



City of Fredericksburg

REGULAR CITY COUNCIL MEETING AGENDA

MONDAY, NOVEMBER 2, 2020 ~ 6 P.M.

UNIVERSITY CENTER-HEB ROOM 2818 US 290

FREDERICKSBURG, TEXAS AND VIA ZOOM

Gary Neffendorf, Mayor
Tom Musselman, Councilmember
Bobby Watson, Councilmember

Charlie Kiehne, Councilmember
Polly Rickert, Councilmember
Kent Myers, City Manager

The City of Fredericksburg City Council will meet in a regular session on Monday, November 2, 2020, at 6 p.m. This meeting will be held in person and via Zoom Teleconferencing (see details below).

Members of the public may attend in person at the address above, or remotely using one of the following:

Computer

Join Zoom Meeting <https://us02web.zoom.us/j/89752651012>

Meeting ID: 897 5265 1012

Passcode: 950663

Via Telephone:

(877)853-5247 US Toll-free

(888)788-0099 US Toll-free

Meeting ID: 897 5265 1012

You may also access this meeting through livestream on the City of Fredericksburg's Facebook page.

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

1. CALL TO ORDER

2. UPDATE ON CORONAVIRUS (COVID-19) PANDEMIC

3. EMPLOYEE RECOGNITIONS

4. PUBLIC COMMENTS

During the COVID-19 pandemic, the City of Fredericksburg is allowing written or verbal public comments:

Written Comments: to be submitted remotely:

1. Must be received by 3 p.m. on November 2, 2020
2. Complete the Citizen Comment Form online at www.fbgtx.org; or
3. Email your comments to sgoodwin@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 “November 2, 2020, City Council Regular Meeting” tab.

Verbal Comments:

1. Must submit your name, address and contact information to sgoodwin@fbgtx.com by 3 p.m. on November 2, 2020.
2. Please log on to the meeting 15 minutes early.
3. Set your name in the ID on the Zoom Meeting
4. Wait for your name to be called.
5. OR Sign up between 5:30 p.m. and 6 p.m. at the University Center for in-person comments.
6. You will be limited to 3 minutes to speak.

5. 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 the October 5, 2020, City Council Regular Meeting
(Agenda Packet Pages 5-10)
- B. Consider the approval of Resolution 2020-17R ratifying the appointment of members to the City’s Historic Preservation Board and clarifying the terms of said appointments.
(Agenda Packet Pages 11-14)

6. RESOLUTION

- A. Consider the approval of Resolution 2020-18R amending the previous appointment of Judge in Precinct 1 and Alternate Judge in Precinct 1 and 4 for the November 3, 2020, General Election.
(Agenda Packet Pages 15-18)

7. OTHER ACTION ITEMS AND UPDATES

- A. Consider the approval of request from Ernie Loeffler on behalf of the 175th Anniversary Steering Committee and Marketing Sub-Committee for 175th Anniversary Banners.
(Agenda Packet Pages 19-24)
- B. Consider the approval of the Reclaimed Water Service Agreement with the Frieden Development to provide reclaimed water, in lieu of potable water, for irrigation of common landscape areas within the development.
(Agenda Packet Pages 25-38)

8. CITY MANAGER’S REPORT

- A. Emergency Management Coordinator Position
- B. Development Services Director Position
- C. Parks Playground Improvements
- D. Election Update

9. ITEMS FOR FUTURE AGENDA

(Agenda Packet Pages 39-40)

10. COUNCIL COMMENTS

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

11. EXECUTIVE SESSION

The City Council will recess its open meeting and reconvene in Executive Session pursuant to Texas Government Code Section 551.072 (Deliberation Regarding Real Property):

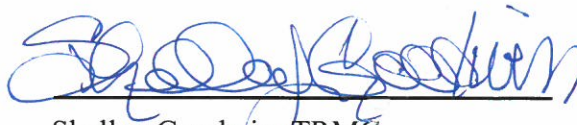
- A. Consider and discuss the purchase, exchange, lease, or value of real property, located in the vicinity of US 290 E at the Pedernales River crossing, approximately two miles to the east of the City of Fredericksburg (Sec. 551.072).

11. BUSINESS ITEM

The City Council will reconvene into Regular Session upon the conclusion of the Executive Session; the City Council may take action on any item posted in Executive Session, as necessary.

12. ADJOURN

This is to certify that I, Shelley Goodwin, posted this Agenda at 9:05 a.m. on October 29, 2020, at the entrance and on the 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 REGULAR MEETING

OCTOBER 5, 2020

The City of Fredericksburg City Council met in a regular session on Monday, October 5, 2020, at 6 p.m. This meeting was held remotely via Zoom Teleconferencing, and in-person at the University Center-HEB Room, 2818 US 290 Fredericksburg, Texas. These actions are being taken to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting and in accordance with Section 418.016 of the Texas Government Code.

Members Present:

Mayor Gary Neffendorf
Councilmember Charlie Kiehne
Councilmember Tom Musselman (participated via Zoom)
Councilmember Polly Rickert
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
Lynn Bizzell, Fire Chief
Steve Wetz, Police Chief
Russell Immel, Information Technology Director
Andrea Schmidt, Parks Department Director (participated via Zoom)
Lea Feuge, Public Information Officer
Kris Kneese, Assistant Director of Public Works and Utilities
Garrett Bonn, Assistant Engineer
Jennifer Krupa, Special Events Coordinator (participated via Zoom)
Shelley Goodwin, City Secretary

1. CALL TO ORDER

Mayor Neffendorf called the regular meeting of the Fredericksburg City Council to order at 6 p.m. on Monday, October 5, 2020, in person at the University Center-HEB Room via Zoom Teleconference. Mayor Neffendorf announced a quorum of the City Council present.

2. UPDATE ON CORONAVIRUS (COVID-19) PANDEMIC

Lynn Bizzell, Fire Chief, reported as of 10-5-2020:

World	United States
35,179,573 Positive Cases 1,037,340 Deaths 24,524,539 Recovered	7,505,022 Positive Cases 213,056 Deaths 4,873,669 Recovered

Texas	Case Count	Total Deaths	Active Cases	Recovered Cases	Test Preformed	
252 counties out of 254	769,303 New 2,192	16,033 New 8	71,074	683,700	6,571,677	
Region 8 Total Cases	Region 8 Recovered	Region 8 Deaths	Region 8 Active Cases	Region 8 Counties	Region 8 Pending investigation cases	Region 8 Probable
90,742	76,214	1,890	2,333	28 out of 28	1,135	12,578

COVID-19 totals of the adjacent counties' information (DSHS as of 9-8-2020):

County	Cases	Active	Recovered	Fatalities
Gillespie County	353	10	341	10
Kerr County	664	15	639	11
Kendall County	476	0	472	8
Llano County	138	23	113	2
Mason County	79	4	73	2
Blanco County	145	6	134	5
Burnet County	771	75	684	12

Hospital Data

Date	# Patients	# Confirmed Cases
9-28-2020	3,201	1,412
9-29-2020	3,251	3,812
9-30-2020	3,344	5,335
10-1-2020	3,190	3,234
10-2-2020	3,227	2,729
10-3-2020	3,192	3,346
10-4-2020	3,318	2,181

FISD COVID-19 Cases

Campus	Total Positive Cumulative Case	Total Positive Current Cases	Total Cumulative Exposures	Total Current Exposures
Billie Kids Day Care	0	0	0	0

FPS	2	0	0	0
SES	0	0	0	0
FES	4	0	95	0
FMS	2	1	19	0
FHS	16	12	161	151
GCHS	0	0	0	0
Totals	24	13	245	152

Lynn Bizzell, Fire Chief, reported on the following:

- CDC Guidelines
- Social distancing to eliminate community spread
- Good hygiene
- Cover your mouth when you cough
- Do not travel to hot spot areas, if possible
- Avoid crowds of 10 or more.
- Upcoming testing on October 18, 2020, from 8 a.m. - 4 p.m. at Market Square.

