

**CITY OF FREDERICKSBURG
CITY COUNCIL MEETING**

MONDAY, OCTOBER 16, 2017 ~ 6:00 p.m.

Law Enforcement Center ~ 1601 East Main Street

Linda Langerhans, Mayor
Charlie Kiehne, Council Member
Jerry Luckenbach, Council Member

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

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

A G E N D A

CALL TO ORDER

PLEDGE OF ALLEGIANCE

Page Ref

1. EMPLOYEE RECOGNITIONS

- 2. MINUTES** - Consider Approving Minutes of September 2017 Meetings 1-4

3. ORDINANCES - RESOLUTIONS- ACTION ITEMS

- A. Consider Agreements Related to Mariposa Drive Right of Way in Frieden Development 5-18
B. Consider Annual Sidewalk Program - Contract Extension 19-21
C. Consider Lease Purchase Financing Agreement 22-24

4. INDIVIDUAL ITEMS FOR CONSIDERATION AND POSSIBLE ACTION

- A. Consider Approving CVB Board Members 25-26
B. Consider Approving Annual CVB Agreement 27-33
C. Consider Gillespie Central Appraisal District Board of Directors Nominations 34-37

5. CITY MANAGERS REPORT

- A. City Council Retreat - October 17
B. Oktoberfest
C. TML Award
D. ISO Fire Insurance Rating
E. New Animal Shelter
F. Attainable Housing
G. Golf Course Lease

6. ITEMS FOR FUTURE AGENDAS

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

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

- 9. EXECUTIVE SESSION** - Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.086 (Economic Development).

A. Executive Session - Economic Development - City Support: Hotel/Conference Center

10. ADJOURN

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

REGULAR CITY COUNCIL MEETING
SEPTEMBER 5, 2017
6:00 PM

On this the 5th day of September, 2017, the City Council of the CITY OF FREDERICKSBURG convened in regular session at the Law Enforcement Center, with the following members present to constitute a quorum:

LINDA LANGERHANS - MAYOR
BOBBY WATSON - COUNCIL MEMBER
GARY NEFFENDORF - COUNCIL MEMBER
CHARLIE KIEHNE - COUNCIL MEMBER
JERRY LUCKENBACH - COUNCIL MEMBER

ABSENT: NONE

ALSO PRESENT: KENT MYERS - CITY MANAGER
SHELLEY BRITTON - CITY SECRETARY
DANIEL JONES - CITY ATTORNEY
CLINTON BAILEY - A.C.M./D.P.W.U.
BRIAN JORDAN - DIR OF DEVELOPMENT SERVICES
RUSSELL IMMEL - IT MANAGER
LAURA HOLLENBEAK - DIR OF FINANCE

The meeting was called to order at 6:00 PM following the Pledge of Allegiance.

EMPLOYEE RECOGNITIONS – The City Manager recognized the Park Department.

CONSENT AGENDA – It was moved by Council Member Watson, seconded by Council Member Luckenbach, to approve the Consent Agenda as follows:

- Resolution of Support – Police Department Grant

The vote was as follows: AYE: Langerhans, Neffendorf, Kiehne, Luckenbach, and Watson; NAY: None. Motion carried.

PUBIC HEARING ON 2018 CITY BUDGET (second of two) - It was moved by Council Member Kiehne, seconded by Council Member Watson, to recess the regular meeting and open the Public Hearing on the 2018 Budget, all voted in favor and the motion carried.

With no comments, it was moved by Council Member Luckenbach, seconded by Council Member Watson, to close the Public Hearing and reconvene the regular session. All voted in favor and the motion carried.

FCVB BUDGET – Ernie Loeffler presented the Fredericksburg Convention & Visitors Bureau presented the Annual Budget. It was moved by Council Member Watson, seconded by Council Member Neffendorf, to approve the FCVB 2018 Budget as presented. The vote was as follows: AYE: Langerhans, Neffendorf, Kiehne, Luckenbach, and Watson; NAY: None. Motion carried.

CHANGES TO FY 2018 BUDGET – Council reviewed proposed changes to the FY 2018 Budget; no revisions were made.

CITY MANAGER'S REPORT - City Manager's Report included (1) Attainable Housing, (2) Community Visioning Process, (3) New Animal Shelter, and (4) October City Council Retreat.

PUBLIC COMMENTS – Russ Rose commented on Historic Preservation.

COUNCIL COMMENTS – No comments.

With no further discussion, Council Member Kiehne made a motion to adjourn the meeting at 7:45 PM. Council Member Watson seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of October, 2017.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR

* * * * *

**STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG**

**REGULAR CITY COUNCIL MEETING
SEPTEMBER 18, 2017
6:00 PM**

On this the 18th day of September, 2017, the City Council of the CITY OF FREDERICKSBURG convened in regular session at the Law Enforcement Center, with the following members present to constitute a quorum:

LINDA LANGERHANS - MAYOR
GARY NEFFENDORF - COUNCIL MEMBER
CHARLIE KIEHNE - COUNCIL MEMBER
JERRY LUCKENBACH - COUNCIL MEMBER

ABSENT: BOBBY WATSON - COUNCIL MEMBER

ALSO PRESENT: KENT MYERS - CITY MANAGER
CLINTON BAILEY – ACM/D.P.W.U.
BRIAN JORDAN – DIR OF DEVELOPMENT SERVICES

SHELLEY BRITTON - CITY SECRETARY
LAURA HOLLENBEAK – FINANCE DIR
DANIEL JONES - CITY ATTORNEY
RUSSELL IMMEL – IT MANAGER

The meeting was called to order at 6:00 PM., followed by the Pledge of Allegiance.

EMPLOYEE RECOGNITIONS – The City Manager recognized the IT department for working through the night on Sunday when the core switches went out.

