law enforcement agency, and the TPCA wishes to present this achievement to the Council.

Recommendation:

The Fredericksburg Police Department requests that the TPCA Accreditation presentation be included to the City Council agenda for September 7th, 2021. A TPCA Representative, Chief Chris McCall, wishes to present to the City Council the Fredericksburg Police Department's achievement of maintaining accredited status.

Background / Analysis:

The Fredericksburg Police Department became an accredited law enforcement agency in 2013 through the Texas Police Chiefs Association Best Practices Program. As a requirement to maintain that accredited status, the police department is required to complete the entire accreditation process every four years. This year marks the completion of the police department's second four-year cycle and third assessment.

The City of Fredericksburg

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

This process requires the police department to demonstrate compliance in 170 standards addressing 12 key components of law enforcement to include: Administration and Organization, Professional Standards and Conduct, Training, Personnel, Records and Information Management, Use of Force, Law Enforcement Operations, Unusual Situations, Communications, Arrestee Processing and Transportation, Court Security, and Property and Evidence Management.

On August 5th 2021, three accessors with the TPCA came to the Fredericksburg Police Department to review all 170 files, interview various staff members, observe our practices and facilities, and conduct a ride-along with patrol officers. The Fredericksburg Police Department successfully met all required standards.

Attachments:

None



Department Approval



City Manager Approval

The City of Fredericksburg

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CITY COUNCIL MEMO

DATE: September 7, 2021

TO: Mayor and City Council

FROM: Andrea Schmidt, Parks & Recreation Director

SUBJECT: Consider management agreement of Fort Martin Scott with the Texas Rangers Heritage Center

Summary:

The Texas Heritage Rangers Center (TRHC) approached the City with a proposal to manage Fort Martin Scott earlier this year. The agreement would include all maintenance at the facility including the trails. Over the last few months several meetings were held with the Executive Director of the TRHC, City staff, the Fort Martin Scott Advisory Commission, and the Friends of Fort Martin Scott. Overall, there was consensus that management of the Fort by the TRHC is in the best interest of the City and community.

The TRHC has proposed managing and maintaining the Fort at a cost of \$170,000 for the first year. Funds have been included in the Tourism Fund in Fiscal Year 2022 to cover this expense. Most other funds for the City to manage the Fort have been removed from the FY 2022 budget at this time.

Currently the City has a month-to-month lease with the Fort Martin Scott Friends to use one building located on the Fort grounds. If this management agreement is approved, the Friends will have to leave this building and reassess their role at the Fort.

The management agreement would begin November 1, 2021, and the term would be for two years. At that time, the City and the TRHC will evaluate progress at the Fort and determine if a longer-term agreement would be appropriate.

Recommendation:

The City of Fredericksburg

Consider a motion to approve the Texas Rangers Heritage Center's professional services management agreement at Fort Martin Scott.

Background / Analysis:

- The Fort Master Plan adopted in May of 2019, lists hiring a staff person (Executive Director) to manage, facilitate planning and fundraising efforts, coordinate volunteers and events, implement the plan recommendations, and advocate for the needs of the Fort with both the City and the community as the top priority. The cost for this position, including benefits, would be approximately \$85,000 or more.
- Due to this priority of the Master Plan not being met, there has been little progress on the rest of the Master Plan other than the local landmark designation recently.
- The City budgets \$40,000 each year for maintenance, souvenirs, and events at the Fort.
- The City budgets \$25,000 for one part-time Fort employee.
- Parks maintenance staff spends between 300 - 500 hours a year at the Fort mowing, spraying, maintaining the nature trail and doing other general maintenance which spreads us thin on maintaining the other parks. The TRHC would take over all maintenance at the Fort under this proposal.
- Administrative staff spends about 250 to 350 hours per year on administrative work for the Fort. Other than some coordination with the TRHC on the agreement, this should decrease significantly.
- If the City hires the Executive Director, the direct expenses to the city will be approximately \$150,000 and expenses for parks staff is between \$16,000 and \$25,000 each year at a total between \$166,000 to \$175,000 annually. This agreement proposes a \$170,000 fee the first year for Fort Management. An Executive Director hired by the City would not have any office support staff which the TRHC currently have.
- The current focus at the Fort is maintenance with little focus on interpretation or history. Under the agreement, interpretation is a priority at the Fort which the current Executive Director of the TRHC has expertise in and in which current parks staff does not.

Attachments:

Professional Management Agreement with exhibits

Department Approval



City Attorney Approval



City Manager Approval

The City of Fredericksburg

PROFESSIONAL SERVICES AGREEMENT FOR MANAGEMENT OF FORT MARTIN SCOTT

This Professional Services Agreement for Management of Fort Martin Scott ("Agreement") is entered into by and between the City of Fredericksburg ("City"), a political subdivision of the State of Texas with its principal place of business at 126 W. Main Street, Fredericksburg, Texas, 78624, and Former Texas Rangers Foundation d/b/a Texas Rangers Heritage Center ("Contractor" and "TRHC"), with its principal place of business at 103 Industrial Loop, STE 700, Fredericksburg, Texas, 78624.

NOW, THEREFORE, the City and Contractor hereby agree as follows:

1. Term. Unless terminated earlier as provided herein, this Agreement shall commence on November 1, 2021 and terminate on October 31, 2023 ("Term").
2. Contracting Services and Relationship.
 - (a) Services. During the Term of this Agreement, Contractor shall provide professional management services (to be known collectively as "Services") to City, as set forth in Exhibit A, a copy of which is attached hereto and incorporated herein by reference. The Services shall be performed by Contractor in conformance with the following terms and conditions:
 - i. The Services are to be performed for the City owned historic park property known as Fort Martin Scott ("Fort"), which is located at 1606 E. Main Street, Fredericksburg, Texas, and which is more specifically identified on Exhibit "B", a copy of which is attached hereto and incorporated herein by reference. The Contractor may use and occupy the various administrative buildings located on the Fort, for office space, storage, and administrative day-to-day operations directly related to the Services.
 - ii. The Contractor shall ensure that the performance of any Services related to improvement of visitor interpretation at the Fort is prioritized during the Term of this Agreement.
 - iii. There are eight (8) recreational vehicle (RV) sites without sewer hookups located on the Fort, which may only be occupied on a short-term basis for the duration of events, and may not be used for long term or full time occupancy. There are two (2) RV sites with full hookups located on the Fort, which may be occupied as determined by Contractor, upon the termination of the City's existing agreement with any park hosts that are currently occupying said RV sites.
 - iv. In addition to the Fort, this Agreement includes Services related to the trails on the west side of Baron's Creek, to include the existing Pecan Loop trail, as shown on the City's trail plan on Exhibit "C", a copy of which is attached hereto

and incorporated herein by reference. The trails identified on Exhibit "C" as the Meadow Forest Loop and University Loop Center are excluded from this Agreement. The trail identified on Exhibit "C" as the Cattle Pen Loop trail does not exist, but the Contactor may develop said trail.

- v. All Services shall be performed in compliance with applicable Texas Historical Commission ("THC") administrative rules. Any exterior construction, modifications, repairs, or alterations to any resource located on the Fort, including but not limited to buildings, structures, objects, and landscape features, shall be subject to the City's Historic Preservation Ordinance set forth in Chapter 26 of the City Code of Ordinances.
- vi. The Contractor shall have the exclusive right to manage the access, operations, and use of Fort on behalf of the City. Contractor shall allow third parties to schedule use of the Fort on such days and times that Contractor does not have a scheduled event, and Contractor shall administer scheduling for any use of the Fort by third parties. Contractor may reasonably limit third party use of the Fort to prevent overuse or damage to the Fort, as determined by Contractor. Requests for available dates or scheduling for any use of the Fort by the third parties shall be made to Contractor. Contractor acknowledges and agrees that Contractor has no ownership or exclusive leasehold interest of any kind in the Fort, and Contractor may not exclude the City from entering the Fort at any time for any reason, provided that City shall not unreasonably interfere with Contractor's use of the Fort or Contractor's events in progress upon the Fort.
- vii. Contractor may collect an entry fee or gate fee (distinguished from a facility use fee) for general entry into the Fort, with the prior written consent of the City. Contractor shall not collect any unconscionable or exorbitant fee from a third party for the use of the Fort. Contractor shall not use any part of the Fort for any purpose in violation of any federal, state, or local law, statute, ordinance, rule, or regulation. All revenue generated by the Contractor's management of the Fort (in combination with the adjacent TRHC site) shall belong to Contractor, to be used and re-invested by Contractor in the joint site management and operations of the Fort and adjacent TRHC site.
- viii. In the event of any inconsistency or conflict between the terms and conditions of this Agreement and those of Exhibit "A", the terms and conditions of this Agreement shall be controlling and prevail.
- ix. For the avoidance of doubt, the parties are in agreement that Contractor will be required to complete only the deliverables set out in Exhibit A that are designed and set out as deliverables during the first 24 months of the proposal. Additional deliverables set out in Exhibit A for medium and long-term management will be due upon renewal, extension or future negotiated contract(s) extending or addressing subsequent years.

(b) Relationship. The Parties agree and acknowledge that Contractor is to be considered an

independent contractor, and not an employee of City. City shall not be liable for employment or withholding taxes for Contractor. Contractor is solely liable for Contractor's expenses incurred in performing the Services. Contractor shall not, by reason of this Agreement, acquire any benefits, privileges or rights under any benefit offered by City or its subsidiaries or affiliates for the benefit of City employees or volunteers. Contractor agrees and acknowledges that Contractor is not authorized to enter into any contract on behalf of or as an agent of City. All of the acknowledgements and restrictions set forth in this Section 2(b) shall equally apply to any person Contractor engages to assist in performance of any portion of the Services.