3. EMPLOYEE RECOGNITIONS

Kent Myers, City Manager, stated he received the following recognitions:

- Thank you to the Street, Parks, and Vegetation Management Departments for completing the Annual Street Program.
- Thank you to Officer Hugo Alvarez for his professionalism and thoughtfulness while giving a ticket.

4. PUBLIC COMMENTS

Mayor Neffendorf reviewed the different ways the public could provide comments. He stated the City received one citizen who signed up for verbal comments and no written citizen comments.

Timothy Riley spoke via Zoom regarding educating the public regarding elections and other City services. He also spoke regarding the Census process.

5. 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 the following Minutes:

i. September 21, 2020, City Council Regular Meeting

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Watson, to approve the City Council Minutes for September 21, 2020, Regular Meeting. The City Council voted 5 (five) for and none (0) opposed. The motion carried unanimously.

6. OTHER ACTION ITEMS AND UPDATES

A. Consider awarding the construction contract for the Main Street Decorative Light Replacement Project to Wesco Services LLC in the amount of \$450,000.

Kris Kneese, Assistant Director of Public Works and Utilities, provided the history of the Main Street Decorative Light and the Replacement Project. He noted the project's purpose is to replace the light poles that are showing signs of corrosion and rust, which is a safety concern along Main Street. The Historic Review Board has reviewed and issued a certificate of appropriateness for the proposed streetlight poles. City Staff has worked with TxDOT on the design and construction planning of the project. He also stated Staff has worked with Wesco Services LLC on the material and installation cost of \$450,000. The FY2021 project budget is \$330,000. The Staff recommends the Council amend the FY2021 budget to include the unused \$112,500 from the Electric Department FY2020 budget and increase the FY2021 project budget by an additional \$7,500. The City Council discussed the flowerpots and the height, as well as raising the flag holder. They also discussed replacing the flowerpot with a banner holder.

Motion: A motion was made by Councilmember Rickert, seconded by Councilmember Musselman, approve the construction contract for the Main Street Decorative Light Replacement Project to Wesco Services LLC in the amount of \$450,000 (as presented), with subject to changing flower pots to banners and raise the flag holder. The City Council voted 5 (five) for and none (0) opposed. The motion carried unanimously.

B. Consider discussion and take appropriate action regarding Flood Infrastructure Fund Grant Application for Flood Early Warning System Project in an amount not to exceed \$745,000.

Garrett Bonn, Assistant Engineer, provided a history of the constitutional amendment in November 2019. The Flood Infrastructure Fund program offers financial assistance for flood control, flood mitigation, and drainage projects. The TWDB invited eligible applicants to submit an applications for eligible projects. The City submitted two applications for the following projects:

1. Flood Early Warning System (FEWS) Improvements-Total Estimated Project Cost = \$745,000
2. N Llano (SH 16N) Storm Sewer System-Total Estimated Project Cost=\$2,602,930

He stated the FEWS project were ranked 67th, and the SH 16N project was ranked 189th. The City then received a letter inviting us to submit a complete application for the FEWS project. The original abridged application for the FEWS project proposed an 80% grant 20 % local match for the project, the approved eligible funding for the project is 15% (\$111,750) in the form of grant funds, and the City would be responsible for the remaining 85% (\$633,250) via a local match or a loan through the FIF.

The City Council discussed the grant, application, and the length of the loan. They also discussed the Flood Early Warning System. They also discussed the payment of \$745,000, which could be payable over 30 years.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Musselman, to approve Resolution 2020-16R Application Filing and Authorized Representative for Flood Infrastructure Fund Grant Application for Flood Early Warning System Project in an amount not to exceed \$745,000 for a 30-year term. The City Council voted 5 (five) for and none(0) opposed. The motion carried unanimously.

7. CITY MANAGER'S REPORT

A. CVB Tree Lighting Ceremony

Andrea Schmidt, Parks Department Director, reported the City will be holding a modified CVB Tree Lighting Ceremony. She noted there will not be a ceremony to turn on the lights. The Parks and Electric Department will soon be setting up the trees, and the lights will be turned on two weeks earlier than usual. She also stated CVB has installed speakers, and there will be a daily announcement, and then the lights will come on.

B. Chamber Christmas Parade

Andrea Schmidt, Parks Department Director, reported the Chamber of Commerce will be holding the Christmas Parade at the LBJ Park. She stated details are still being worked out.

C. Election Update

Shelley Goodwin, City Secretary, reported:

- **Ballot by Mail-**
700 Ballots by Mail have been mailed out, and 313 have been returned. The last day to receive an application from a voter in-person is October 16 and by mail is October 23. The deadline for returning Ballot by Mail is November 3 at 7 p.m., but they can be accepted up to November 4 by 5 p.m. as long as they have a November 3 postmarked. Out of State and FPCA Ballot deadline is November 9. Hand delivery Ballot by Mails have to be done in-person, with identification and delivered to the City Secretary Department.
- **Early Voting and Election Day - dates, times, and locations.** The Curbside Voting process.
- **Poll Worker and Early Voting Ballot Board training times and location.**

D. Development Services Director Position

Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities, provided an update on the job description developed after meeting with the City Council and several staff members. He reviewed the process for advertising the position and noted he has already heard from several individuals interested in the position.

8. ITEMS FOR FUTURE AGENDA

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

9. COUNCIL COMMENTS

Councilmember Musselman stated COVID-19 is still danger and the numbers are increasing daily. He also noted there have been 150 Fredericksburg High School students quarantined. And he encouraged everyone to take the virus serious and City Council and City Boards should continue to offer meetings via Zoom.

10. ADJOURN

Motion: A motion was made by Councilmember Kiehne, seconded by Councilmember Watson, to adjourn the Monday, October 5, 2020, City Council Regular Meeting at 7:10 p.m. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

Gary Neffendorf
Mayor

ATTEST

Shelley Goodwin, TRMC
City Secretary



CITY COUNCIL MEMO

DATE: for November 2, 2020 meeting

TO: Mayor and City Council

FROM: Daniel Jones, City Attorney

SUBJECT: Consider and discuss Resolution ratifying the appointment of members to the City's Historic Review Board, and clarifying the terms of said appointments.

Summary: The Council will consider a Resolution ratifying the appointment of current members to the City's Historic Review Board, and clarifying the terms of said appointments.

Recommendation: Approve Resolution.

Background / Analysis: Due to the numerous appointments to fill vacancies on the City's Historic Review Board ("HRB") during the previous 13 years, the terms of some Board members and alternate members have become impossible to accurately determine. The City Secretary's office performed a careful review of the City Council meeting minutes and other records related to the HRB appointments, dating back to year 2006. Despite the review, there are gaps in the records leaving questions as to the specific terms of members of the HRB. Attached is a proposed resolution to clarify the HRB terms of appointment moving forward, with the proposed terms being based on the best available information from the City Council meeting minutes and other City records.