MINUTES – It was moved by Council Member Neffendorf, seconded by Council Member Luckenbach, to approve the minutes of the August 2017 meetings as presented. All voted in favor and the motion carried.

PUBLIC HEARING Z-1709 FOR A CONDITIONAL USE PERMIT FOR A BED AND BREAKFAST UNIT ON THE GROUND FLOOR AT 208 E. SAN ANTONIO ST., THE CBD AND HISTORIC DISTRICT OVERLAY – It was moved by Council Member Luckenbach, seconded by Council Member Kiehne, to recess the regular meeting and open the public hearing on Z-1709, All voted in favor and the motion carried.

Andy Bray presented on behalf of the property owners. Kenneth Johnson, the easement owner, commented against the request.

No comments were received. It was moved by Council Member Luckenbach, seconded by Council Member Kiehne, to close the public hearing and reconvene the regular session. All voted in favor and the motion carried.

Z-1709 – It was moved by Council Member Kiehne, seconded by Council Member Luckenbach, to approve Z-1709 as presented, with the condition that the property owners place signage to designate easement and no parking area. The vote was as follows: AYE: Langerhans, Neffendorf, Luckenbach, and Kiehne. NAY: None. Motion carried.

CHANGES TO FY 2018 BUDGET - None

FY 2018 CITY BUDGET – It was moved by Council member Neffendorf, seconded by Council Member Kiehne, to approve the FY 2018 City Budget as presented. The vote was as follows: AYE: Langerhans, Luckenbach, Neffendorf, and Kiehne. NAY: None. Motion carried.

2017 PROPERTY TAX RATE – Council Member Neffendorf moved that the property tax rate be increased by the adoption of a tax rate of \$0.2256, which is effectively a 4.6% increase in the tax rate; Council Member Luckenbach seconded, the vote was as follows: AYE: Langerhans, Neffendorf, Luckenbach, and Kiehne. NAY: None. Motion carried.

PROFESSIONAL SERVICES AGREEMENT FOR A METER DATA MANAGEMENT SYSTEM – ACM/DPWU Clinton Bailey presented the Professional Services Agreement with Electsolve Technology Solutions and Services Inc., for the development and implementation of a Meter Data Management System in the amount of \$223,095 with a monthly service fee of \$4,100. It was moved by Council Member Luckenbach, seconded by Council Member Kiehne, to approve the Professional Services Agreement for a Meter Data Management System as presented. The vote was as follows: AYE: Langerhans, Neffendorf, Luckenbach, and Kiehne. NAY: None. Motion carried.

UNIVERSITY CENTER MASTER PLAN – Following a presentation by Shad Comeaux, it was moved by Council Member Neffendorf, seconded by Council Member Luckenbach, to approve the University Master Plan as presented. The vote was as follows: AYE: Langerhans, Luckenbach, Neffendorf, and Kiehne. NAY: None. Motion carried.

REQUEST FOR WAIVER OF FEES FROM SUNRISE RENTAL HOUSING DEVELOPMENT – Following a lengthy discussion, it was moved by Council Member Kiehne, seconded by Council Member Luckenbach, to deny the request as presented and to bring this item back on the next agenda. The vote was as follows: AYE: Kiehne, and Luckenbach; NAY: Langerhans, and Neffendorf. Motion failed.

PRESENTATION BY TEXAS POLICE CHIEFS ASSOCIATION – Rusty Pancoast, representative of the Texas Police Chiefs Association, was on hand to present the Fredericksburg Police Department's achievement of reaching "Re-Recognized Status" for the TPCA's Best Practices Program.

PRESENTATION ON TRANSPORTATION MASTER PLAN – Council received the Transportation Master Plan; no action taken.

MANAGER'S REPORT – City Manager Kent Myers reported on (1) October 17 City Council Retreat, (2) Community Visioning Process, (3) Attainable Housing, (4) Parks Bond Election, and (5) the Golf Course Lease.

PUBLIC COMMENTS – Russ Rose commented on golf course advertising dollars; Tom Musselman and Scott Allen commented on the Transportation Plan.

COUNCIL COMMENTS – Jerry Luckenbach gave a report on the Airport Board.

With no further discussion, Council Member Kiehne made a motion to adjourn the meeting at 8:10 PM. Council Member Luckenbach seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of October, 2017.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR



CITY COUNCIL MEMO

DATE: October 16, 2017

TO: Mayor and City Council

FROM: Daniel Jones, City Attorney 

SUBJECT: Agreements related to Mariposa Drive Right of Way in Frieden Development

Summary: The Annexation Agreement for the Frieden Development requires the developer to acquire right of way to relocate Mariposa Drive. An *Agreement to Dedicate Right of Way* ("*Agreement*"), and the *First Amendment to Agreement to Dedicate Public Right Of Way* ("*First Amendment*") are being presented to the Council for approval.

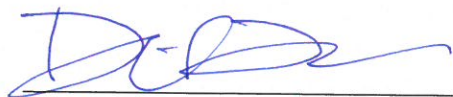
Recommendation: Approve the *Agreement* and the *First Amendment*, as presented.

Background / Analysis: The Annexation Agreement for the Frieden Development requires the developer to acquire and dedicate right of way, at least sixty feet (60') in width, for the relocation and extension of Mariposa Drive from its current location. The developer will acquire the right of way from the adjacent landowners, the Hodges. At such time as the relocated Mariposa right of way is dedicated to the City, the City will abandon the portion of the existing Mariposa Drive right of way not incorporated into the Development plan. The Council is now being presented with the *Agreement* and the *First Amendment*, which are three party agreements between BRT Resources, LLC (the developer), the Hodges, and the City. The purpose of the *Agreement* and *First Amendment* is to memorialize the process contemplated in the Annexation Agreement, where the Developer will pay the Hodges compensation for the new right of way, the developer and the Hodges and the City agree on the location of the new Mariposa right of way, and the City will abandon the existing Mariposa right of way that will be obsolete.