3. Compensation. In consideration for the Contractor's performance of the Services, City shall pay to Contractor an annual fee of One Hundred and Seventy Thousand Dollars (\$170,000.00). Contractor must invoice the City based on a monthly basis.
4. Termination.
 - (a) Breach. This Agreement may be terminated by the non-defaulting party upon a breach of a material term or condition of this Agreement, when said breach is not cured by the defaulting party within thirty (30) days of receiving written notice of breach from the non-defaulting party. The defaulting party shall have thirty (30) days following the receipt of written notice from the non-defaulting party to cure the default; provided that if such default cannot possibly be cured within the thirty (30) day period, the defaulting party shall not be in default and the non-defaulting shall not have the right to terminate this Agreement unless and until the defaulting party fails to commence curing said default within the thirty (30) day period and continually proceeds to cure the default with diligence.
 - (b) Non-appropriation. This Agreement is subject to the availability and appropriation of budgeted funds by City, and upon an occurrence of non-appropriation by City, this Agreement shall terminate immediately.
5. Survival upon Termination. Upon termination of this Agreement, the provisions set forth in Section 6, Section 7, and Section 10(f) of this Agreement shall survive termination of this Agreement.
6. Ownership. "Work Product" is defined as all deliverables generated by Contractor in the performance of the Services, and all modified, intermediate and partial versions thereof. Contractor acknowledges that all Work Product is work made for hire and is the property of City, including any copyrights or other intellectual property rights pertaining thereto.
7. Confidential Information. Contractor agrees to keep confidential and to not disclose any of the Work Product. Contractor shall not disclose or appropriate any Work Product for Contractor's own use.

8. Force Majeure. A defaulting party shall not be liable for delays in the performance of its obligations hereunder when the default is caused by acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions or regulations, acts of war, civil unrest, epidemic or pandemic, fire or other casualty, or any causes beyond the reasonable control of the defaulting party.
9. Assignment. This Agreement may not be assigned by Contractor without the prior written consent of City, which consent may be withheld in the sole discretion of City. This Agreement shall inure to the benefit of City and its successors or assigns.
10. Miscellaneous.
 - (a) This Agreement shall be governed by the laws of the State of Texas. Any litigation or other legal action under this Agreement shall be filed in a court of proper jurisdiction in Gillespie County, Texas.
 - (b) This Agreement may only be amended or modified by a written amendment executed by the Parties.
 - (c) All notices and other communications hereunder shall be in writing and shall be given by hand delivery, by certified mail, return receipt requested, postage prepaid, addressed and sent to the party's address as set forth in the first paragraph of this Agreement, or to such other address as either party may have furnished to the other party. Notices and communications are deemed effective when actually received by the addressee.
 - (d) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. This Agreement may be executed in counterparts that together shall constitute a single agreement.
 - (e) The failure of City at any time to enforce performance by Contractor of any provisions of this Agreement shall in no way affect City's rights thereafter to enforce the same, nor shall the waiver by City of any breach of any provision hereof be held to be a waiver of any other breach of the same or any other provision.
 - (f) **TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY (THE "INDEMNIFYING PARTY") SHALL INDEMNIFY, DEFEND AND HOLD THE OTHER PARTY, ITS SHAREHOLDERS, PARTNERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND CONTRACTORS (THE "INDEMNIFIED PERSONS"), HARMLESS FROM AND AGAINST ALL LOSSES INCURRED BY THE INDEMNIFIED PERSONS TO THE EXTENT ARISING FROM, OR OUT OF, ANY CLAIM FOR, OR ARISING OUT OF, ANY INJURY TO OR DEATH OF ANY PERSON OR LOSS OR DAMAGE TO PROPERTY TO THE EXTENT ARISING OUT OF THE**

INDEMNIFYING PARTY'S, ITS EMPLOYEES' AND AGENTS' NEGLIGENCE, WILLFUL MISCONDUCT, OR UNLAWFUL CONDUCT.

THE INDEMNIFIED PARTY HEREUNDER SHALL IMMEDIATELY NOTIFY AND TENDER DEFENSE TO THE INDEMNIFYING PARTY UPON RECEIPT OF ANY CLAIM TO WHICH THIS PROVISION APPLIES. THE INDEMNIFYING PARTY AGREES TO ACCEPT SUCH TENDER AND PROVIDE DEFENSE OF ANY CLAIM TO WHICH THIS PROVISION APPLIES.

- (g) This Agreement shall in all cases be construed simply, as a whole, and in accordance with its fair meaning. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. In the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date set forth below.

City

CONTRACTOR

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



**HERITAGE
CENTER**

PROPOSAL

EXHIBIT "A"

CLIENT

City of Fredericksburg, Texas
(the "Client")

CONTRACTOR

Former Texas Rangers Foundation d/b/a
Texas Rangers Heritage Center (TRHC)
(the "Contractor")

DATE OF PROPOSAL

March 26, 2021

PROJECT OVERVIEW

The Client is seeking services for the following: Fort Martin Scott Management Proposal: to provide ongoing management of the City's Historic Site known as Fort Martin Scott (FMS) including maintenance and repair of current buildings and facilities; new construction as approved; design and operation of site programming, events and visitor operations; preservation, maintenance and enhancement of on-site owned and/or borrowed historic artifacts and library; and acting as liaison with government and/or historical entities to ensure compliance with applicable preservation requirements.

The Contractor will proceed to operate FMS in conjunction with the TRHC as a single cultural heritage and education tourism destination. This proposal outlines the Contractor's qualifications, services, and estimated costs for the proposed management agreement.

DELIVERABLES

The Contractor will complete the following deliverables:

- ❖ The TRHC will provide a credentialed and experienced executive director, who will implement and manage the following: **Short-term (1 - 2 years)** goals as set out in the January 2019 Fort Martin Scott Master Plan, with changes and adjustments as necessary and approved by applicable government agencies are:
 - Facilitate planning and fundraising efforts, coordinate volunteers and events, implement the plan recommendations, and advocate for the needs of the Fort with both the City and the community.
 - Collect and organize archaeology reports.



103 INDUSTRIAL LOOP, STE 700 | PO BOX 3195 | FREDERICKSBURG, TEXAS 78624

WWW.TRHC.ORG

PHONE: 830.990.1192 | FAX: 830.990.1121 | EMAIL: REQUESTS@TRHC.ORG





Implement the short-term recommendations of the Preservation Plan.

- Implement the Maintenance Plan.
- Draft and adopt a simple Disaster Plan.
- Develop a process to streamline consultation with Texas Historical Commission (THC), by acting as liaison and point of contact for all work at the site that falls under THC's purview.
- Create a yearly financial plan to track finances, fundraising needs, efforts, and expenditures.
- Apply for grants fund medium-term recommendations.
- Establish a social media presence to share news, events, and photographs of the site and/or artifacts.
- Address the ongoing development or other handling of the RV hook-ups already available at the site and initiate a program for their efficient use.

❖ ~~The TRHC's executive director will implement and manage the following **medium-term (3-5 years)** goals as set out in the January 2019 Fort Martin Scott Master Plan, with changes and adjustments as necessary and approved by applicable government agencies:~~

- ~~Integrate the interpretation and promotion of Fort Martin Scott and the TRHC Museum and Education Center as a joint cultural heritage tourism destination.~~
- ~~Draft an overarching Cultural Heritage Tourism Plan.~~
- ~~Prepare a Historic Structures Report (HSR) for the site.~~
- ~~Using the results of the HSR, update the NRHP nomination for the site.~~
- ~~Conduct additional archaeological investigations in support of the proposed infrastructure and historic site improvements.~~
- ~~Implement the medium-term recommendations of the Preservation Plan.~~
- ~~Develop a Long-Range Interpretive Plan to design ways to expand the story of Fort Martin Scott in conjunction with TRHC on educational programming, including lectures, exhibits, and special events, as possible.~~
- ~~Design and implement fundraising for upcoming or proposed projects.~~
- ~~Create and implement a marketing and merchandising plan to support the site using current and new platforms and products (including logos, souvenirs, etc.), at Contractor's sole discretion. (intentionally deleted by City)~~

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- Improve the Fort's visitor trail network.
- Begin reconstruction of historic building foundations.
- Begin research, planning, and fundraising for the reconstruction of selected historic Fort buildings.

❖ The TRHC's executive director will implement and manage the following ~~long term (6 – 10 years)~~ goals as set out in the January 2019 Fort Martin Scott Master Plan, with changes and adjustments as necessary and approved by applicable government agencies:

- Implement the long-term recommendations of the Preservation and Cultural Heritage Tourism Plans.
- Design and install new interpretive signage and displays.
- Design and construct a new visitor center (and associated infrastructure like parking lots) or alternative plan, and replace the entry sign.
- Complete the reconstruction of historic building foundations (if THC approved).
- Begin reconstruction of selected historic Fort buildings (if THC approved). (intentionally deleted by City)

TIMELINE

The TRHC can start managing the property on October 1, 2021.

CLIENT INVESTMENT

The Contractor offers the following pricing for the deliverables in this project:

Years 1 – 5: \$170,000.00/per year which includes the City's budgeted funds for the operation and maintenance of Fort Martin Scott plus an administration fee. After year 2, this fee may be adjusted upward for budgetary increases and up to 5% of the administration fee based upon inflation. Increases will be addressed/negotiated during the City budgeting process.

Years 5 – 10: To be negotiated at renewal of management contract. The contract should initially have a five-year term with a guaranteed option to renew for at least one additional five-year term at Contractor's discretion.





CONTRACTOR INVESTMENT

After Contractor has fully implemented the short-term goals outlined above and completed the construction and opening of its Heritage Museum, it anticipates working with Client to expand long-term goals, including to develop and build accommodations for summer education camps, as well as day-visitor educational, living history and nature activities on portions of the site that are not within the designated historic site portion of the property. This program will fall within the mission statements of Client and Contractor by being aligned with the preservation and teaching of Texas History, character education, and STEM Law Enforcement Techniques, creating a narrative of the history of FMS and its artifacts, and using educators demonstrating and teaching period lifestyles and practices.

Additionally, the intent is to eventually designate and provide an approved space for Texas Indian nations—with an historic connection to the fort and vicinity—to use for ceremonial and public educational programming purposes.