Attachments: Proposed Resolution

Daniel Jones
Department Approval

Kent Myers
City Manager Approval

The City of Fredericksburg

RESOLUTION 2020-17R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, RATIFYING THE APPOINTMENT OF MEMBERS TO THE CITY'S HISTORIC REVIEW BOARD, AND CLARIFYING THE TERMS OF SAID APPOINTMENTS.

WHEREAS, it is essential to appoint individuals to the City Boards and Commission who are objective, knowledgeable, and that possess the relevant experience and qualifications established by law; and

WHEREAS, it is prudent to quickly fill any vacancies on the City Boards and Commission, to maximize opportunities for a quorum and efficiency in conducting City business; and

WHEREAS, due to the numerous appointments to fill vacancies on the City's Historic Review Board during the previous 13 years, the terms of some Board members and alternate members have become impossible to accurately determine, despite careful review of the City Council meeting minutes related to the appointments dating back to year 2006; and

WHEREAS, the City Council desires to ratify the appointments of the current Historic Review Board members and alternate members, and clarify the term of appointment for each member and alternate member.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS:

Section 1. The City Council hereby ratifies the appointment of the following individuals as members of the City's Historic Review Board, and clarifies the term of said appointment, as follows:

Position #	Name	Term expires
Member 1	Sharon Joseph	July 1, 2023
Member 2	Jessica Davis	July 1, 2023
Member 3	Larry Jackson	July 1, 2022
Member 4	Eric Parker	July 1, 2022
Member 5	David Bullion	July 1, 2021
Member 6	Richard Laughlin	July 1, 2021
Member 7	Mike Penick	July 1, 2021
Alternate 1	Brad Bertrand	July 1, 2023

Alternate 2	Barry Kaiser	July 1, 2021
Alternate 3	Joe Salinas	July 1, 2022

Section 2. *Severability.* In the event any clause, phrase, provision, sentence or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional

Section 3. *Repealer.* All prior adopted resolutions or motions, in conflict with the provisions of this Resolution and related to the appointments of the Historic Review Board members, are hereby superseded by this Resolution.

Section 4. *Effective Date.* This Resolution shall be effective upon its passage.

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

Gary Neffendorf, Mayor
City of Fredericksburg, Texas

ATTEST:

Shelley Goodwin, TRMC, City Secretary



CITY COUNCIL MEMO

DATE: October 28, 2020

TO: Mayor and City Council

FROM: Shelley Goodwin, City Secretary

SUBJECT: Election Resolution

Summary:

This Resolution is to amend the previous Resolution regarding amending some the appointments of Judge and Alternate Judges.

Recommendation:

Staff recommends the amendment to the Resolution to include the Judge and Alternate Judges that will be received before the meeting.

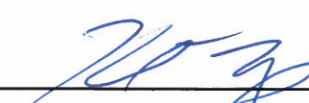
Background / Analysis:

Recently, I have had a Presiding Judge and an Alternate Judge inform me that they will not be able to serve. This Resolution will appoint their replacements.

Attachments:

Resolution


Department Approval


City Manager Approval

The City of Fredericksburg

RESOLUTION 2020- 18 R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING THE APPOINTMENT OF ELECTION JUDGES FOR THE NOVEMBER 3, 2020 ELECTION.

WHEREAS, on February 3, 2020, the City Council previously ordered a General Election for May 2, 2020, for the purpose of electing a Mayor and two (2) Councilmembers; and

WHEREAS, on February 17, 2020, the City Council previously adopted Resolution 2020-04R to designate Presiding Judges and Alternate Judges for Election Date, Early Ballot Board and Central Count, and to establish and set forth procedures for conducting the election; and

WHEREAS, the Governor of the State of Texas issued a Proclamation on March 18, 2020, suspending Section 41.0052 (a) and (b) of the Texas Election Code to the extent necessary to allow political subdivisions that would otherwise hold a general on May 2, 2020, to move their general election for 2020 to the next uniform election date, occurring on November 3, 2020; and

WHEREAS, on April 6, 2020, the City Council adopted Resolution 2020-08R postponing the election until November 3, 2020, and to make provisions to enter into a Joint Election with Gillespie County for sharing of polling sites for Precincts 1, 2, 3 and 4; and

WHEREAS, on September 21, 2020, the City Council approved Resolution 2020-15R, which amended the previous Order calling for the November 3, 2020 election, setting the time, location, and date of Early Voting and Election Day, and appointing Judges and Alternate Judges and other election duties; and

WHEREAS, the City Secretary has requested that the City Council appoint replacement Judges and Alternate Judges for vacancies that have arisen due to health issues of previously appointed Judges and Alternate Judges.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS:

Section One –Election Day Judges. That the City Council hereby amends the appointment of certain Presiding Election Judges and Alternate Judges for the November 3, 2020 election, as follows, to fill vacancies that have arisen due to health issues of previously appointed Judges and Alternate Judges:

Pct.	Location	Appointed officials
Pct. 1	Gillespie County Agricultural Extension Building—Conference Room—95 Frederick Rd., Fredericksburg, Tx 78624	Judge: _____ Alternate Judge: _____
Pct. 4	Girl Scout Cabin - 202 W. Austin St. Fredericksburg, Tx. 78624	Alternate Judge: _____

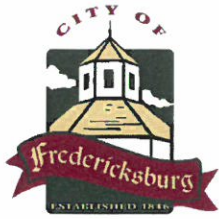
Section Two – Inconsistent Provisions. All prior resolutions, or parts thereof, which are in conflict or inconsistent with any provisions of this Resolution, are hereby repealed to the extent of such conflict, and the provisions of the Resolution shall be and remain controlling as to the matters ordered herein.

PASSED AND APPROVED this _____ day of _____, 2020.

Gary Neffendorf, Mayor

ATTEST:

City Secretary



CITY COUNCIL MEMO

DATE: October 27, 2020
TO: Mayor and City Council
FROM: Kent Myers, City Manager
SUBJECT: 175th Anniversary Banners and Flags

Summary:

The 175th Anniversary Steering Committee is requesting that they be allowed to install flags and banners around the City promoting our anniversary year.

Recommendation:

It is recommended that the City Council consider this request from Ernie Loeffler on behalf of the 175th Anniversary Steering Committee and Marketing Sub-Committee.

Background / Analysis:

The 175th Anniversary Steering Committee is wanting to install several different types of flags and banners for the period from May 1, 2021 to May 9, 2022. This includes the following:

- A. Individual 3' X 5' flags purchased by businesses, organizations and residents that would be displayed around the City similar to the displays of the American and Texas flags (see attached drawing).
- B. Two street banners that will be rotated each month with different themes and sponsors (see attached drawing).
- C. Decorative 30" X 60" light pole banners that would be displayed on the new decorative light poles along Main Street (see attached drawing).

The City of Fredericksburg

The City has not allowed the installation of the small flags or light pole banners promoting special events in the past. However, Section 29-5 (8) of the City's sign regulations allows "flags placed with permission of the City for special events and occasions." So, the City Council has the authority to consider this request. However, it is recommended that you keep in mind that these flags and banners will be installed for a lengthy period of time and could be setting a precedence for promoting other special events in the future.