Attachments: *Agreement to Dedicate Right of Way*, and the *First Amendment to Agreement to Dedicate Public Right Of Way*

The City of Fredericksburg

5



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

MICHAEL JAMES HODGES

TO

CITY OF FREDERICKSBURG

ET AL

ET AL

AGREEMENT TO DEDICATE PUBLIC RIGHT OF WAY

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS

COUNTY OF GILLESPIE

WHEREAS, MICHAEL JAMES HODGES and JANIE RUTH HODGES ("Hodges") of Gillespie County, Texas, are the owners of that 159.44 acres of land described on Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, BRT RESOURCES, LLC, with offices in San Antonio, Bexar County, Texas, acting herein by and through its duly authorized officer, ("BRT") owns and is developing approximately 219.463 acres of land situated adjacent to the entire north boundary of the said Hodges 159.44 acres and adjacent to a portion of its west boundary. Said 219.463 acres is more particularly described on Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, the CITY OF FREDERICKSBURG, acting herein by and through its City Manager, owns an undeveloped right of way over and across said 219.463 acres, known as Mariposa Drive; and

WHEREAS, BRT Resources, LLC has requested that the City of Fredericksburg relinquish a portion of said Mariposa Drive from its 219.463 acres in order to accommodate its plans for development, and

WHEREAS, the City of Fredericksburg has agreed to relinquish that portion of Mariposa Drive, as hereinafter defined, in consideration of Hodges' obligation to dedicate a right of way on Hodges' 159.44 acres for Mariposa Drive which will align with the portion of Mariposa Drive which remains on the BRT property, and

WHEREAS, Hodges desire to convey two parcels of land out of said 159.44 acres the access for which tracts will be Mariposa Drive as it is proposed to be relocated; and

WHEREAS, all parties hereto have agreed to relocate Mariposa Drive and have agreed to the following terms and conditions of said relocation.

NOW THEREOFRE, In consideration of the premises, the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration and the mutual benefits to be obtained by this agreement, the parties agree as follows:

Hodges Obligations

1. Hodges hereby agree that they will dedicate, without further consideration from the City of Fredericksburg, a right of way for the future extension of Mariposa Drive. Said dedication will meet the following criteria

A. The thoroughfare will be 60' in width.

B. The thoroughfare will connect with the portions of Mariposa Drive which are to be constructed on BRT's 219.463 acre tract on the east and west sides thereof as shown on the Development Plan of said 219.463 acres attached hereto and made a part hereof as Exhibit "C".

C. The thoroughfare, except as hereinafter provided, will not be nearer than 300' from the north boundary line of the Hodges' 159.44 acre tract. However, the thoroughfare will connect with both sides of Mariposa Drive, which connections are shown on Exhibit "D" hereto; on the east side of the 159.44 acre tract, the thoroughfare may be closer than 300' to the north boundary of the Hodges 159.44 acre tract in order to achieve the connection, and on the west side of the 159.44 acres, the thoroughfare will be 300' from the north line of the 159.44 acres.

D. Other than at the connection points and the 300' spacing requirement described above, and subject to the default provisions below, the location of the right of way to be dedicated will be at the discretion of Hodges as long as it comports with the minimal applicable City of Fredericksburg engineering design standards.

2. Hodges will, at Hodges expense, except as described under **City of Fredericksburg's obligations** below, dedicate said right of way upon the earlier of:

A. sixty days following written demand for such dedication by the City of Fredericksburg, or

B. at such time as Hodges desire to subdivide said 159.44 acre tract other than to convey the two tracts described below, or

C. twenty-five (25) years from the date of this agreement.

3. The dedication instrument will be by dedication deed on a form essentially as is attached hereto as Exhibit "E."

4. Hodges will not be required to develop or pave the right of way dedicated pursuant to this agreement unless the development ordinances of the City of Fredericksburg in effect at the time of dedication require Hodges to do so as a result of Hodges' own development or re-subdivision of the said 159.44 acre tract or any portion thereof. It is agreed that Hodges will not be required to develop or pave the right of way in connection with the subdivision of the two tracts described in the section entitled **Current subdivision by Hodges** below.

5. At the time of the dedication of the above described Mariposa right of way, Hodges will record, in the Real Property Records of Gillespie County, Texas, restrictive covenants which will restrict the use of that portion of Hodges' 159.44 acre tract which lies north of the newly dedicated Mariposa right of way to single family detached residential and/or agricultural use only. It is specifically agreed by all parties hereto that this agreement to restrict is a covenant personal to BRT, which runs with and binds the land, and does not affect or diminish the obligation of Hodges to dedicate the right of way for Mariposa in accordance with the terms hereof.

BRT's obligations

BRT will dedicate those portions of Mariposa Drive on its 219.463 acres as shown on Exhibit C, to the boundary line of the Hodges' 159.44 acre tract at such time as said property is annexed to the City of Fredericksburg. It will improve the easterly portion of same in accordance with the annexation agreement between BRT and the City of Fredericksburg as finally approved by the City Council of the City of Fredericksburg.

City of Fredericksburg's obligations

1. The City of Fredericksburg will abandon its existing right of way for Mariposa Drive through BRT's 219.463 acre tract at such time as such property is annexed to the City, the Annexation agreement between BRT and the City is executed by and between BRT and the City, and the portions of Mariposa Drive on the 219.463 acre tract are dedicated.

2. The City of Fredericksburg will perform and pay for all surveying and engineering costs in connection with the dedication agreed to herein. Hodges agrees that the City of Fredericksburg may enter the 159.44 acres without being guilty of trespass for such purposes after reasonable notice to Hodges.