These accommodations and activities will be undertaken at the sole expense of the Contractor and any proceeds therefrom will benefit Contractor and its operations. Client will maintain authority to contribute to and approve fixed assets added to the location and will acquire ownership of these fixed assets at the expiration of the management agreement. Additionally, these activities will serve to draw visitors to the site and enlarge the positive awareness of the site, possibly worldwide.

Because the creation and implementation of this plan will represent a substantial investment in the real property belonging to Client, and to the operation of the TRHC and FMS site as one cohesive enterprise, Contractor may require a longer-term contract than the 10 years set out in this proposal. Such addition or extension of time to the management contract may be negotiated initially or during the initial or any renewal term of the lease.

TERMS

Contractor will review each contract, agreement or Memorandum of Understanding currently in place with the following entities and will assess whether to discontinue, continue, renew and/or renegotiate the written documents that encumber or apply to Fort Martin Scott with a view toward viability and efficiency in implementing the Master Plan. ~~Then the appropriate action will be taken with regard to each in every reasonable way to maintain good working relationship(s) and maintain the good will of the City, Fort Martin Scott and TRHC with those entities: (intentionally deleted by City)~~

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Agenda Page Packet 77



- Treaty Stone Agreement
- Hill Country Archeological Association
- Lester Meier (Horse Grazing Lease)
- Intruder Alert
- Hill Country Telecommunications
- Friends of Fort Martin Scott
- Park Host Program

Contractor will make every reasonable effort to have donors cover major unanticipated or over-budget items which occur outside of the control of Contractor; however, those expenses may require presentation to the Client for additional funds to be distributed as a special appropriation to the Parks and Recreation Department of the City. ~~The Client will pay all costs associated with the above, over and above the price quoted in this proposal.~~ (intentionally deleted by City)

Client will continue to provide and maintain insurance covering the premises and facility, and visitor liability as well as errors and omissions coverage for its representative's activity on the Fort property. Contractor will determine whether additional and/or special coverage is needed for particular events or situations and will work with Client to add such coverage as necessary, ~~at Client's expense.~~ (intentionally deleted by City)

Tools and equipment owned by the Fort will be reasonably maintained. Other equipment needed for Fort operations may be available through the City's Parks and Recreation Department as agreed by the PRD Director and Contractor, at no cost to the Fort.

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NEXT STEPS

To discuss your project further and formalize this agreement, please reach out at:

**Former Texas Rangers Foundation d/b/a
Texas Rangers Heritage Center (TRHC)
Dr. Jody Edward Ginn, Executive Director**

- (830) 990-1192
- Jody@FormerTexasRangers.org
- www.TRHC.org

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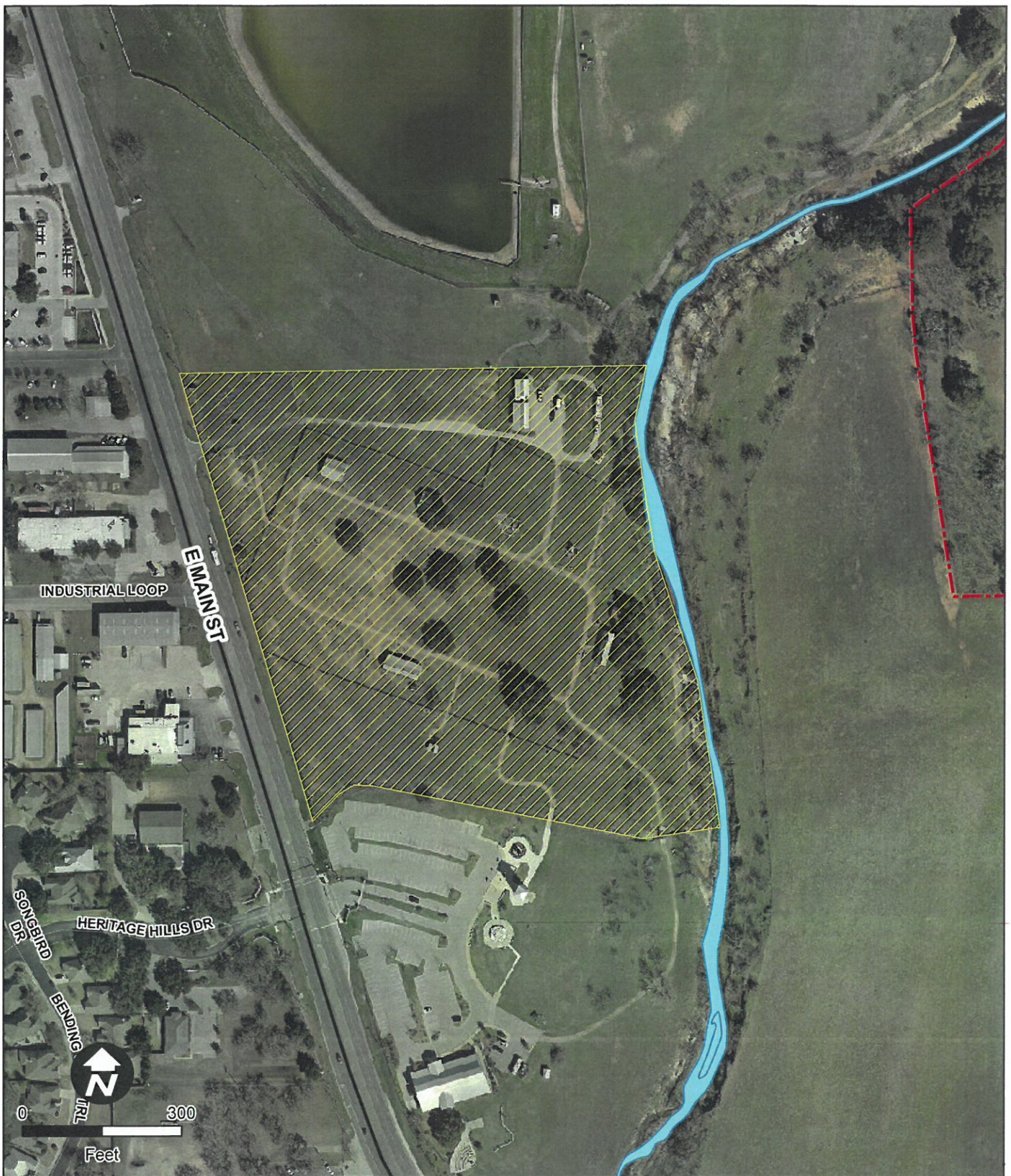


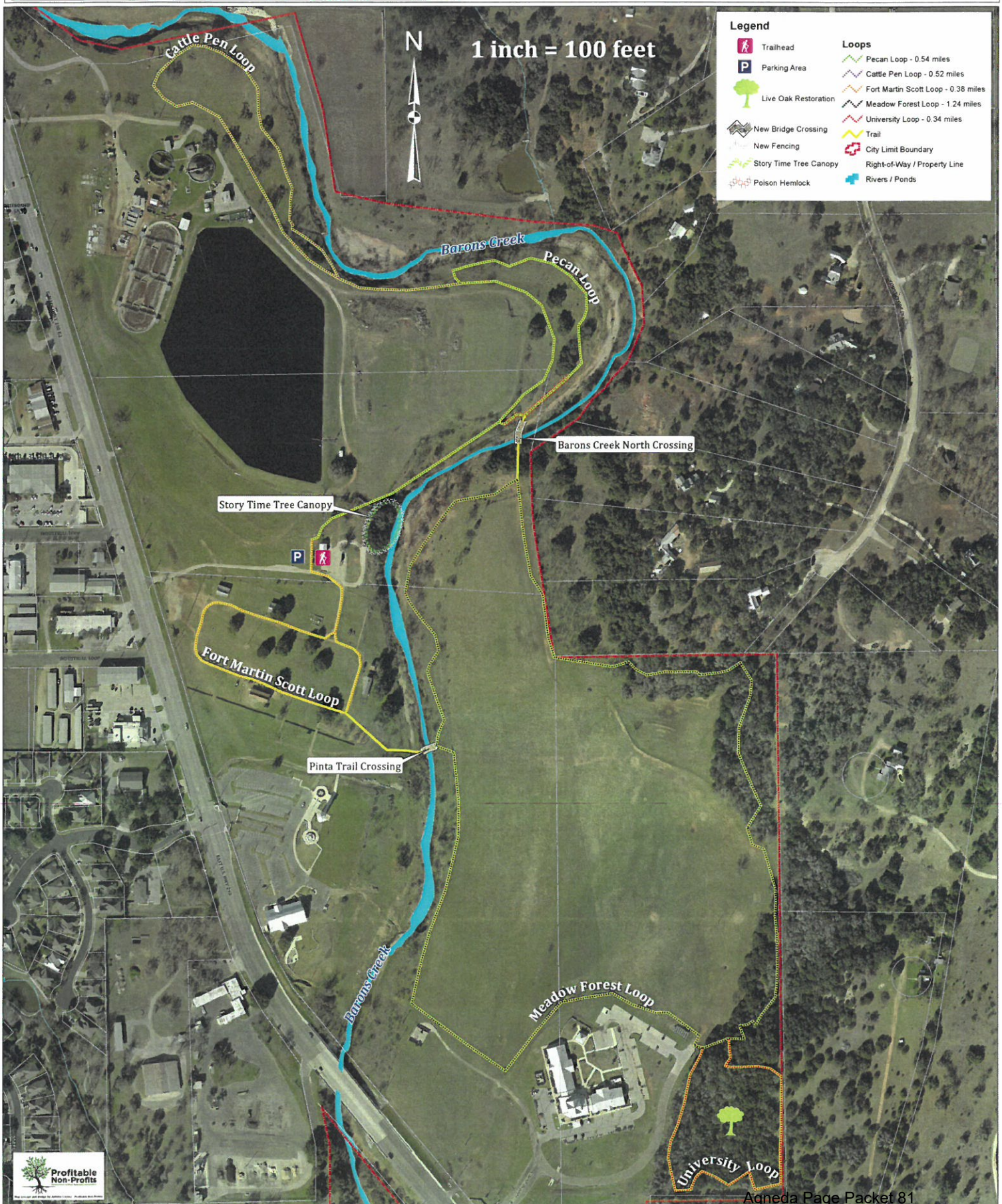
EXHIBIT "B"
City of Fredericksburg
Fort Martin Scott Boundary

LEGEND

-  Fort Martin Scott
-  City Limit Boundary

PROPOSED HIKE & BIKE TRAIL

EXHIBIT "C"





CITY COUNCIL MEMO

DATE: September 7, 2021

TO: Mayor and City Council

FROM: Andrea Schmidt, Parks & Recreation Director

SUBJECT: Discussion of adding a splashpad to Coach Tony Knopp Town Pool

Summary:

The Morning Rotary Club would like to fund a splashpad at Coach Tony Knopp Town Pool. They would fully fund the construction of the splashpad. The Morning Rotary Club supports adding the splashpad to the green space behind Town Pool. The Morning Rotary Club is no longer interested in converting Town Pool into a splashpad.