Attachments:

Letter requesting approval of 175th Anniversary Flags and Banners

Sample designs of flags and banners



Department Approval



City Manager Approval



City Attorney Approval

The City of Fredericksburg



Lasting Fredericksburg
Monthly Themes

2021

May: Lasting Craftsmanship

June: Lasting Traditions

July: Lasting Family Heritage

August: Lasting Stewardship of Land

September: Lasting Education

October: Lasting Health Care

November: Lasting Innovation

December: Lasting Faith

2022

January: Lasting Service

February: Lasting Leadership

March: Lasting Commerce

April: Lasting Arts and Music

May: Lasting Friendship

Tony Klein
Chairman

Linda Langerhans
Vice-Chairman

175th.org
founded1846@gmail.com
830-998-4738
PO Box 707
Fredericksburg, TX 78624
Facebook.com/founded1846
#fbgtx175

October 26, 2020

Mayor and City Council,

The Steering Committee of the 175th Anniversary Celebration of Fredericksburg would like to request approval of two items by the City Council:

- the attached 175th anniversary **flag** design (top left side of attached illustrations) and the ability for the flag to be displayed around Fredericksburg
- the **light pole banner** design (top right side of attached illustrations) and its display on the planned new decorative light poles along Main Street

The flag and light pole banners are part of an anniversary design package that also includes a street banner for East Main Street and parade banners.

The Souvenir Committee plans to produce 3' x 5' flags that they will sell to businesses, schools, organizations and home owners for display during the anniversary year from May 2021 through May 2022. The Marketing Committee plans to produce small 4" x 6" anniversary flags which will be distributed free of charge along the anniversary parade route on Saturday, May 8, 2021.

If approved, the anniversary banners for the new decorative light poles along Main Street will measure 30" wide x 60" tall. I have coordinated with Lee Stubblefield at the Electric Departments regarding bracket placement and the hanging of these new banners throughout the anniversary year. One banner will be hung per pole. These banners will be paid for from the 175th marketing committee budget.

According to Brian Jordan, here is the pertinent information from the sign ordinance:

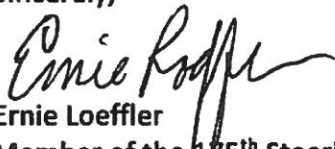
Section 29-5 (8) permits official flags of governmental jurisdictions, U.S. military regimental flags, school flags and flags placed with permission of the city for special events or occasions. Business flags carrying the emblem, name, logo or other information of a business shall be included in the

calculation of the maximum allowable sign area for such business. Business flags shall be limited to a maximum flag size of five by three feet.

So, in Brian's opinion, this would appear to be in the ordinance to allow the City Council to consider this kind of request.

Thank you for your consideration of the approval of the design and permission for the anniversary flag to be flown by local businesses, organizations, schools and homeowners during the anniversary year. Likewise, we hope that you will approve the placement and design for the street light pole banners during the anniversary year.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernie Loeffler", with a stylized flourish at the end.

Ernie Loeffler

Member of the 175th Steering Committee and Marketing Sub-Committee

Flags



Pole Banner



Street Banner



Parade Banner





CITY COUNCIL MEMO

DATE: November 2, 2020

TO: Mayor and City Council

FROM: Kris Kneese, P.E. – Assistant Director of Public Works and Utilities

SUBJECT: Frieden – Reclaimed Water Service Agreement

Summary:

Consider approving a Reclaimed Water Service Agreement with the Frieden Development.

Recommendation:

City Staff recommends approving the Reclaimed Water Service Agreement with the Frieden Development to provide reclaimed water, in lieu of potable water, for irrigation of common landscape areas within the development.

Background / Analysis:

The City has a reclaimed water line located in Friendship Lane, which conveys reclaimed water from the City's Water Reclamation Facility (WRF) to the Lady Bird Johnson Municipal Golf Course (LBJ). The Frieden Development, located south of Friendship Lane and west of the Heritage Hill Country Subdivision, has requested the use of the City's reclaimed water to irrigate landscape areas within the residential common areas and future commercial properties within the Development.

As part of the Agreement, the developer will construct the reclaimed water infrastructure needed to connect to the City's reclaimed water system, including a reclaimed water line down South Eagle Street to a storage pond in the Frieden Development, control valves, and metering. The City's delivery point of

The City of Fredericksburg

reclaimed water to the Development will be at the South Eagle Street and Winding Oak Drive intersection, at which the reclaimed water line will be become privately maintained by the Developer.

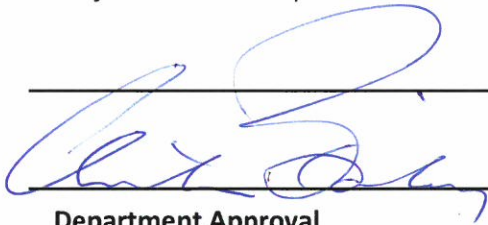
As Council is aware, the City currently delivers reclaimed water to the LBJ Municipal and Boot Ranch Golf Courses for irrigation. Both golf courses have priority use of the City's reclaimed water. With this understanding, the Frieden Development plans to fill a storage pond during the months reclaimed water is available, and irrigate common landscape areas with the water during drier months of the year.

The price of reclaimed water in the Agreement is equal to \$1.00 per 1,000 gallons.

City Staff recommends approving the Reclaimed Water Service Agreement with the Frieden Development to provide reclaimed water, in lieu of potable water, for irrigation of common landscape areas within the development.

Attachments:

Reclaimed Water Service Agreement
Project Location Map



Department Approval



City Manager Approval



City Attorney Approval

The City of Fredericksburg

RECLAIMED WATER UTILITY CONSTRUCTION AND SERVICE AGREEMENT

This Reclaimed Water Utility Construction and Service Agreement ("Agreement") is entered into by and between the City of Fredericksburg, Texas ("City") and Fredericksburg Development, Inc. ("Developer"), joined herein by its lienholder First United Bank & Trust Company, acting by and through its duly authorized officer _____, for the purpose of consenting to the provisions hereof (collectively the "Parties").

WHEREAS, Developer plans to purchase reclaimed water from the City's Water Reclamation Facility, to irrigate the Frieden Residential Common Areas and the Frieden Commercial Property; and

WHEREAS, it is in the public interest of the City to supply reclaimed water to Developer.

NOW, THEREFORE, in consideration of the mutual agreements set forth in this Agreement, and other good and valuable consideration, the Parties hereto agree as follows:

I. DEFINITIONS

- A. Calendar year. The twelve-month period beginning on January 1st and ending on the following December 31st, with calculated proration of costs for any partial year this Agreement is in effect.
- B. Code. The Code of Ordinances of the City of Fredericksburg, Texas, including any future amendments to said Code.
- C. Developer. Fredericksburg Development, Inc., owner of the Frieden Development, and its successors and/or assigns.
- D. Director. The Director of Public Works, or his/her designated representative.
- E. Frieden Residential Common Areas. The common areas that are appurtenant to, or otherwise directly benefit, any single family development within the Frieden Development.
- F. Frieden Commercial Property. Any commercial development within the Frieden Development.
- G. Frieden Development. An approximately 219 acre tract of land being developed by the Developer, to be known as Frieden, providing for both residential and commercial uses, more particularly described on the map attached hereto as Exhibit "A".
- H. Point of Delivery. The location where reclaimed water is delivered by the City to the Developer, after passing through a meter, the location of which is more particularly described on the map attached hereto as Exhibit "B".
- I. Project. The construction of an 8 inch water line, from the existing City water reuse line located along Friendship Lane, to Pond 2 Storage Facility located in the Frieden Development (the "Reuse Line"). The portion of the Reuse Line which runs from Friendship Street to the Point of Delivery will be owned, maintained, and operated by the City (the "City Services Line"). Any lines extending from the Point of Delivery to the Pond 2 Storage Facility will be owned, operated, and maintained by Developer (the "Developer Services Line"). The Project location is more particularly described on the map attached hereto as Exhibit "B".
- J. Reclaimed Water. Effluent water produced at the City of Fredericksburg's Water Reclamation Facility (WRF), processed to a minimum of Type II (two) classification as denominated by the Texas Commission on Environmental Quality ("TCEQ").