3. In the event that a right of way for a major thoroughfare (example: relief route) is acquired by the City, County, State of Texas or other governmental entity through the 159.44 acre tract at a location other than as described herein for the Mariposa extension, after the date of this agreement, and the said Mariposa extension has not been built, the City will release this agreement and obligation for Hodges to dedicate the right of way for Mariposa as contemplated herein, other than to serve the two tracts described in the section entitled **Current subdivision by Hodges** below. The obligation of Hodges to dedicate any right of

way will, after such release, if any, depend upon the ordinances/requirements then in effect with regard to further development of the 159.44 acres.

Current subdivision by Hodges

1. Following the execution of this agreement by all parties, Hodges may proceed to subdivide the 159.44 acres so as to convey two tracts of five acres or more out of said property at Hodges discretion, which two tracts will front on a publicly dedicated right of way. A subdivision plat will not be necessary for such conveyances.
2. Further subdivision of the remaining property or the conveyed tracts will be in accordance with the City of Fredericksburg Subdivision Ordinance then in effect.

Default/enforcement provisions

1. In the event that Hodges fails to dedicate the right of way herein required, the City of Fredericksburg may, following a sixty day notice of default and opportunity to cure, to Hodges, but within two (2) years following the default, survey the right of way, to be configured at the minimum as set out above, and record an instrument of Right of Way Designation in the Real Property Records of Gillespie County, Texas, and such designated right of way will automatically become a public right of way. Hodges hereby grants unto the City of Fredericksburg a durable limited power of attorney for such purpose, which will survive the incapacity of Hodges, either of them or their heirs, successors or assigns.
2. This agreement may be enforceable by any remedy at law or equity.

Miscellaneous provisions

1. This contract is effective upon its execution by all parties. However, the obligations hereof shall begin and be enforceable only upon annexation of BRT's 219.463 acre tract and the approval by the City of Fredericksburg of Phase I of the proposed development thereof as depicted on Exhibit "C".
2. In the event a party is the prevailing party in any legal proceeding brought under or with relation to this contract, such prevailing party is entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorneys' fees.
3. All notices must be in writing and are effective when hand-delivered, or three days after having been mailed by certified mail, return receipt requested to the addresses noted below or ones which have been provided to the other relevant party in the same manner as other notices.
4. This contract is binding on the parties, their mortgagees, heirs, executors, representatives, agents, successors and assigns. It is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby, and it shall be

interpreted as necessary to achieve the purpose of the relocation of the Mariposa right of way.

Executed this the 7 day of August, 2017.

Address:

Michael James Hodges
MICHAEL JAMES HODGES

442 Old San Antonio Road
Fredericksburg Texas 78624

Janie Ruth Hodges
JANIE RUTH HODGES

Address:

BRT RESOURCES, LLC

BY: _____
Print name: _____
Office held: _____

Address:
126 West Main Street
Fredericksburg, Texas 78624
Attn: City Manager

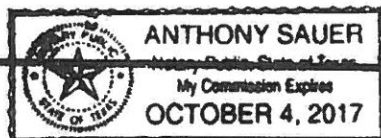
CITY OF FREDERICKSBURG

BY: _____
KENT MYERS, CITY MANAGER

THE STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on this the 7 day of August, 2017, by MICHAEL JAMES HODGES and JANIE RUTH HODGES.



Anthony Sauer
Notary Public in and for the
State of Texas

THE STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on the _____ day of _____,
2017, by Kent Myers, City Manager of THE CITY OF FREDERICKSBURG.

Notary Public in and for
the State of Texas

THE STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on the _____ day of _____,
2017, by _____, _____ of BRT RESOURCES, LLC.

Notary Public in and for
the State of Texas

Exhibit "A"

BEING 159.44 acres of land and comprises 159.26 acres of land, part of Survey No. 54, originally granted to John Owens, Abstract No. 537 and 0.18 acre of land, part of Survey No. 36, originally granted to W.O. Merriwether, Abstract No. 488; Said 159.44 acres of land is more fully described by metes and bounds in Volume 118, Page 562, Official Public Records of Gillespie County, Texas.

TO THE CITY OF FREDERICKSBURG

DEDICATION DEED

We, _____ Grantors, for and in consideration of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration do hereby grant, convey and dedicate to the City of Fredericksburg, a municipal corporation for the use of the public forever as a public road the land described as follows, to wit:

EXECUTED this ____ day of ____, 2017.

STATE OF TEXAS §
COUNTY OF GILLESPIE §

Notary Public in and for the State of Texas

After Recording Return To:
City of Fredericksburg
126 West Main Street
Fredericksburg, Texas 78624

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS

COUNTY OF GILLESPIE

**FIRST AMENDMENT TO
AGREEMENT TO DEDICATE PUBLIC RIGHT OF WAY**

This **FIRST AMENDMENT TO AGREEMENT TO DEDICATE PUBLIC RIGHT OF WAY** (this “**First Amendment**”) is made and entered into effective as of the ____ day of September, 2017 (the “**First Amendment Effective Date**”) by and among **MICHAEL JAMES HODGES** and **JANIE RUTH HODGES**, residents of Gillespie County, Texas (together, “**Hodges**”), **BRT RESOURCES, LLC**, a Texas limited liability company (“**BRT**”), and the **CITY OF FREDERICKSBURG**, a Texas municipal corporation (the “**City**”). Hodges, BRT and the City are sometimes referred to together as the “**Parties**” or separately as a “**Party**”.