If the splashpad addition is approved, staff will begin working with the Morning Rotary Club and Kraftsman on the final plans so construction can begin later this year. We hope the splashpad can be completed and opened by next summer.

Currently funds have been included in the budget for operation of both Town Pool and a separate splashpad in FY 2022. Annual operating costs for Town Pool are approximately \$85,000 and the splashpad is \$40,000. Annual revenues for Town Pool are about \$5,000.

Entry into the splashpad would be free. Town Pool entry could remain at \$2 per person or change to free as well.

Recommendation:

Consider motion to approve license agreement with the Morning Rotary Club to add a splashpad in the green space behind Coach Tony Knopp Town Pool.

The City of Fredericksburg

Background / Analysis:

Discussion for adding a splashpad in the City Parks system has been ongoing for last several months. The Fredericksburg Morning Rotary Club has agreed to fund the construction of this facility. The recommended location is behind Town Pool.

Discussion on three options for the splashpad have been discussed at City Council meetings and at public forums in both July and August.

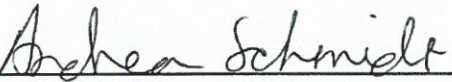
These three options were:

- Option 1: Keep Town Pool as is with no changes
- Option 2: Keep Town Pool and add a splashpad in the green space behind the pool.
- Option 3: Convert Town Pool into a splashpad

Of the people commenting on the three options, most support was for option 2.

Attachments:

Construction and License agreement for splashpad


Department Approval


City Manager Approval


City Attorney Approval

The City of Fredericksburg

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

Agneda Page Packet 84

CONSTRUCTION AND LICENSE AGREEMENT FOR SPLASH PAD

This Construction and License Agreement for Splash Pad ("Agreement") is entered into between the City of Fredericksburg, Texas ("City"), and the Rotary Club of Fredericksburg Morning ("Rotary"), a Texas non-profit corporation.

WHEREAS, as a public service, the Rotary desires to design and construct a splash pad upon City owned property; and

WHEREAS, the Rotary intends to offer the completed splash pad to the City, as an in-kind donation, for the benefit and improvement of the community.

NOW, THEREFORE, in consideration of the mutual agreements set forth in this Agreement, and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereto agree as follows:

SECTION A **Construction of the Facility**

1. Rotary shall design and construct a permanent splash pad structure containing one or more water play elements (the "Facility"), on the City owned land behind and adjacent to the existing Coach Tony Knopp Town Pool decking, at 105 W. Travis Street in Fredericksburg, Texas, at the location generally set forth in Exhibit A, a copy of which is attached hereto and incorporated herein by reference.
2. Rotary is solely responsible for providing all funds and other costs necessary to design, engineer and construct the Facility, excepting any costs or services the City is specifically obligated to provide under this Agreement.
3. Rotary shall complete construction of the Facility by December 31, 2023.
4. Rotary acknowledges and agrees that Rotary has no ownership, leasehold, or other interest of any kind in the real property under and adjacent to the Facility, and Rotary may not exclude the City from entering the Facility or the real property under and adjacent to the Facility at any time for any reason.
5. Rotary shall design, engineer and construct the Facility in compliance with all terms, conditions, and requirements as follows:
 - a. The design, engineering and construction by Rotary shall conform to plans that are preapproved by the City, which approval shall not be unreasonably withheld. Rotary shall employ a professional engineer licensed in the State of Texas or a

- person with equivalent qualification to design the Facility and provide supervision during construction of the Facility. Rotary shall contract with a qualified professional contractor or builder who will construct the Facility, and shall provide a copy of such contract to the City upon request. Before proceeding with construction, the contractor shall provide a construction schedule to the City Manager. Rotary shall not construct or allow construction of any additional ancillary facilities, except as preapproved in writing by the City.
- b. Rotary shall provide safety and warning signs in or on the Facility, in the manner, number, and location as reasonably requested by the City. Rotary may erect and maintain recognition signs in the Facility area following the completion of construction, and may erect one temporary recognition sign during construction. All signs erected by Rotary shall comply with applicable City sign ordinances and construction codes.
 - c. Rotary shall secure, protect, and maintain the site during all phases of site preparation and construction of the Facility, including but not limited to placing fencing and signs around the site to prevent unauthorized access by members of the public.
 - d. Rotary shall maintain the areas utilized during construction of the Facility in a clean and safe manner, and upon completion of construction Rotary shall restore the areas utilized to their previous condition, as determined by City's Director of Parks and Recreation.
 - e. Rotary shall transfer to the City any and all warranties provided for materials or workmanship.
 - f. Rotary shall require the engineer or architect to prepare as-built drawings of the Facility, and a maintenance manual or maintenance routine for the Facility, to be provided to the City at the completion of construction.
 - g. Rotary may engage contractors and subcontractors to construct the Facility. Rotary shall include indemnification provisions that inure to the benefit of the City in any construction contract between Rotary and any contractors, related to the Facility. Rotary shall require any contractor working on the Facility to carry insurance with the City named as an additional insured party.
 - h. Rotary shall pay all Facility related expenses directly incurred by Rotary in a timely manner.
 - i. During construction of the Facility, and until the Facility is accepted by the City, Rotary shall require the contractor to provide workers compensation insurance which meets the State of Texas requirements, Commercial General Liability insurance written on an occurrence basis with limits of not less than \$1,000,000 combined single limit per occurrence, per location, and \$2,000,000 aggregate

for personal injury, bodily injury, and property damage; the City shall be named as an additional insured on the insurance policy, and a copy of the endorsement naming the City as additional insured shall be attached to the Certificate of Insurance. The City may immediately terminate this Agreement upon failure to maintain insurance as set forth in this paragraph.

SECTION B

Grant of License and Oversight by City

1. Subject to the terms and conditions of this Agreement, the City hereby grants to Rotary a revocable exclusive license to construct the Facility on the location generally set forth in Exhibit A. The license granted in this Paragraph is revoked upon termination of this Agreement. During the design, engineering and construction of the Facility, the City may freely enter the location set forth in Exhibit A to provide construction oversight and assistance at its discretion, under the direction of the Director of Parks and Recreation for the City. The City shall not unreasonably interfere with the Rotary's construction of the Facility.
2. During the design, engineering and construction of the Facility, the City shall provide electricity and water to the Facility site, at the City's expense.

SECTION C

Donation and Operations of the Facility

1. Rotary hereby agrees to donate the completed Facility to the City as an in-kind donation, subject to the restrictions set forth in this Section C. Provided that the Facility is constructed in conformance with the terms and conditions of this Agreement, the City hereby agrees to accept the completed Facility from Rotary as a donation to the City, subject to the restrictions set forth in this Section C.
2. The Parties mutually acknowledge and agree that upon the City's acceptance of the completed Facility as a donation from Rotary, the City will own, maintain, and manage the Facility.
3. The City shall maintain and operate the Facility as a public splash pad until December 31, 2032, except that if the City Council finds that the use of the property on which the Facility is located could serve a better and higher public use, the City may close the Facility and relocate or construct a comparable replacement facility elsewhere in the City. In the event the City relocates or constructs a comparable replacement facility under this Paragraph, said facility shall be maintained and operated by the City as a public splash pad until December 31, 2032.

SECTION D
Term, Breach, and Termination of Agreement

1. The term of this Agreement shall begin upon the date of execution by both parties, and shall end when terminated as set forth in this Section.
2. Prior to the beginning of any site work or construction under this Agreement, Rotary may immediately terminate this Agreement at any time, without penalty, upon written notice to the City.
3. After Rotary has commenced any site work or construction under this Agreement, Rotary may terminate this Agreement upon written notice to the City, provided that Rotary shall first remove any portions of the Facility that have been constructed and restore any City real property to its original condition, as it existed prior to any site work or construction associated with the Facility. The City, at its discretion, may waive the requirement that Rotary remove any portions of the Facility that have been constructed, and the City may accept the Facility as is and complete the construction at the City's expense.
4. In the event of a breach of any terms or conditions of this Agreement, the non-breaching party may send notice of breach to the breaching party and demand that the breaching party cure such breach within ten (10) days. If the breach is not cured in a timely manner following notice and demand to cure, the non-breaching party may either (1) cure such breach and recover any cost incurred from the breaching party; or (2) immediately terminate this Agreement.
5. The City may immediately terminate this Agreement upon failure of Rotary, or Rotary's contractors, to maintain insurance as set forth in Section A of this Agreement.
6. This Agreement shall terminate upon the City's acceptance of the Facility under Section C of this Agreement.