- K. Pond 2 Storage Facility Pond 2 Storage Facility is a storage pond designed for dual purpose: to hold Reclaimed Water delivered from the City, and to provide stormwater detention. Pond 2 Storage Facility has a clay liner and is approved by TCEQ to store both stormwater and reclaimed water.

II. GENERAL TERMS AND CONDITIONS

The Parties understand and agree that this Agreement, and the rights and duties created under this Agreement, are deemed to attach to the real estate of the Developer for the use, benefit and value of the Frieden Development, which duties and benefits shall run with the land and be binding upon the heirs, successors and assigns of the Parties. It is the intent of the Parties that the City Code be read together with the specific provisions of this Agreement, and are meant to be cumulative in effect and/or application. In the event of a conflict in effect and/or application between the specifications of this Agreement and the City Code, the provisions of this Agreement shall control.

A.1 Reservation of Capacity/Usage. Developer shall have a certain Reclaimed Water capacity reserved for the Frieden Development under this Agreement, for a period of twenty-five (25) years from the date of this Agreement, subject to the limitations set forth in this Agreement. The City shall deliver metered Reclaimed Water to Developer at the Point of Delivery. Developer shall purchase from City, but Developer will not be required to accept, a minimum of three million (3,000,000) gallons of Reclaimed Water per Calendar Year. Developer may purchase from the City up to twenty-five million (25,000,000) gallons per calendar year of Reclaimed Water, at the price specified in this Agreement. Developer shall not request or accept more Reclaimed Water than it can beneficially use. The City has determined that the City's Reclaimed Water production capacity is adequate to provide the amount of reclaimed water contracted for in this Agreement on an annual basis, however, the City does not guarantee that Reclaimed Water will be available in any particular daily or monthly amounts. Availability of Reclaimed Water for Developer may be limited by the total output of Reclaimed Water from the City's WRF, especially during the months of May, June, July, and August of each year. Developer's Reclaimed Water capacity reserved for the Frieden Development under this Agreement is subordinate to the City's Municipal Golf Course use of Reclaimed Water, the Boot Ranch Golf Course use of Reclaimed Water per use agreement with the City, and any other Reclaimed Water use agreements executed by the City prior to the execution of this Agreement. All available Reclaimed Water from the City's WRF will be allocated to users in the following order, according to the priority of use as follows: 1) City Municipal Golf Course; 2) Boot Ranch Golf Course; 3) any other Reclaimed Water use agreements executed by the City prior to the execution of this Agreement; and 4) for the Frieden Development under this Agreement. Notwithstanding the preceding or anything herein to the contrary, the City will deliver to Developer any available excess Reclaimed Water that is produced by the City's WRF and that exceeds the City's superior obligations to provide Reclaimed Water to the City Municipal Golf Course and third parties, to fill the Pond 2 Storage Facility to full capacity on May 1st of each year. It is the intent of Developer's entering into this Agreement that Pond 2 Storage Facility be at or near full capacity throughout the year but at the minimum be at full capacity on May 1st.

A.2 The City further reserves the right to temporarily reduce or interrupt the delivery of Reclaimed Water, when necessary in the event of identifying and correcting mechanical failures which affect the operation of the City's WRF or Reclaimed Water delivery system, or performing maintenance on same. The City also reserves the right to inspect the application and general compliance of the Developer's use with regards to the City's Reclaimed Water Authorization permit. In the event of any reduction or interruption of the delivery of Reclaimed Water under this Section II (A.2), Developer shall only be obligated to pay the City for Reclaimed Water actually delivered during the period of said reduction or interruption.

A.3 In addition to the amount of Reclaimed Water set forth in Section II (A.1) of this Agreement, Developer may purchase from the City additional excess Reclaimed Water, that is produced by the City's WRF and that exceeds the City's other obligations to provide Reclaimed Water to third parties, subject to any superior rights of other party to first purchase said Reclaimed Water. If there is no third-party offer to purchase excess Reclaimed Water, said excess Reclaimed Water may be purchased on a yearly basis, with no vested rights stated or inferred.

B. No Resale/Further Use by Developer. It is expressly agreed that this Agreement extends only to the supply of Reclaimed Water by City to Developer to irrigate the Frieden Residential Common Areas and

the Frieden Commercial Property. Developer shall not resale any Reclaimed Water to the single family residential lots within the Frieden Development, or to any other third party or for any purpose outside of the Frieden Development.

C. Statutes. This Agreement is in all respects subject to and limited by all Federal, state, and local laws, statutes, rules, permits and approvals.

D. Water Quality. The Reclaimed Water to be sold to Developer will be treated only to the minimum extent required by the Texas Commission of Environmental Quality (TCEQ), as the same may be changed from time to time, for reclaimed or effluent water, and any additional treatment of the Reclaimed Water on the site of the Frieden Development shall be at the cost and discretion of the Developer. The City specifically does not warrant or guarantee that such Reclaimed Water is fit for the use intended by Developer, or any use. Such determination is solely that of Developer, and the City is not responsible for any condition or damage to the Frieden as a result of the use of such Reclaimed Water. In the event it is determined that damage occurs due to the City being out of compliance with TCEQ requirements, the City shall not be liable to Developer for more than the amount paid to the City for the water under this Agreement for the twelve month period immediately preceding the date of the damage.

E. Plans. Except as hereinafter described, Developer shall be solely responsible, at Developer's sole cost and expense, for designing and constructing the Reclaimed Water service system as set forth in the Project to serve the Frieden Development. The plans and specifications for such systems must be approved by the City of Fredericksburg prior to commencement of construction. Construction of the systems shall be subject to inspection by the City and any other governmental or regulatory authority having the jurisdiction to approve plans and specification and construction of the water and wastewater systems.

F. Conveyance of the Systems. Once the Project has been approved by the City and construction thereof has been completed by Developer, Developer will, upon request of the City, convey to the City the ownership of all such part of the City Services Line system including easements for real and personal property, including but not limited to pipes, meters, valves, control panels and all other fixtures which are part of or related to the Project up to the Point of Delivery (but specifically excluding fee simple ownership in any land owned by Developer). With respect to that part of any Project being conveyed to the City, Developer will execute an affidavit, to the best of Developer's knowledge that no debt remains unpaid to any contractor, laborer, or material supplier which has or could result in a valid lien encumbering the system or creating a claim against it.

G. Other Conveyance. The Developer shall also convey all licenses, approvals, franchises, permits warranties and all other rights related to the facilities conveyed to City as are related to the ownership, operation and maintenance of the facilities. Provided, however, neither this Section II (G), nor this Agreement, shall require the Developer to convey to the City any of the water rights issued to Developer by the State of Texas.

H. City approval. All documents or instructions of conveyance, release, transfer or assignment required herein shall be in form and content reasonably acceptable to the City's attorney.