WHEREAS, the Parties entered into that one certain Agreement to Dedicate Public Right of Way dated August 7, 2017 (the “**Agreement**”), recorded under File Number _____ of the real property records of Gillespie County, Texas, wherein the Parties agreed, among other things, to relocate certain undeveloped portions of Mariposa Drive;

WHEREAS, the Parties desire to amend the Agreement, as described below; and

WHEREAS, unless the context otherwise requires, all capitalized terms used in this First Amendment without definition will have the definitions provided for such terms in the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained in this First Amendment, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties confirm and agree as follows:

1. The Parties replace and restate the provisions of Section 5 under the heading “**Hodges Obligations**” as follows:

“5. Hodges hereby restricts the use of the northern most 300 feet of the Hodges’ 159.44-acre tract to single family detached residential and/or agricultural use only (the “**Use Restriction**”). The Use Restriction will be in effect upon the execution and delivery of this Agreement and it shall be a covenant running with, binding and being a burden upon the title to the northern most 300 feet of the Hodges’ 159.44-acre tract and running with and benefitting the title to BRT’s 219.463 acres. The Use Restriction will be enforceable by BRT and its successors in interest. A recovery in damages may not be an

adequate remedy for a violation of the Use Restriction and therefore equitable remedies will be available for the enforcement of such covenant. The Use Restriction shall be in effect for a period of fifty (50) years, and thereafter, it shall automatically continue for successive terms of ten (10) years each, unless within 12 months before the end of a term BRT or its successor executes an instrument electing not to extend the term and records it in the official public records of Gillespie County, Texas.”

2. The Parties amend certain provisions under the heading “**BRT’s Obligations**” as follows. BRT will pay Hodges a sum certain as set forth in a letter agreement of even date between Hodges and BRT in immediately available funds concurrently with the abandonment by the City of the existing undeveloped right of way for Mariposa Drive through BRT’s 219.462-acre tract in accordance with the Agreement.

3. The Parties amend certain provisions of Section 1 under the heading “**Miscellaneous provisions**” as follows. The obligation of Hodges with respect to the restrictive covenant described in Section 5 under the heading “**Hodges Obligations**” will begin and be enforceable upon the execution and delivery of the Agreement.

4. This First Amendment and the Agreement set forth the entire understanding and agreement of the Parties and supersede any prior negotiations and agreements between them.

5. Except for those terms amended by this First Amendment, the Agreement remains in effect as written. If any conflict occurs between the terms of this First Amendment and the terms of the Agreement, the terms of this First Amendment control.

6. This First Amendment may be executed in one or more counterparts, each of which shall be an original and taken together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document.

THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURES APPEAR ON THE
SIGNATURE PAGE ATTACHED HERETO AND MADE A PART HEREOF.

**SIGNATURE PAGE
TO
FIRST AMENDMENT TO AGREEMENT TO DEDICATE PUBLIC RIGHT OF WAY**

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed on the dates set forth below but effective as of the First Amendment Effective Date first set forth above.

Address:
442 Old San Antonio Road
Fredericksburg, Texas 78624

MICHAEL JAMES HODGES

JANIE RUTH HODGES

Address:
1250 NE Loop 410, Suite 333
San Antonio, Texas 78209

BRT RESOURCES, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

Address:
126 West Main Street
Fredericksburg, Texas 78624
Attn: City Manager

CITY OF FREDERICKSBURG

By: _____
Kent Myers, City Manager

THE STATE OF TEXAS §
 §
COUNTY OF GILLESPIE §

This instrument was acknowledged before me on this _____ day of _____, 2017, by MICHAEL JAMES HODGES and JANIE RUTH HODGES.

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on this _____ day of _____, 2017, by _____ as _____ of BRT RESOURCES, LLC, a Texas limited liability company, on its behalf.

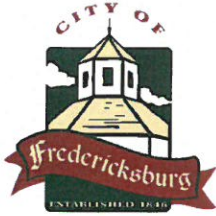
Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF GILLESPIE §

This instrument was acknowledged before me on this _____ day of _____, 2017, by Kent Myers, City Manager of the CITY OF FREDERICKSBURG.

Notary Public, State of Texas

After recording, return to:
BRT Resources, LLC
1250 NE Loop 410, Suite 333
San Antonio, Texas 78209



CITY COUNCIL MEMO

DATE: October 16, 2017

TO: Mayor and City Council

FROM: Garret Bonn, P.E., CFM – Asst. City Engineer

SUBJECT: Annual Sidewalk Program – Contract Extension

Summary:

City Council awarded the Annual Sidewalk Contract to Hazelett Concrete Contractors in June of 2013. The contract allows for additional one year extensions for up to five years. During the FY 2017 budget year, the City Council agreed to extend the contract with Hazelett Concrete Contractors through September 30, 2017. Before Council is a one year contract extension with Hazelett Concrete Contractors for the Annual Sidewalk Project.

Recommendation:

Hazelett Concrete Contractors has agreed to extend the current contract for an additional year without an increase in the unit prices they bid in the 2013 bid/agreement.

City staff recommends extending the current sidewalk contract with Hazelett Concrete Contractors through September 30, 2018.

Background / Analysis:

Three bids were received on June 18, 2013 for the Annual Sidewalk Project. The bidders Included:

- 1) Hazelett Concrete Contractors - Fredericksburg, Texas
- 2) M & C Fonseca - Granite Shoals, Texas
- 3) Allen Keller Company - Fredericksburg, Texas

Bids were evaluated based on the Total Base Bid from each contractor's unit price bid submittal for approximate quantities of work included in the Bid Form. Since awarding the contract to Hazelett Concrete Contractors in July of 2013, the contractor has constructed sidewalks, sidewalk ramps, driveway approaches, handrails, curbs and necessary retaining walls at various locations throughout the City. During the past year, sidewalks and related construction have been completed in the following locations:

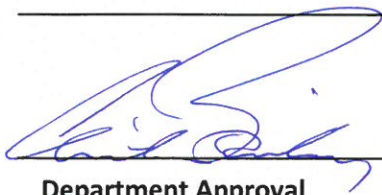
- 1) North side of W. Travis from N. Adams to N. Orange;
- 2) South side of W. Travis from N. Adams to Town Pool;
- 3) East side of N. Adams from Main St. to E. Austin;
- 4) Crosswalk Improvements on W. Windcrest near Rueben St;
- 5) Curb ramp improvements at Intersection of S. Orange and W. San Antonio ;
- 6) North side of E. Austin near Admiral Nimitz Foundation Office;
- 7) Driveway reconstruction at entry to City Hall Parking Lot off of W. Main St.;
- 8) Reconstruction of sidewalk near live oak tree at Domino Parlor (222 E. Main St.);
- 9) South side of W. Main St. from S. Bowie to the "Y".