SECTION E
Indemnification

ROTARY HEREBY AGREES TO RELEASE, INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, INCLUDING ITS OFFICERS, SERVANTS, AGENTS, OR EMPLOYEES, FROM ANY AND ALL LIABILITY, CLAIMS, DEMANDS, ACTIONS, AND CAUSES OF ACTION WHATSOEVER ARISING OUT OF OR RELATED TO ANY LOSS, DAMAGE OR INJURY, INCLUDING DEATH, THAT MAY BE SUSTAINED BY ANY PERSON OR PARTY RELATED TO THE USE OR CONSTRUCTION OF THE FACILITY DURING THE TERM

**OF THIS AGREEMENT, EXCEPT FOR LOSSES, DAMAGES, OR INJURIES
CAUSED BY THE SOLE NEGLIGENCE OF THE CITY.**

**SECTION F
Miscellaneous Provisions**

1. Notices. Any notice required hereunder shall be deemed given if such notice is in writing and mailed by certified mail, postage prepaid, or hand-delivered to the address of such party as provided below:
 - a. if to the City, to

City of Fredericksburg
Attention: City Manager
126 W. Main St.
Fredericksburg, TX 78624
 - b. if to Rotary, to

Fbg Morning Rotary
Attention: Accounting and Pres
409 North Milam
Fredericksburg, TX 78624
2. No Waiver. No delay by a party in enforcing any part of this Agreement shall be deemed a waiver of any of the party's rights or remedies, nor shall such delay be deemed a waiver of any subsequent breach or default by the other party.
3. Severability. Each and every covenant and obligation contained in this Agreement is and shall be construed to be a separate and independent covenant and obligation. If any term or provision of this Agreement, or its application to any person or circumstances shall to any extent be held invalid, illegal, or unenforceable, the remainder of this Agreement shall not be affected thereby, and each and every other term and provision shall be enforced to the fullest extent permitted by law as if the invalid, illegal, or unenforceable provision had never been included in this Agreement.
4. Venue and Applicable Law. The parties hereto agree that the laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement. Venue for any action involving this Agreement shall be solely and exclusively in the courts of Gillespie County, Texas.
5. Construction and Interpretation. Each of the parties has read and understands the meaning and effect of this Agreement. The parties agree that in the construction and interpretation of the terms of this Agreement the rule of construction that a document is

to be construed most strictly against the party who prepared same shall not be applied, it being agreed that the Agreement should be construed fairly and simply and not strictly against either party.

6. Binding Effect. This Agreement binds and inures to benefit of the parties and their respective legatees, devisees, heirs, executors, legal and personal representatives, assigns, transferees, assigns, and successors in interest. The rights, obligations, and duties under this Agreement shall not be assigned by either party without the written consent of the other party.
7. Entire Agreement. This Agreement embodies in its entirety the sole and only agreement between the parties regarding the subject matter hereof, and it incorporates all other written, verbal, express, and implied agreements made between and party or agent of any party of this Agreement in connection with such matters. If any provisions in this Agreement conflict with any provisions in any other previously executed instrument, this Agreement shall control.
8. Amendments. No amendment, modification or alteration of the terms of this Agreement shall be binding unless reduced to writing, dated, and duly executed by the parties subsequent to the date of this Agreement.
9. No Agency. The relationship between the parties under this Agreement is that of independent contracting entities. Rotary is not an agent or employee of the City.
10. Survival. Section C(3) and Section E of this Agreement shall survive the termination of this Agreement.
11. Non-Discrimination and Compliance with Law. All work performed by Rotary or Rotary's contractors in furtherance of this Agreement shall provide for the fair, equal and non-discriminatory treatment of all persons. All work performed by Rotary or Rotary's contractors in furtherance of this Agreement shall comply with applicable federal, state and local laws, rules, and regulations.
12. Authority. The signatories to this Agreement hereby represent that they have full legal authority to execute this Agreement on behalf of their respective entities.

{Remainder of this page intentionally blank}

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement, or caused the same to be executed by its duly authorized representative.

ROTARY CLUB OF FREDERICKSBURG- MORNING

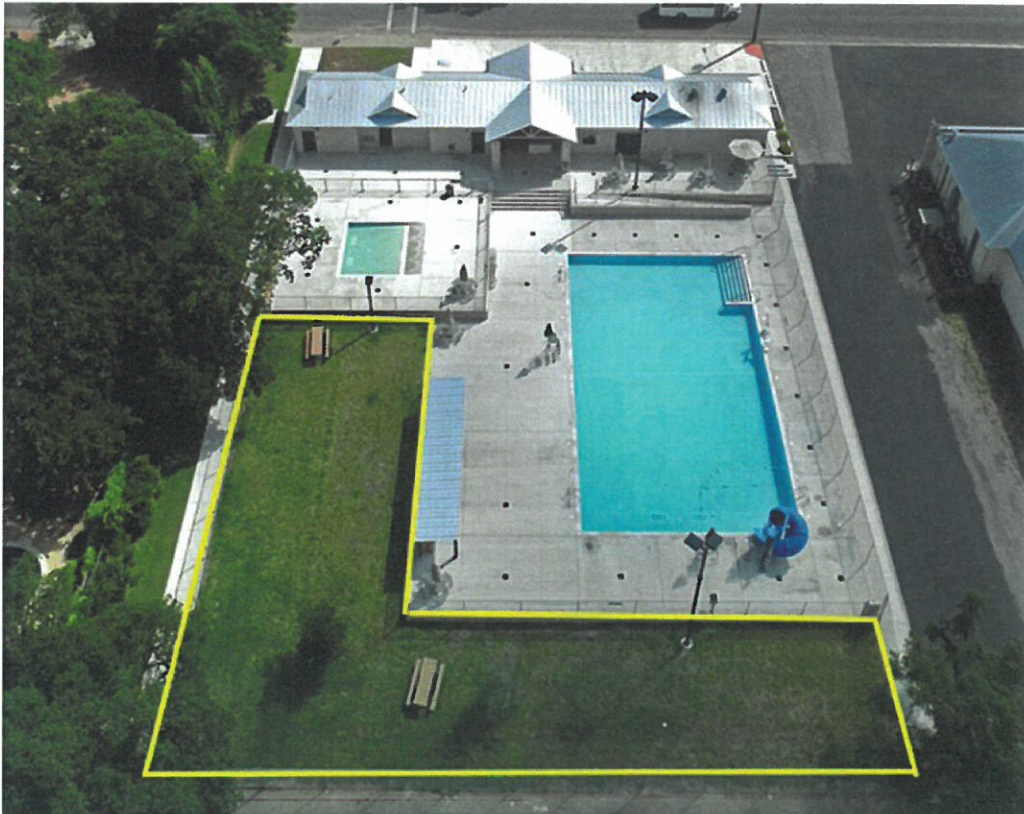
By: _____ Date: _____

Printed Name: _____ Title: _____

CITY OF FREDERICKSBURG, TEXAS

By: _____ Date: _____
Kent Myers, City Manager

Exhibit A





CITY COUNCIL MEMO

DATE: August 31, 2021
TO: Mayor and City Council
FROM: Kent Myers, City Manager
SUBJECT: CVB Budget

Summary:

The City Council is required to approve the CVB Budget every year.

Recommendation:

It is recommended that the Council approve the FY 2022 CVB Budget.

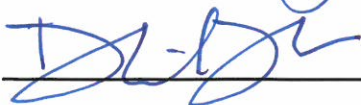
Background / Analysis:

The proposed CVB Budget was provided to the City Council under separate cover.

Attachments:


Department Approval


City Manager Approval



The City of Fredericksburg

City Attorney Approval

The City of Fredericksburg

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

Agneda Page Packet 94



CITY COUNCIL MEMO

DATE: August 30, 2021
TO: Mayor and City Council
FROM: Kent Myers, City Manager
SUBJECT: CVB Board Appointments

Summary:

The CVB has nominated three new members to fill vacant positions on the Board and one current Board member to be reappointed to the Board.

Recommendation:

It is recommended that John Dubea, Abby McCulloch Mund and Karen Stevenson be appointed to the CVB Board and that Linda Goldsmith be reappointed to another term on the CVB Board.

Background / Analysis:

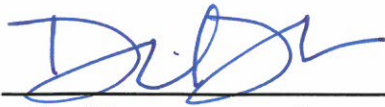
Appointment to the CVB Board require approval by the City Council. Attached are bios showing the four Board appointments that are recommended for the Council's approval.

Attachments:

Bios of Proposed CVB Board Members


Department Approval
City Manager Approval

The City of Fredericksburg



City Attorney Approval

for CVB Board Appointments

The City of Fredericksburg

Nominations for FCVB Board for FY22

Linda Goldsmith

Linda Goldsmith, general manager of Luckenbach Texas, has completed part of an unexpired term and one full three year term on the FCVB Board. She is eligible for a second three year term that will end on 9/30/24.

John Dubea

If confirmed, will fill the unexpired term of Miguel Lecuona that ends 9/30/23. Based on precedent, he will be eligible for one final full 3 year term after that. John previously has served for six years on the Board.

John Dubea is owner and manager of Clear River Pecan Co for the past 32 years. He is originally from New Roads, Louisiana, a small town northwest of Baton Rouge. John graduated from LSU in 1987 with a degree in business management and moved to Texas in 1989 to start Clear River.

John moved to Fredericksburg in 1994 with the opening of Clear River's third location. Since then he has been an active member of the Fredericksburg community. John has served on several boards and committees, including six prior years on the FCVB board and two terms on the Gillespie County Health Board. He is a graduate of the Leadership Gillespie County program in 2004. John received the Fredericksburg Chamber of Commerce Volunteer of the Year award in 2011. When not involved in a community event or in the daily operation of his business, John enjoys spending time at the Texas Coast.

Abby McCulloch Mund

If confirmed, will fill a term that expires on 9/30/24.

I began interning in the meetings industry with Traylor Convention Planning while receiving my Bachelors degree in Agricultural Economics at Texas Tech University, and never left it. I earned my Masters degree in Agricultural Communications, and went on to teach four years in the high school classroom as an agriculture, food, and natural resources teacher. I was hooked on events and returned each year to work for Traylor Convention Planning.

In 2017, I started AM Planning, a third party event strategy company. Empowering people to reach their full potential is what makes me tick. As an educator I experienced first-hand the thrill of people realizing they could do much more than they thought possible. Watching that recognition and witnessing the transformation is a feeling like no other. Now as the owner of AM Planning, I live to help my clients do that for their members and customers. As a Certified Meeting Professional with 15 years of experience, my focus is

facilitating must attend in-person and online experiences that empower attendees.