I. Time of connection. Upon the City's approval of design and construction of the system as described above, and Developer's construction and conveyance of the Project and easements and property to the City, the City shall permit Developer's connection to such Reclaimed Water delivery system to the City's Reclaimed Water line in Friendship Lane.

J. Frieden Residential Common Areas and Commercial Property Only. This Agreement extends and applies only to the provision of Reclaimed Water service to the Frieden Residential Common Areas and the Frieden Commercial Property. Developer warrants that Developer and/or Frieden Residential Community, Inc., a Texas not-for-profit corporation (the "Association") are currently the only owner of the Frieden Residential Common Areas and the Developer is currently the only owner of the Frieden Commercial Properties. This Agreement runs with the land and may be transferred with the Frieden Common Areas and the Frieden Commercial Properties, or either of them, if it is transferred by deed, or other recordable instrument, duly recorded in Gillespie County Official Public Records, to another owner or owners, the Association, or one or more other association of owners thereof. Any payments made by Developer to City

pursuant to this Agreement, shall be applied by the City for the benefit of the transferee or assignee. Any future owner of a parcel within the Frieden Development may utilize the reclaimed water service, without any assignment of rights under this Agreement to said owner, so long as said use does not extend to residential lots within the Frieden Development (other than the Frieden Residential Common Areas) or to any property outside of the Frieden Development.

III. CONSTRUCTION AND ALLOCATIONS

A. The Developer hereby agrees to submit a Plan for Construction ("Plan") to the Director. The Plan shall substantively address proposed routing for the Reuse Line. The City must approve the Plan prior to construction, and the same shall become a part of this Agreement. The City's approval in all respects as to system location, size, grade and elevation is a condition precedent to any construction and further obligation of the City.

B. All construction shall be in accordance with the City Construction Codes and any amendments, revisions, recodification thereto, that specifically relate to the City's water and wastewater system. The provision of the services contemplated by this Agreement does not place the land served thereby within the City's water/sewer state certificated service area.

C. The specific responsibilities of easement acquisition and construction shall be as follows:

Developer shall design and construct all related and required appurtenances to Reuse Line, including but not limited to those which will connect the Reuse Line to the City Services Line, and which will control and measure flow, control infiltration, and provide storage, if necessary, of a size in Developer's sole discretion necessary to meet the needs of the Frieden Development. Additionally, Developer shall design and install at the Point of Delivery a meter of adequate size to measure delivered Reclaimed Water within five (5%) accuracy. Once each year, Developer may request the City to have the meter recalibrated. The recalibration shall be performed in the presence of a representative of the Developer, and the Parties shall jointly observe any adjustment that shall be necessary. If, upon any test, the percentage of error is found to be in excess of five (5%) percent, registration thereof shall be corrected for a period extending back to the time when the inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason the meter is out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from a reading thereof, the water delivered for this period shall be estimated and agreed upon by the Authorized Representative of the City and the Developer based on the best data available. Developer shall have access to the metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by employees or agents of the City. For the purposes of this Agreement, the original record of reading of the meter shall be in discharge records of the City. Upon written request of the Developer, the City will give the Developer a copy of the discharge records or permit the Developer to have access to same during reasonable business hours in the office of the City wherein such records are customarily kept.

C.1 Intentionally omitted.

C.1.A Intentionally omitted.

C.1.B Intentionally omitted.

C.2 Should City or Developer desire to have capacity in the system in excess of that required by Developer, then either shall have the right, with the City's prior approval, to oversize any line at such Parties' cost. Such additional capacity shall be agreed upon by Developer and the Director, in writing, prior to any construction of oversize lines. The construction cost for the City's required oversizing is to be ascertained and agreed to by the City and Developer prior to any construction of the on-site and/or offsite systems.

C.3 The Developer shall perform/pay all costs associated with the design, materials, acquisition and construction of the Project except as designated herein as the responsibility of the City.

D. Following the completion of construction Developer shall provide a two (2) year warranty acceptable to the City, which will guarantee maintenance for the time and in the amount required by the City's development ordinances for all systems dedicated to the City. In the event of the failure of the same for any reason, the City shall not be obligated to repair the guaranteed item even if the failure causes interruption of Reclaimed Water service. With the City's permission, which shall not be unreasonably withheld, Frieden Development personnel shall have access to all components of the Frieden Development Reclaimed Water delivery system, including Reclaimed Water flow metering equipment.

E. Developer shall dedicate, grant and convey all easement interests of the Developer in the realty and all right, title and interest of the Developer in personality associated with the Project required by this Agreement to the City upon their completion and acceptance by the City. The City shall thereafter own, operate and maintain said Project systems as noted in the Point of Delivery. Upon acceptance of the dedication of such improvements and easements, the City shall be obliged to supply Reclaimed Water service to the Frieden Common Areas within a thirty (30) day period. The above notwithstanding, it is specifically acknowledged and agreed to by both Parties that, such obligation to provide such service within such period does not require the construction of a specific facility other than those contemplated herein.

F. No water from the City's potable water distribution system shall be used to irrigate any area of the Frieden Residential Common Areas, at any time, without prior approval of the City of Fredericksburg, with the exception of the portion of the Frieden Residential Common Area, being an approximate one thousand (1000) square yard island and entrance monument, located at the US 87 entrance to the Frieden Development.

G. Developer shall acquire a vested right to capacity in the Reclaimed Water provision servicing the Frieden Common Areas in the amount herein established, upon completion of the contemplated construction of the Project.

IV. MONTHLY SERVICE FEES, PENALTIES, OTHER CONSIDERATION

A.1. Service Fees. The Reclaimed Water will be sold to Developer, its successors or assigns, based on a unit price per 1,000 gallons, delivered at the Point of Delivery, derived from the cost of delivery incurred by the City plus twenty-five percent (25%). The price of the Reclaimed Water shall be set initially at one dollar (\$1.00) per 1,000 gallons beginning the date of this executed Agreement, and then adjusted annually based on the previous calendar year's actual cost of delivery incurred by the City, plus twenty-five (25%) percent, but shall not be less than one dollar (\$1.00) per 1,000 gallons. The cost of delivery shall include, but is not limited to, pumping power costs, the normal operation and maintenance costs required for pumping the Reclaimed Water to the Point of Delivery, for maintenance/and or replacement of lines, repair and maintenance of equipment and future requirements, if any, of TCEQ or other regulatory agency with jurisdiction other than the City.

A.2. Capital Expense. Any maintenance or replacement costs on the City Services Line will be the responsibility of the City. Developer will be responsible for maintenance and replacement of the Developer Service Line. All repair, maintenance, replacement, contractors, material, engineering and the like shall be approved by the City prior to commencement, and shall be to City standards.

B. Payments for Reclaimed Water made more than 31 calendar days following the due date set forth on the invoice for the same shall bear interest at the rate of 18% per year. In the event that timely payment is not made, the service will be subject to disconnection in accordance with the procedures set forth in the ordinance of the City of Fredericksburg for its water/wastewater system as the same may be amended from time to time.

C. The above penalties and disconnect right following notice shall be in addition to any other remedy for breach of the terms of this Agreement by Developer.

V. CONSTRUCTION PROCEDURE

The award of the construction contracts by the Developer shall be in accordance with the following procedures:

- A. All plans to be submitted to the Director and approved prior to construction.
- B. It is agreed that all engineering shall be accomplished by the respective engineers of the Parties and the respective contracts between the entities and the engineers shall require cooperation in this Project, insurance against public liability, naming the City as an additional insured as to the off-site construction, and complete indemnity as to damage that may be caused during construction.
- C. It is agreed that the engineering inspection for the City owned portion of the Project will be completed by the City.
- D. Submit as-built final construction drawings to the City.