If approved, planned improvements for FY 2018 include the following locations:

- 1) East Side of S. Llano between E. San Antonio and Barons Creek;
- 2) West Side of S. Milam between W. Windcrest and W. Walch Ave.;
- 3) West Side of S. Milam between W. Main St. and W. San Antonio;
- 4) South Side of W. College St. from N. Adams to N. Orange (near Fredericksburg Middle School);
- 5) West Side of S. Orange from San Antonio to Barons Creek (Frantzen Park Pedestrian Bridge);
- 6) West Side of S. Adams from Highway St. to Fisd Primary School;
- 7) West Side of N. Milam from Cross Mountain Dr. to Cross Mountain Park;
- 8) Repair of Pedestrian Portion of N. Crockett Bridge Over Town Creek.

Attachments:

Exhibit –Completed Projects and 2018 Planned Improvements Map



Department Approval



City Manager Approval

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The City of Fredericksburg



Proposed FY2018 Sidewalk Improvements

- 1) East side of South Llano between East San Antonio and Barons Creek
- 2) West side of South Milam between West Windcrest and West Walch Ave
- 3) West side of South Milam between West Main and West San Antonio
- 4) South side of West College from North Adams to North Orange (near Fredericksburg Middle School)
- 5) West side of South Orange from West San Antonio to Barons Creek (Frantzen Park Pedestrian Bridge)
- 6) West side of South Adams from Highway Street to Fisd Primary School
- 7) Repair of Pedestrian Portion of North Crockett Bridge over Town Creek

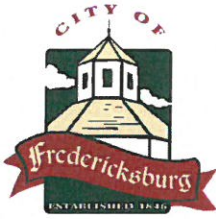
City of Fredericksburg
Sidewalk Plan - 2015
Adopted by City Council: June 1, 2015

Legend

- FY2018 Proposed Sidewalk Improvements
- Completed Projects
- Proposed Sidewalks
- Existing Sidewalks
- City Limit Boundary
- Historic District



Not To Scale



CITY COUNCIL MEMO

DATE: October 16, 2017

TO: Mayor and City Council

FROM: Laura Hollenbeak, Director of Finance

SUBJECT: Lease Purchase Financing for Acquisition of Equipment

Summary:

The 2018 adopted City Budget approved funding for lease purchase payments for the acquisition of equipment including a Front End Loader and a Dump Truck for the Street Department, two (2) Mpwrs for the Park Department, and an Ambulance for the EMS – Emergency Medical Services Department.

The purchase price of \$666,240 will be financed. The financing was bid with the low bid received from City National Capital Finance with an interest rate of 1.69%.

Recommendation:

Staff recommends that the Council award the financing to City National Capital Finance. The City Attorney will review the lease documentation.

Background / Analysis:

Attachments:

Summary of Bids Received



The City of Fredericksburg

Laura Hallenbeck

Department Approval

City Manager Approval

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The City of Fredericksburg

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

City of Fredericksburg - \$666,240 Lease / Purchasing Financing, FY 2018
Summary of Bids Received

Bidder	Interest Rate	Principal Amount	Total Interest		Fee if any	Total P & I &		Rank
			Cost			Fees		
City National Bank	1.69%	666,240.00	11,196.03		-	677,436.03		1
US Bancorp	1.78%	666,240.00	11,815.05		-	678,055.05		2
Commerce Bank (Clayton Holdings, LLC)	2.06%	666,240.00	13,980.45		250.00	680,470.45		3
BancorpSouth Equipment Finance	2.19%	666,240.00	14,629.35		TBD	680,869.35		4
BMO Harris Equipment Finance	2.53%	666,240.00	16,737.99		-	682,977.99		8
Chase Bank	2.46%	666,240.00	16,954.69		-	683,194.69		6
Broadway Bank	1.53%	666,240.00	20,490.13		250.00	686,980.13		7
Security State Bank	3.25%	666,240.00	22,589.99		-	688,829.99		8



CITY COUNCIL MEMO

DATE: October 10, 2017

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Convention and Visitor Bureau (CVB) Board Appointments

Summary:

The City Council is required to approve appointments for individuals to serve on the CVB Board.

Recommendation:

This year the Board and staff of the CVB recommends the following appointments:

- Krista Gratigni with the National Museum of the Pacific War reappointed for a 3-year term representing museums/historic attractions.
 - Miguel Lecuona with Hill Country Light Photography/Wine Road 290 reappointed for a 3-year term representing the wine industry.
 - Linda Goldsmith with Luckenbach, Texas appointed for one year to fulfill the unexpired term of Bobbi McDaniels who recently announced her resignation from the Board. Linda will represent music and live entertainment venues.
-

Background / Analysis:



The City of Fredericksburg

Attachments:



Department Approval



City Manager Approval



The City of Fredericksburg



CITY COUNCIL MEMO

DATE: October 10, 2017

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Annual Agreement-Convention and Visitor Bureau (CVB)

Summary:

The City Council is required to approve an annual contract with the Fredericksburg Convention and Visitor Bureau indicating the amount of HOT funds that will be allocated by the City during the coming year and how these funds will be spent.

Recommendation:

It is recommended that the attached agreement with the CVB be approved.

Background / Analysis:

Attachments:

Proposed Agreement with CVB



Department Approval



City Manager Approval

HOTEL/MOTEL TAX EXPENDITURE AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF GILLESPIE §

KNOWN ALL MEN BY THESE PRESENTS:

This agreement is to be effective this first day of October, 2017, and is made by and between the CITY OF FREDERICKSBURG, TEXAS, a municipal corporation of Gillespie County, Texas, sometimes hereinafter called CITY and the FREDERICKSBURG CONVENTION AND VISITOR BUREAU, INC., sometimes hereinafter called CVB, each acting herein by and through its duly authorized officers.