Some of my proudest moments include planning and executing an impactful 12,000+ person convention with a new executive director, relocating an exhibit hall within 6 weeks of an event after a natural disaster while forging relationships, supporting my parents' business by building a wine club from scratch, and helping a client reach record membership by offering online events.

Karen Stevenson

If confirmed, will fill the unexpired term of Rorie Cartier that ends 9/30/23. Based on precedent, she will be eligible for two full 3 year consecutive terms after that.

Two years ago, Karen Stevenson began working as the volunteer manager at the National Museum of the Pacific War. On August 1, she will become the director of the museum. As a museum specialist, her career has been shaped by 501c3 non-profits and state agencies across the western states.

In San Antonio, Seattle and Chicago, she worked on conservation education teams. In Houston, she worked for the Fort Bend Museum Association promoting the George Ranch's amenities and supporting the Texas Independence Trail. In Austin, she directed communications for the Lady Bird Johnson Wildflower Center. In Portland, OR she worked as a communications specialist on the Oregon Tourism-sponsored Oregon Trail Sesquicentennial Celebration, helping to develop more than \$70 M in heritage tourism infrastructure and the state's historic trails programs. In South Dakota, she was a park naturalist where she designed hiking trails and evening campfire programs, herded bison and surveyed elk populations.

When she was an undergraduate student at Texas Tech, she enjoyed a summer internship at the Sauer-Beckmann Living History Farm.

Though her geography has been varied, a common thread through her career has been tourism—its influences and impacts, its revenue potential and its exceptional outcomes for communities from the West Coast to the Great Lakes region. She is delighted to be in a community that so warmly welcomes visitors from all over the world.



CITY COUNCIL MEMO

DATE: September 1, 2021
TO: Mayor and City Council
FROM: Kent Myers, City Manager
SUBJECT: Proposed Changes-FY 2022 Budget

Summary:

This agenda item is intended to provide the City Council the opportunity to recommend additional changes to the proposed FY 2022 Budget prior to adoption at your next regular meeting on September 20.

Recommendation:

It is recommended that Council members identify and discuss any changes that you would like to make to the proposed FY 2022 Budget. If there is consensus on the part of the Council with specific changes to the Budget, then these revisions will be made prior to the Council adoption of the Budget at your next regular meeting.

Background / Analysis:

Over the past two months the City Council has conducted two public hearings and four work sessions on the proposed FY 2022 Budget. Several changes have been made to the proposed budget by the City Council during these meetings and discussions. The City Council may want to make additional changes to the Budget at this time.

One of the changes that we recommend to the proposed Budget is the reduction of the TABC permit fees from \$187,000 to \$38,600 due to new policies adopted by the TABC (see attached). This will reduce

The City of Fredericksburg

General Fund Revenues by \$148,400. However, this reduction will still leave the projected General Fund fund balance well above the balance required by our financial management policies.

There are two additional proposed expenditures that the Council may want to discuss. First, at a recent City Council Budget Work Session, the Council identified the need to reconsider the development of a 2-3 story parking deck adjacent to the Visitor's Center. Following this discussion, Ernie, Clinton, Garret and I had a conference call with our parking consultant to discuss this project. This consultant prepared the attached proposal for moving forward on this project. This proposal includes four tasks. The Council may want to approve funding from the Tourism Fund for the first three tasks (\$50,000) and wait to approve funding for the fourth task (\$30,000). This project, if ultimately approved, could be funded by HOT Revenues, parking fees and a federal grant. Please keep in mind that this would be an ideal time to plan for this project along with the plans to expand the Visitor's Center so that we can avoid any conflict between these two developments.

The second funding request that the Council has recently received is from the Needs Council. According to the attached email, the Needs Council is requesting \$100,000 from the American Rescue Act Funds for their counseling and domestic violence support programs. Currently this funding has an unallocated balance of \$830,775. The Council should discuss this request and whether you want to fund it at this time or whether you would like to solicit proposals from other local agencies for this funding before you begin an allocation process.

In addition to these changes, the Council may have other changes that you want to discuss. If you need any cost information on any of these changes, please feel free to contact Laura, Clinton or me prior to the Council meeting.

Attachments:

Parking Proposal

Email from Needs Council



Department Approval



City Attorney Approval



City Manager Approval

The City of Fredericksburg



**THE GOODMAN
CORPORATION**

HOUSTON:

3200 Travis Street
Suite 200
Houston, TX 77006

AUSTIN:

911 W. Anderson Lane
Suite 200
Austin, TX 78757

**PROJECT
SCOPE**

PHONE: (713) 951-7951

THEGOODMANCORP.COM

**CITY OF FREDERICKSBURG, TX
UPDATE TO 2017 DOWNTOWN PARKING STUDY
AUGUST 2021**

Background:

In 2017 The Goodman Corporation (TGC) completed a parking study for the City of Fredericksburg to identify and understand problems and solutions related to parking in and around the downtown area. The report identified an imbalance in parking demand relative to supply, which is exacerbated towards the eastern end of the study area. Parking is further challenged by a need for improved wayfinding and enhanced parking regulations to discourage visitor parking in residential areas. One recommendation of the study was to consider the construction of a shared-use structured parking facility where the existing Visitor's Center parking lot exists. At that time, 250-400 spaces were contemplated. The facility was to allow individuals to park in the facility, walk downtown, utilize the Visitor's Center, and access shuttle/tour buses on site. Recent discussion with City representatives focused on a renewed interest by the City administration in exploring a structured parking facility using TGC assistance towards siting, sizing, and design concepts.

This proposal would enable TGC to update the previously completed demand analysis to provide and/or validate recommendations related to parking facility size. TGC will also coordinate with the City to understand current and future proposed changes to parking requirements and garage use which may also impact sizing considerations. TGC will work with WSB Engineering (to provide structural engineering expertise) to develop updated concepts and costs for a parking facility to be integrated with the existing Visitors Center. TGC will provide an updated operating pro forma which summarizes annual operating/maintenance costs, and potential revenue projections. Finally, TGC will identify potential discretionary federal funding opportunities which are anticipated to be available over the course of the next 24 months. This scope includes an optional task which would allow TGC to begin work on an Economic Development Administration Tourism grant which could make available up to \$3M in EDA funding to construct the garage. This grant opportunity is currently available on a first-come first-serve basis.

Task 1 – Update Garage Demand Analysis

This task will update the previously completed supply and demand analysis to drive a recommendation on garage sizing. TGC will:

- Facilitate a coordinating/kick off meeting with the City and various departments to clarify garage use and users (this discussion will also inform garage conceptual design). This meeting will also define any changes in parking requirements/regulation since the 2017 study and if there are any change in requirements/regulations on the horizon.
- Update the previous parking demand estimates based on the 5th Generation Institute of Transportation Engineers (ITE) Parking Generation Manual. The 4th Generation Manual was available in 2017.
- Review assumptions made in 2017 and validate them moving forward comprehensive of local/regional/state growth as provided by the 2020 Census and related American Community Survey reports.
- Coordinate with the CVB to gather cell phone user reports, visitor data, and other information which will help to validate or modify 2017 information.
- Review major land use changes that have occurred since 2017 to document any significant supply side changes to the equation.
- Develop an updated parking supply/demand matrix for the project study area inclusive of tables and maps.
- Utilize the overall supply/demand information to provide a recommendation for garage sizing.

Deliverables: A presentation and associated technical memo that summarizes the information gathered and related recommendations.

Time Frame: 60 days

Task 2 – Garage Conceptual Engineering and Design

In this task the TGC team will:

- Review, coordinate, and discuss development requirements and regulations pertinent to traffic, drainage, zoning, and other building requirements with City staff. Requirements and any exceptions will be clearly identified and documented.
- Review and validate the feasibility for the construction of a multistory structured parking facility within the existing Visitor's Center parking area. Document any considerations/concerns to this approach related to potential subsurface condition concerns, aesthetics, vibration, and other factors.
- Develop up to two (2) site and floor plan options for the garage through the facilitation of up to four (4) meetings with City staff and any desired stakeholders. Meetings will be conducted virtually through Microsoft Teams or Zoom.
- Development of a total of two (2) architectural renderings of the garage to visually communicate the conceptual finished product.
- Completion of a line-item conceptual cost estimate to include all project development and construction costs.

Deliverables: A presentation and associated technical memo that summarizes the information gathered and related recommendations inclusive of site plans, floor plans, renderings, and cost estimates.

Time Frame: 60 days following Task 1

Task 3 – Financial Pro Forma and Funding

In this task TGC will:

- Review and update previously completed estimates related to garage utilization during super peak, peak, and non-peak times.
- Complete a peer review of similar garages in similar destinations to provide recommended parking rates.
- Provide estimates related to garage operations and maintenance costs for the project life-cycle.
- Estimate annual net revenue and life-cycle net revenue.
- Identify discretionary funding sources for City consideration.

Deliverables: Individual project profiles that document the information noted above. Other projects will be listed and depicted on an overall projects map to include termini, purpose, need, and scope.

Time Frame: 90 days

Task 4 – FY21 EDA ARPA Travel, Tourism, and Outdoor Recreation Grant Application

The United States Economic Development Administration (EDA) has released a notice of funding opportunity making available competitive tourism grants. The EDA will fund travel, tourism, and outdoor recreation projects that provide public access enhancements, projects that improve access to recreation, and tourism facilities. The parking garage under evaluation in this scope of services would be an eligible project. We estimate that a feasible funding request under this program would be approximately \$1.5M-\$3M. If the City of Fredericksburg can commit local share to fulfill the remaining project cost, this may be an opportunity to significantly reduce City expenditures on the garage construction.

TGC has significant experience in EDA grants and has successfully pursued approximately \$10M in EDA resources in the last three years – to include projects with parking elements in downtown areas. If the City opts to pursue funding through this opportunity, TGC will fast track schematics, costs, and concepts for this effort. However, the work completed for the grant application may slightly differ from the final product of the stand-alone conceptual development effort.