VI. CITY'S OBLIGATIONS OF PERFORMANCE CONDITIONED

The obligations of the City herein to render services for the provision of Reclaimed Water is conditioned upon all Federal, state, and local laws, statutes, rules, permits and approvals. Developer recognizes and acknowledges that if the Federal, state, and local laws, statutes, rules, permits and approvals that are in effect upon the execution date of the Agreement are ever revised or amended to such an extent that the City may be incapable of or prevented from transporting and/or treating the Reclaimed Water as hereby contemplated, then no liability of any nature is to be imposed upon the City resulting from the City's compliance with such legal or regulatory mandated actions which are beyond the City's control. In the event the City is so prevented from servicing the Project, the City will cooperate with Developer in the timing and turnover of services to a new provider to cause the least interruption.

VII. Intentionally Deleted

VIII. Intentionally Deleted

IX. EVENT OF FORECLOSURE

In the event Developer's interest in the Frieden Common Areas is extinguished by an act of foreclosure, and the foreclosing party has supplied sufficient evidence to the City Attorney's office that they are the successor in interest to the property as a result of such foreclosure, and that there are no lawsuits pending concerning the property, the City shall consider the foreclosing party a successor in interest under the following terms and conditions:

- A. The foreclosing party enters a Reclaimed Water service contract with the City with the same conditions as this original Agreement, for the remainder of the original Agreement's term.
- B. The Director determines that such new contract will not be adverse to the City's ownership and operation of its water and wastewater systems.
- C. Developer's lienholder agrees that the rights and obligations hereof are superior to its lien, and in the event of foreclosure, or other action in lieu thereof, the rights and obligations of this Agreement shall not be extinguished but shall be binding on any subsequent owner. The provisions hereof shall attain only in the event of a bona fide foreclosure, and not one attained to avoid the assignment of contract provisions above.

X. SEVERABILITY

If for any reason, any one or more paragraphs of this Agreement are held legally invalid; such judgment shall not prejudice, affect, impair or invalidate the remaining paragraphs of the Agreement or the Agreement as a whole, but shall be confined to the specific sections, clauses or paragraphs of this Agreement held legally invalid.

XI. TIME FOR CONSTRUCTION

It is the Parties' desire that all construction for the Reclaimed Water lines shall be completed before December 2021.

XII. CONDITIONS PRECEDENT TO TERMINATION OR DECLARATION OF A BREACH OF CONTRACT

A. If either party finds that the other party is in breach or default under this Agreement, it shall notify the other party of such breach or default giving the other party at least thirty (30) calendar days to cure such breach or default in performance, and in the event the same is not cured, the non-defaulting party may terminate the Agreement. In the event of default by Developer, the City will release all systems within the Project on Developer's property if the same have been dedicated but shall not release ownership of any off site or any attendant off site easements located off of Developer's property. In the event of default by Developer during the construction phase of this Agreement, any improvements which have been made within the City's easements or on other City property shall become the City's property.

B. Notwithstanding other provisions herein to the contrary, Developer shall have the right to terminate this Agreement upon 90 days written notice, and in such event, Developer agrees to provide, at Developer's expense, the easements and infrastructure necessary to route the service off of the Frieden Development.

C. In the event of a termination of this Agreement by Developer or any successor of Developer, for any reason except City's default, there shall be no right of reimbursement for any money expended by Developer or any right of recoupment for damages for any reason.

XIII. INDEMNITY

AS A MATERIAL INDUCEMENT FOR THE PROVISION OF RECLAIMED WATER UNDER THIS AGREEMENT, DEVELOPER DOES HEREBY AGREE, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS TO, AND DOES HEREBY, INDEMNIFY THE CITY AND HOLD THE CITY HARMLESS FROM ANY AND ALL LIABILITY, LOSS, COST, DAMAGE AND EXPENSE OF EVERY KIND, INCLUDING ATTORNEYS' FEES, AND INCLUDING ANY DERIVATIVE CLAIMS THE DEVELOPER MAY HAVE, WHICH THEY OR EITHER OF THEM SHALL OR MAY SUFFER OR INCUR OR BECOME LIABLE FOR, TO THE EXTENT ANY SUCH LIABILITY, CLAIM, LOSS OR EXPENSE, DIRECTLY OR INDIRECTLY ARISES OUT OF THE RECLAIMED WATER OR THE USE OF THE SAME BY DEVELOPER, ITS AGENTS, EMPLOYEES OR OTHER PERSONS OR ENTITIES UNDER THE CONTROL OF OR WITH PERMISSION OF THE DEVELOPER, INCLUDING ANY AND ALL FILED, ALL UNFILED, AND ALL INCHOATE CLAIMS WHICH NOW EXIST OR ARISE HEREAFTER. "LIABILITIES" SHALL INCLUDE ALL CLAIMS, DAMAGES, LOSSES, FINES, PENALTIES, LIENS CAUSES OF ACTION, SUITS, JUDGMENTS, SETTLEMENTS AND EXPENSES, INCLUDING COURT COSTS, ATTORNEY'S FEES (INCLUDING ATTORNEY'S FEES IN DEFENDING AND/OR SETTLING A CLAIMED LIABILITY AND ATTORNEY'S FEES TO COLLECT ON THIS INDEMNITY), AND COSTS OF INVESTIGATION OF ANY NATURE, KIND OR DESCRIPTION BY, THROUGH OR OF ANY PERSON OR ENTITY, INCLUDING PROPERTY LOSS OR DAMAGE, PERSONAL INJURY AND/OR DEATH.

THE DEVELOPER AT THE DEVELOPER'S EXPENSE SHALL ASSUME ON BEHALF OF CITY AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE OF ANY INDEMNIFIED LIABILITIES. THE DEFENSE SHALL BE BY COUNSEL SATISFACTORY TO THE CITY. IN THE EVENT OF THE FAILURE OF DEVELOPER TO FULLY PERFORM IN ACCORDANCE WITH THIS INDEMNIFICATION, THE CITY AT ITS OPTION, AND WITHOUT RELIEVING THE DEVELOPER OF ITS

OBLIGATIONS HEREUNDER, MAY PERFORM OR ATTEMPT TO PERFORM, SETTLE OR SATISFY THE LIABILITY OR CLAIM OF LIABILITY, AND IN SUCH CASE ALL SETTLEMENTS PAID, COSTS AND EXPENSES (INCLUDING ATTORNEY'S FEES) SO INCURRED BY CITY SHALL BE REIMBURSED BY THE DEVELOPER TO THE CITY TOGETHER WITH INTEREST. INTEREST SHALL ACCRUE ON THE AMOUNT SO EXPENDED BY CITY FROM THE DATE ANY SUCH AMOUNT WAS PAID BY CITY UNTIL REIMBURSED BY THE DEVELOPER, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS BY THE LAW OF THE STATE OF TEXAS.

IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE DEVELOPER'S HOLD HARMLESS AND INDEMNITY SHALL APPLY TO ANY AND ALL INDEMNIFIED LIABILITIES.