I.

The CITY OF FREDERICKSBURG, TEXAS, by authority of powers granted to it under state statutes, has heretofore enacted a local hotel occupancy tax on occupants of hotels within the City of Fredericksburg and its extraterritorial jurisdiction.

II.

As part of its obligation under state statutes (primarily V.A.T.S. Tax Code Section 351.101) to use local hotel occupancy tax funds for attracting and promoting tourism and the convention and hotel industry, the CITY OF FREDERICKSBURG hereby agrees to pay to the CVB TWO MILLION, THREE HUNDRED AND THIRTY THOUSAND AND NO/100 (\$2,330,000) DOLLARS from money actually received by the CITY from the local hotel occupancy tax as collected by the City, in consideration for the CVB advertising and promoting tourism for the visitor market from which the CITY OF FREDERICKSBURG derives direct tourism income benefit. Receipt of funds by the CVB shall be in quarterly payments due on or before October 1, 2017; January 1, 2018; April 1, 2018; and July 2, 2018; and will fund CVB activities for the fiscal year ending September 20, 2018. Such payments by the City to the CVB shall be from actually collected Hotel/Motel Tax Funds. In the event receipt of such funds by the City are inadequate to meet such payment schedule, the City agrees that it will utilize any funds within the Hotel/Motel funds of the City which are unallocated as of the installment due date to make such payments, and if those funds are inadequate, will pro-rate the available funds among all recipients thereof. Any delinquent Hotel/Motel Tax collected by the City will be paid to the CVB when received up to the contract amount, notwithstanding payment due dates.

The CVB agrees that CVB TWO MILLION, THREE HUNDRED AND THIRTY THOUSAND AND NO/100 (\$2,330,000) DOLLARS paid to it by the CITY shall be used in the following specific areas:

(29)

(1) The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants to the municipality or its vicinity.

(2) Advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity.

The CVB agrees to conduct a continuing program of advertising and promotion for the purpose of attracting visitors, tourists, and conventions to the local area and to the City of Fredericksburg by publishing and distributing brochures and community information packets, by advertising in various tourist publications and general media publications which are appropriate, by representing the City of Fredericksburg and its vicinity at travel shows and other such events, by participating with state and regional agencies in tourist development programs of benefit to the local area and to the City of Fredericksburg, and by using all appropriate means to increase the traveling public's awareness of the resort and recreational advantages of the local area and the City of Fredericksburg.

The CVB further agrees that it will seek to achieve economic benefit for the City of Fredericksburg and its vicinity through all of such activities, that it will provide tourist-related information about the City of Fredericksburg and its vicinity upon request, and that it will serve as an advisory body to the CITY, on request, in matters related to expanding the tourist-related economy.

III.

It is expressly understood and agreed by and between the parties that the CVB is an independent contractor and is not an officer, agent, or employee of the CITY OF FREDERICKSBURG.

IV.

The CVB shall secure sufficient numbers of employees to accomplish this Agreement. The CVB shall further provide such equipment, supplies, and other materials as may be necessary to accomplish the purpose of this Agreement. The CVB is housed in property owned by the City and constructed primarily with grant money and money from the proceeds of the City's Hotel/Motel Tax.

V.

The CVB has provided to the CITY, prior to obtaining any local hotel occupancy tax funds, a proposed budget for the term of this agreement, and said budget has been approved by the City Council in advance of the release of any local hotel occupancy tax funds. It is understood and agreed by and

between the parties that a fiduciary duty is created in the CVB with respect to expenditure of revenue provided in accordance with the approved budget, and any amendments thereto shall be approved in advance by the City Council of the City of Fredericksburg.

The CVB shall provide to the City Council periodic reports, at least each three (3) months, within thirty (30) days after the end of each three (3) month period beginning with the period ending on January 31, 2018 on the activities that are conducted to benefit the CITY OF FREDERICKSBURG, as well as an annual audited financial statement listing the expenditures made from revenue from the local hotel occupancy tax. It is further agreed by the CVB that it shall maintain said revenue in a separate account established for that purpose and that it shall not commingle that revenue with any other money or maintain it in any other account.

The CVB shall maintain complete and accurate financial records of each expenditure of local hotel occupancy tax revenue and, upon request of the City Council, shall make the records available for inspection and review.

It is understood and agreed by and between the parties that hotel occupancy tax funds may be spent by the CVB for day-t-day operations including supplies, salaries, office rental, travel expenses, and other administrative costs, if same have been previously approved in the budget and if directly related to the promotion of tourism. The proportion of the total administrative costs for which hotel occupancy tax revenues are expended may not exceed the actual administrative costs for these activities.

VI.

This Agreement shall begin the 1st day of October, 2017, and shall continue in force until September 30, 2018. This Agreement may be terminated by the CITY upon ninety (90) days' notice for noncompliance with the terms of the Agreement.

VII.

Any notice necessary or appropriate relative to this Agreement shall be effective when deposited in the United States mails, either certified or registered mail, postage prepaid and addressed with the City of Fredericksburg, City Hall, 126 West Main Street, Fredericksburg, Texas, 78624, Attn: City Manager or to the Fredericksburg Convention and Visitor Bureau, Inc., 302 East Austin Street, Fredericksburg, Texas 78624.

VIII.

No part of this Agreement may be assigned or delegated without the prior written consent of the other party, and any attempted assignment of benefits or rights of delegation of duties or obligations shall be a breach of this Agreement. However, nothing in the Agreement shall prohibit the CVB from participating with regional or state tourism programs or to contract for joint promotion with other agencies.

IX.