In this task, TGC will:

- Complete a consultation workshop with the Austin-region EDA representative.
- Assist the City in completing grants.gov registration
- Complete project narrative materials
- Complete a project environmental clearance document
- Complete a project benefits assessment based on job creation, attraction, and retention
- Coordinate with the City to identify potential beneficiaries and participate in the collection of ED-900B beneficiary forms.

- Develop letter of support templates and assist in gathering letters from local, state, and federal partners.
- Assist the City in the submission process.

Deliverables: A complete and submitted EDA grant.

Time Frame: By October 31, 2021

Budget Summary

Progress payments will be made based on the percentage of completion of each task. Monthly invoices, including progress reports, will be provided commensurate with the percentage of the project completed each month. The costs within this scope are inclusive of all direct and indirect costs (travel, overhead, printing, etc.)

BUDGET SUMMARY		
TASK	DESCRIPTION	COST
1	Update Garage Demand Analysis	\$17,500
2	Garage Conceptual Engineering and Design	\$22,500
3	Financial Pro Forma and Funding	\$10,000
4	FY21 EDA ARPA Travel, Tourism, and Outdoor Recreation Grant Application	\$30,000
	Total	\$80,000

Receptionist

From: Receptionist
Sent: Wednesday, September 1, 2021 9:19 AM
To: Receptionist
Subject: FW: American Rescue Plan Act of 2021

From: director@needsCouncil.org <director@needsCouncil.org>
Sent: Friday, August 20, 2021 12:07 PM
To: Kent Myers <kmyers@fbgtx.org>; Kelli Olfers <kolfers@fbgtx.org>; tommusselman@gmail.com;
kathyoneil55@gmail.com; Bobby Watson <bwatson@fbgtx.org>; Jerry Luckenbach <jluckenbach@fbgtx.org>
Subject: American Rescue Plan Act of 2021

Greetings!

The Hill Country Community Needs Council respectfully requests in your American Rescue Plan proposal that a grant of \$100,000 be considered for our counseling and domestic violence support programs.

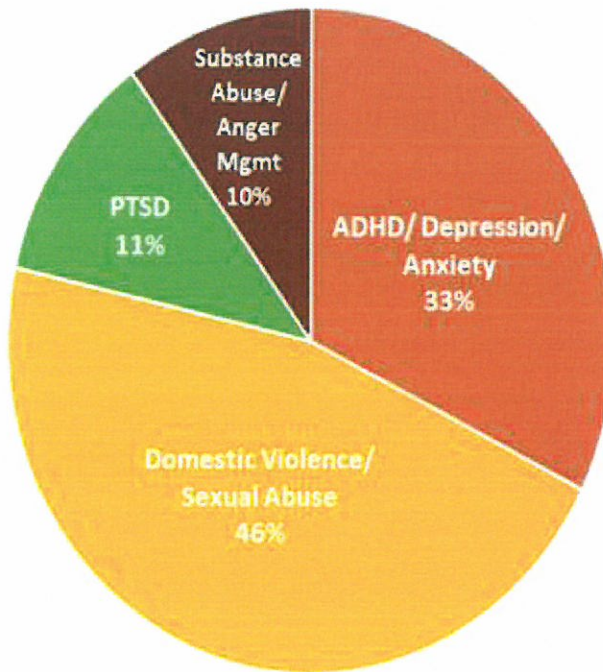
Our organization provides counseling at no cost to many of Gillespie County's most vulnerable residents. Our 2021 counseling and domestic violence support budget is \$120,000, up from (\$74,600 in 2019). Although we have not set the 2022 budget as of yet, we intend to add a fifth counselor to keep up with demand and lessen the time our clients spend on our waiting list, and thus will need to increase the budget accordingly.

In 2020 we served more than 4,000 clients (unduplicated) through our various services. Our organization provides 28 essential programs for the community's the less fortunate in our Central Texas county, but we believe the counseling and domestic violence support are the most critical and indeed lifesaving. We are privileged to have four high-caliber, licensed contract counselors — two with Ph.D.'s, and two that provide bilingual counseling. Each counselor possesses unique specialties in trauma, sexual abuse, substance abuse, anger management and/or grief/loss which allow us to match clients with the counselor best suited for their challenges.

The need for our counseling programs has grown exponentially over the past few years, exacerbated in part by the COVID pandemic. The children's counseling has also dramatically increased in the areas of domestic violence, sexual abuse, neglect, special needs, bullying and trauma. Some of these children have autism and other special healthcare needs which require a well-trained specialist. Fortunately, we have one.

Summary of key counseling areas provided by the Hill Country Community Needs Council in 2020.

SUMMARY OF KEY COUNSELING AREAS



Thank you for your consideration,
Cindy

Cindy Heifner

Executive Director

830.997.9756

HILL COUNTRY COMMUNITY

 **Needs
Council**



CITY COUNCIL MEMO

DATE: September 7, 2021
TO: Mayor and City Council
FROM: Justin Calhoun
SUBJECT: Winter Storm Update.

Summary:

This presentation details actions that have been taken since the winter storm to improve future response to emergencies. There have been items added to the proposed budget, changes to the Emergency Operation Plan, training opportunities, and refund request through FEMA.

Recommendation:

Continue to work on the improvements listed in the presentation. Once the budget process is complete, the respected departments should begin implementing the improvements that were budgeted.

Background / Analysis:

After the winter storm there were noted problems that needed to be addressed. This presentation is an update on the improvements.

Attachments:

Power Point Presentation

The City of Fredericksburg

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

Justin Calhoun

Department Approval

[Signature]

City Manager Approval

The City of Fredericksburg

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Agneda Page Packet 108



City Council Update Winter Storm 2021

September 7, 2021

Justin Calhoun

Agenda

- Updated Emergency Operation Plan
- Infrastructure/Equipment Improvements
- Training
- Emergency Operation Center and Staffing Improvements
- FEMA Claim
- Questions?

Emergency Operation Plan

- Annex C (Shelter and Mass Care) and Annex O (Human Services) are heavily dependent on the American Red Cross(ARC).
- The ARC was unable to aid due to weather.
- Annex O succession order was changed to:
 - Director of the Hill Country Chapter of the ARC
 - Director of the Needs Council
 - Texas Department of Human Services
- Shelter agreements are being updated through the ARC.

Infrastructure/Equipment Improvements

- Radio Improvements:
 - Two Generators requested in the budget process for tower sites.
 - Gillespie County is updating the generator on the third tower site.
 - County wide radio committee re-established to consider radio system update.
- Ambulance requested in the budget is 4-wheel drive.
- Gillespie County Communications have requested additional satellite phones through the budget process.

Infrastructure/Equipment Improvements Cont.

- Water/Wastewater Improvements:
 - 12 Generators requested in the budget process:
 - 5 Lift Stations
 - 4 Water Pump Stations
 - 2 Water Well Sites
 - 1 Wastewater Treatment Plant
 - Third party engineering consultants have reviewed Hill Country Memorial's (HCM) city water supply.
 - They recommend HCM place a 40,000-gallon holding tank on site.
 - HCM is placing this in their 5-year plan.

Training

- Finance Training
- Director of the Needs Council
- Backup Public Information Officer
- Resource Unit Leader Training
- Submitted the After-Action Report to Texas Division of Emergency Management

Emergency Operations Center and Staffing Improvements

- Recognized the importance of having additional stakeholders in the Emergency Operation Center (EOC).
 - Central Texas Electric Coop
 - Hill Country Memorial Hospital
- Recognized the importance of having additional staff that can operate in the EOC.
- Recognized the importance of alternating Fire/EMS staff so that they have down time between shifts.

FEMA Claim

- City of Fredericksburg claimed approximately \$138,000.
 - Once approved 75% will be rewarded (approximately \$104,000)
 - The majority of this claim is for employee overtime during the event.
 - The claim is in the final approval process with FEMA.
 - An additional \$10,000 can be claimed for administrative time once the claim is approved.

Questions?





CITY COUNCIL MEMO

DATE: for September 7, 2021 meeting

TO: Mayor and City Council

FROM: Daniel Jones, City Attorney

SUBJECT: Report to Council summarizing the Governor's most recent Executive Orders (GA-38; GA-39)

Summary: Brief report to the Council to summarize the Governor's current Executive Orders (GA-38 and GA-39) concerning COVID-19, and the status of related litigation.

Recommendation: For information purposes and discussion only, no action is recommended.

Background / Analysis: Due to the ongoing litigation across the state involving the Governor, local governmental entities, school districts, and mask mandates, I will provide a brief report to the Council to summarize the Governor's most recent Executive Orders (GA-38 and GA-39) related to COVID-19, and the status of related litigation.