This Agreement shall be subject to the laws and statutes of the State of Texas.

X.

INDEMNITY CLAUSE

The CVB agrees to and shall indemnify and hold harmless and defend the CITY OF FREDERICKSBURG, TEXAS, its officers, agents, and employees from any and all claims, losses, causes of action and damages, suits, and liability of every kind including all expenses of litigation, court costs, and attorney fees, for injury to or death to any person, or for damage to any property, arising from or in connection with the operations of the FREDERICKSBURG CONVENTION AND VISITOR BUREAU, INC., its officers, agents, and employees carried out in furtherance of this Agreement. It is the expressed intention of the parties hereto, both the CVB and the CITY, that the indemnity provided for in this paragraph is also indemnity by the CVB to indemnify and protect the CITY OF FREDERICKSBURG from the consequences of the CITY OF FREDERICKSBURG'S own negligence, where the negligence is related to an injury death, or damage covering the use of the building and grounds owned by the City in which the CVB conducts its operations. The CVB shall carry or cause to be carried public liability insurance in the amount of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000) for each occurrence and ONE MILLION AND NO/100 DOLLARS (\$1,000,000) cumulative. Said insurance policy shall name the CITY OF FREDERICKSBURG as an additional insured. Said policy, or a duplicate thereof, will be filed with the City.

XI.

It is expressly agreed that by executing this Agreement with the CVB, the CITY does not bind itself in the future as to any action of the City Council in connection with the alteration or repeal or amendment of the City of Fredericksburg, Texas Hotel/Motel Occupancy Tax Ordinance adopted on February 13, 1984, and in the event, for any reason, that the funds are not collected by the CITY under the provision of the hotel-motel occupancy tax ordinance, the CITY shall not be obligated under this Agreement to pay

any funds of the CITY to the CVB, And it is further agreed and understood that the CVB shall have no right or demand upon the CITY for funds payable under this Agreement if such funds are not available, for any reason.

XII.

Each party warrants and represents that it has approved this Agreement by resolution duly adopted at a meeting of its governing body by a majority of those present and voting and that the chief executive officer of each party are duly authorized to enter into this Agreement on behalf of such party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

CITY OF FREDERICKSBURG:

ATTEST:

By: KENT MYERS
City Manager

SHELLEY BRITTON
City Secretary

FREDERICKSBURG CONVENTION
VISITOR BUREAU, INC

ATTEST:

By: Ernie Loeffler, Director

Secretary



CITY COUNCIL MEMO

DATE: October 10, 2017

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Gillespie Central Appraisal District Board Nominations

Summary:

The Central Appraisal District recently notified the City that nominations are being accepted for appointments to two-year terms of their Board of Directors (see attached letter).

Recommendation:

It is recommended that the City Council approve allocation of the City's 348 votes for Board representatives for the Gillespie County Appraisal District.

Background / Analysis:

Previously the City has apportioned its votes to the five current Board members. If you would like to continue this practice, then you would need to allocate 69.6 votes for each Board member.

Attachments:

Letter from Gillespie County Appraisal District



The City of Fredericksburg


Department Approval


City Manager Approval



GILLESPIE CENTRAL APPRAISAL DISTRICT

1159 S. Milam St.
Fredericksburg, TX 78624
(830) 997-9807

October 2, 2017

Mayor Linda Langerhans
City of Fredericksburg
126 West Main Street
Fredericksburg, TX 78624

RE: Gillespie Central Appraisal District Board of Director's Nominations
for the 2018-2019 Term

Dear Mayor Langerhans;

The terms of the current Directors of the Gillespie Central Appraisal District will expire on December 31, 2017. Directors are nominated by the governing bodies of voting taxing units within the appraisal district. Directors serve two year terms and can serve unlimited times. The Gillespie CAD Board of Directors has five elected positions; it is your entity's duty to nominate members that you feel will represent your entity, the district, and the taxpayers within the Gillespie CAD.

This process starts with the chief appraiser calculating the number of votes that an entity receives based on its prior year tax levy (the larger the levy the more votes). The levy is calculated based on the total 2016 levy of the voting entities located within the appraisal district (Gillespie County is the boundary).

The chief appraiser then notifies the entities of the number of votes it may cast. The following is a list of all voting entities and their number of votes.

2016 Levy Totals for 2018-2019 BOD Elections

<u>Entity</u>	<u>Levy</u>	<u>Percent of Total</u> <u>Levy</u>	<u>Number of</u> <u>Votes</u>
Doss CCSD	\$336,921.24	0.6022%	30
Harper ISD	\$3,221,528.93	5.7576%	288
City of Fredericksburg	\$3,890,447.57	6.9531%	348
Gillespie County	\$14,747,530.16	26.3573%	1318
Fredericksburg ISD	<u>\$33,755,908.68</u>	<u>60.3298%</u>	<u>3016</u>
	\$55,952,336.58	100.0000%	5000

Each voting entity can nominate by resolution, up to five candidates for the positions. Your nominee resolution **must be submitted** to the Gillespie Central Appraisal District by **October 27, 2017**.

The chief appraiser then prepares a ballot of nominees and submits it to the entities by **October 31, 2017**.

Each voting entity must then notify Gillespie CAD by **December 15, 2017**, after casting their allotted votes for one or all candidates by written resolution. The chief appraiser will then notify the entities of the outcome.

For your information, the following is a list of the current board members.

Tim Dooley, Chairman
James McAfee, Vice-Chairman
Tony Klein, Secretary
Donald Davis
Wayne Harrell

Board members qualifications include, being a resident of the district for a minimum of two years, cannot be an employee of a taxing unit within the district, and cannot have delinquent property taxes. A Board member can be an elected official of a taxing unit.

If you should have any questions on the process, or qualification requirements of members, please do not hesitate to contact me at any time.

Sincerely;


Scott Fair, RPA
Chief Appraiser