Attachments: Executive Orders (GA-38 and GA-39)

Daniel Jones
Department Approval

Kent Myers
City Manager Approval

The City of Fredericksburg

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



GOVERNOR GREG ABBOTT

July 29, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:15 PM O'CLOCK

JUL 29 2021

Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

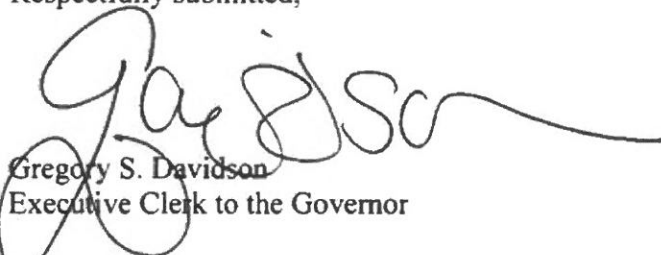
Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-38 relating to the continued response to the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
July 29, 2021

EXECUTIVE ORDER
GA 38

Relating to the continued response to the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, from March 2020 through May 2021, I issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health by adjusting social-distancing and other mitigation strategies; and

WHEREAS, combining into one executive order the requirements of several existing COVID-19 executive orders will further promote statewide uniformity and certainty; and

WHEREAS, as the COVID-19 pandemic continues, Texans are strongly encouraged as a matter of personal responsibility to consistently follow good hygiene, social-distancing, and other mitigation practices; and

WHEREAS, receiving a COVID-19 vaccine under an emergency use authorization is always voluntary in Texas and will never be mandated by the government, but it is strongly encouraged for those eligible to receive one; and

WHEREAS, state and local officials should continue to use every reasonable means to make the COVID-19 vaccine available for any eligible person who chooses to receive one; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility "for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders ... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:15pm O'CLOCK

JUL 29 2021

and from a disaster area and the movement of persons and the occupancy of premises in the area;" and

WHEREAS, under Section 418.173, the legislature authorized as "an offense," punishable by a fine up to \$1,000, any "failure to comply with the [state emergency management plan] or with a rule, order, or ordinance adopted under the plan;"

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. To ensure the continued availability of timely information about COVID-19 testing and hospital bed capacity that is crucial to efforts to cope with the COVID-19 disaster, the following requirements apply:
 - a. All hospitals licensed under Chapter 241 of the Texas Health and Safety Code, and all Texas state-run hospitals, except for psychiatric hospitals, shall submit to the Texas Department of State Health Services (DSHS) daily reports of hospital bed capacity, in the manner prescribed by DSHS. DSHS shall promptly share this information with the Centers for Disease Control and Prevention (CDC).
 - b. Every public or private entity that is utilizing an FDA-approved test, including an emergency use authorization test, for human diagnostic purposes of COVID-19, shall submit to DSHS, as well as to the local health department, daily reports of all test results, both positive and negative. DSHS shall promptly share this information with the CDC.
2. To ensure that vaccines continue to be voluntary for all Texans and that Texans' private COVID-19-related health information continues to enjoy protection against compelled disclosure, in addition to new laws enacted by the legislature against so-called "vaccine passports," the following requirements apply:
 - a. No governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization.
 - b. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
 - c. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. No consumer may be denied entry to a facility financed

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- in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization.
- d. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
 - e. This paragraph number 2 shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.
3. To ensure the ability of Texans to preserve livelihoods while protecting lives, the following requirements apply:
- a. There are no COVID-19-related operating limits for any business or other establishment.
 - b. In areas where the COVID-19 transmission rate is high, individuals are encouraged to follow the safe practices they have already mastered, such as wearing face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household, but no person may be required by any jurisdiction to wear or to mandate the wearing of a face covering.
 - c. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) is strongly encouraged to use good-faith efforts and available resources to follow the Texas Department of State Health Services (DSHS) health recommendations, found at www.dshs.texas.gov/coronavirus.
 - d. Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow guidance from the Texas Health and Human Services Commission (HHSC) regarding visitations, and should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible.
 - e. Public schools may operate as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency. Private schools and institutions of higher education are encouraged to establish similar standards.
 - f. County and municipal jails should follow guidance from the Texas Commission on Jail Standards regarding visitations.
 - g. As stated above, business activities and legal proceedings are free to proceed without COVID-19-related limitations imposed by local governmental entities or officials. This paragraph number 3 supersedes any conflicting local order in response to the COVID-19 disaster, and all relevant laws are suspended to the extent necessary to preclude any such inconsistent local orders. Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any conflicting or inconsistent limitation by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.

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4. To further ensure that no governmental entity can mandate masks, the following requirements shall continue to apply:
 - a. No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering; provided, however, that:
 - i. state supported living centers, government-owned hospitals, and government-operated hospitals may continue to use appropriate policies regarding the wearing of face coverings; and
 - ii. the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, and any county and municipal jails acting consistent with guidance by the Texas Commission on Jail Standards may continue to use appropriate policies regarding the wearing of face coverings.
 - b. This paragraph number 4 shall supersede any face-covering requirement imposed by any local governmental entity or official, except as explicitly provided in subparagraph number 4.a. To the extent necessary to ensure that local governmental entities or officials do not impose any such face-covering requirements, I hereby suspend the following:
 - i. Sections 418.1015(b) and 418.108 of the Texas Government Code;
 - ii. Chapter 81, Subchapter E of the Texas Health and Safety Code;
 - iii. Chapters 121, 122, and 341 of the Texas Health and Safety Code;
 - iv. Chapter 54 of the Texas Local Government Code; and
 - v. Any other statute invoked by any local governmental entity or official in support of a face-covering requirement.

Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any such face-covering requirement by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.
 - c. Even though face coverings cannot be mandated by any governmental entity, that does not prevent individuals from wearing one if they choose.
5. To further ensure uniformity statewide:
 - a. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order or allows gatherings restricted by this executive order. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the

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- COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.
- b. Confinement in jail is not an available penalty for violating this executive order. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.

This executive order supersedes all pre-existing COVID-19-related executive orders and rescinds them in their entirety, except that it does not supersede or rescind Executive Orders GA-13 or GA-37. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 29th
day of July, 2021.

A handwritten signature in cursive script, reading "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in cursive script, reading "Joe A. Esparza".
JOE A. ESPARZA
Deputy Secretary of State

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JUL 29 2021



GOVERNOR GREG ABBOTT

August 25, 2021

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

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2 PM O'CLOCK

AUG 25 2021

Secretary of State

Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-39 relating to prohibiting vaccine mandates and vaccine passports subject to legislative action.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "G. Davidson", written over a circular stamp.

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
August 25, 2021

EXECUTIVE ORDER GA 39

*Relating to prohibiting vaccine mandates and vaccine passports
subject to legislative action.*

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, I have issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health; and

WHEREAS, COVID-19 vaccines are strongly encouraged for those eligible to receive one, but have always been voluntary for Texans; and

WHEREAS, I issued Executive Orders GA-35 and GA-38, addressing COVID-19 vaccines administered under an "emergency use authorization" by prohibiting vaccine mandates from governmental entities and by prohibiting "vaccine passports" from governmental entities and certain others; and

WHEREAS, subsequently, on August 23, 2021, while the legislature was already convened in a special session, the U.S. Food and Drug Administration (FDA) approved one of the COVID-19 vaccines for certain age groups, such that this vaccine is no longer administered under an emergency use authorization for those age groups; and

WHEREAS, while this COVID-19 vaccine is now FDA-approved for certain age groups, others are not yet approved and still are administered under an emergency use authorization; and

WHEREAS, through Chapter 161 of the Texas Health and Safety Code, as well as other laws including Chapters 38 and 51 of the Texas Education Code, the legislature has established its primary role over immunizations, and all immunization laws and regulations in Texas stem from the laws established by the legislature; and

WHEREAS, in other contexts where the legislature has imposed immunization requirements, it has also taken care to provide exemptions that allow people to opt out of being forced to take a vaccine; and

WHEREAS, given the legislature's primacy and the need to avoid a patchwork of regulations with respect to vaccinations, it is appropriate to maintain the status quo of

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prohibiting vaccine mandates through executive order while allowing the legislature to consider this issue while in session; and

WHEREAS, in this instance, given the legislature's prior actions, maintaining the status quo of prohibiting vaccine mandates and ensuring uniformity pending the legislature's consideration means extending the voluntariness of COVID-19 vaccinations to all COVID-19 vaccinations, regardless of regulatory status; and

WHEREAS, I am also adding this issue to the agenda for the Second Called Session of the legislature that is currently convened so that the legislature has the opportunity to consider this issue through legislation; and

WHEREAS, I will rescind this executive order upon the effective date of such legislation;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No governmental entity can compel any individual to receive a COVID-19 vaccine. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine.
2. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
3. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine. No consumer may be denied entry to a facility financed in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine.
4. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
5. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any

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other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.

This executive order supersedes only paragraph No. 2 of Executive Order GA-38, and does not supersede or otherwise affect the remaining paragraphs of Executive Order GA-38. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 25th
day of August, 2021.

A handwritten signature in cursive script that reads "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in cursive script that reads "Joe A. Esparza".
JOE A. ESPARZA
Deputy Secretary of State

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AUG 25 2021

Future Agenda Items

City Council

September 20, 2021 Regular Meeting

City Council = Red

7th and 20th Regular Meetings @ 6p.m.

8th and 13th Work Session Meeting

Planning & Zoning = Green on 8th @ 5:30 p.m.

Historic Review Board = Purple on 14th @ 5:30 p.m.

Zoning Board of Adjustment = Blue on 16th @ 5:30 p.m.

City Events = 6th Labor Day Holiday

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12	13	14	15	16	17	18
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26	27	28	29	30		

Proclamation

1. Dark Skies

Consent

1. 9-7-2021 City Council Regular Meeting Minutes
2. 9-13-2021- City Council Workshop Minutes

Public Hearing

1. Post Oak Annexation 2nd public hearing
2. Voluntary annexation from Jacob Grant
3. Zoning request from Jacob Grant
4. Z 2115 Stoneridge Phase II Voluntary Annexation
5. Z 2115 Stoneridge Phase II Zoning Request

Ordinances

1. FY2022 Budget
2. FY2021 Tax Rate (M & O Rate and Debt Service Rate)
3. Park fees
4. Zoning request from Jacob Grant

Resolutions

- 1.

Approvals-Misc.

- 1.

Presentations, Discussions and Updates:

1. Old delinquent taxes

Executive Session

October 4, 2021 Regular Meeting

City Council = Red

4th and 18th Regular Meetings @ 6p.m.

Planning & Zoning = Green on 6th @ 5:30 p.m.

Historic Review Board = Purple on 12th @ 5:30 p.m.

Zoning Board of Adjustment = Blue on 14th @ 5:30 p.m.

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Proclamation

1.

Consent

1. 9-15-2021 City Council Workshop Minutes
2. 9-20-2021 City Council Regular Meeting Minutes

Public Hearing

1.

Ordinances

1. Health fees

Resolutions

1.

Approvals-Misc.

1. Institute Post Oak Annexation proceeding

Presentations, Discussions and Updates:

1. Animal Control Presentation
2. Salary Survey

Executive Session