XIV. NOTICES

Any notice, request, demand, report, certificate or other instrument which may be required or permitted to be furnished to or served upon the Parties shall be deemed sufficiently given or furnished to or served if in writing and deposited in the United States mail, registered or certified, postage paid, return receipt requested, and addressed to such party at the addresses set forth below:

IF TO CITY OF FREDERICKSBURG:

City of Fredericksburg
ATTN: City Manager
126 W. Main Street
Fredericksburg, Texas 78624

IF TO DEVELOPER;

Fredericksburg Development, Inc.
1250 N.E. Loop 410, Suite 333
San Antonio, TX 78209

or such other address or addresses designated by either party from time to time, by written notice to the other party.

Without affecting the validity of the service of any notice, request, demand, report, certification or other instruments, copies thereof intended for the Parties shall be sent to their respective counsel as follows:

IF TO THE CITY OF FREDERICKSBURG:

City of Fredericksburg
ATTN: City Attorney
126 W. Main
Fredericksburg, Texas 78624

IF TO THE DEVELOPER:

Norman & Oliver, P.C.
7373 Broadway, Suite 504
San Antonio, Texas 78209
Attn: Jim Norman

or such other counsel as may be hereafter designated by either party from time to time, by written notice to the other party.

XV. TERM OF AGREEMENT

Subject to the terms of this Agreement, this Agreement shall remain in effect for a period of twenty-five (25) years from the date of execution of this Agreement, so long as Developer, Developer's successors or

assigns maintains the Frieden Common Areas. Developer shall have the right to renew the Agreement for delivery of Reclaimed Water for an additional period, not less than five years, at a price, as negotiated between the Parties at the time, and if the City desires to continue selling reclaimed water. In the event a bona fide third-party offer is in place at the time of renewal, Developer shall have the right of first refusal for the quantity of Reclaimed Water allocated to the Developer under Section II (A.1) of this Agreement.

XVI. INCORPORATION OF DOCUMENTS AND ATTACHMENTS

All documents and other materials that are either attached hereto, or referenced therein, are incorporated into this Agreement as an inseparable part hereof, by such reference thereto, and this Agreement shall be construed to include all of any such attached or referenced documents and other materials unless the contrary shall have been provided herein.

(remainder of page intentionally blank)

IN WITNESS OF WHICH THIS AGREEMENT HAS BEEN EXECUTED IN DUPLICATE ON THE _____ DAY OF _____, 20____.

CITY OF FREDERICKSBURG

By: _____

Agreed by Lienholder:

FREDERICKSBURG DEVELOPMENT, INC.

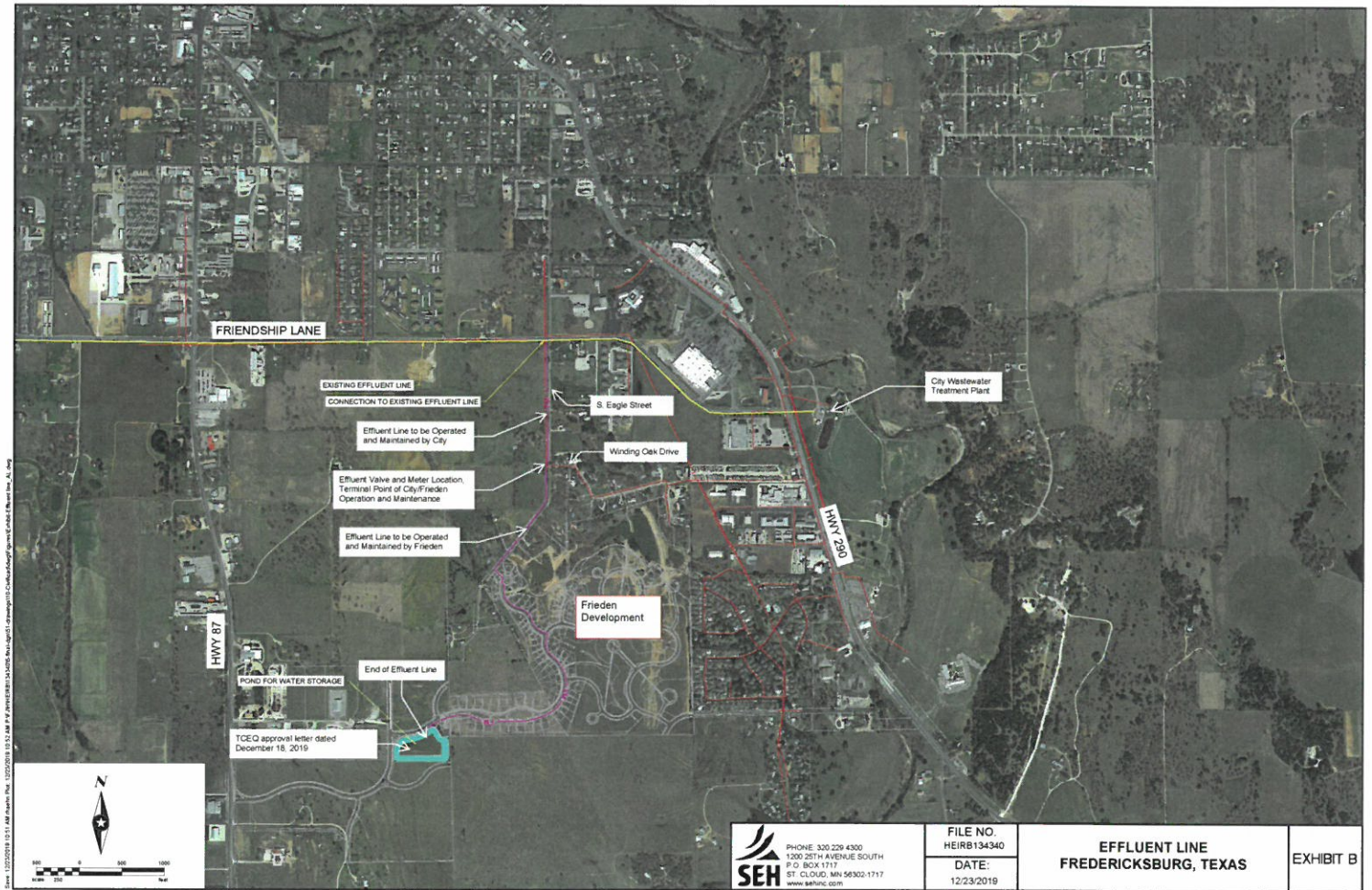
By: _____

By: _____

Print Name: _____

By its: _____

Office Held: _____



Future Agenda Items

City Council

November 16, 2020

Regular Meeting

City Council = Red

2nd and 16th Regular Meetings @ 6p.m.

Special Mtgs 9th @ TBA

Planning & Zoning = Green 11-11-2020 @ 5:30 p.m.

Historic Review Board = Purple 11-4-2020 @ 5:30 p.m.

Board of Adjustment = Blue 11-12-2020 @ 5:30 p.m.

City Events = Yellow

November 3, 2020 Election Day (voting at your Precinct)

Veteran's Day

Sun	Mon	Tues	Wed	Thur	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Proclamation

Consent

1. 10-19-2020, City Council Regular Meeting Minutes
2. 11-2-2020 City Council Regular Meeting Minutes

Ordinances

1. PUD and Zoning Change at 202 E. Ufer Street (Ken Carr)

Resolutions

Public Hearing

1. CUP 257 W. Main Street for a standardized business (Justin Cop)
2. CUP, PUD and Zoning Change at 202 E. Ufer Street (Ken Carr)
- 3.

Approvals-Misc.

1. CUP 257 W. Main Street for a standardized business (Justin Cop)
2. CUP at 202 E. Ufer Street (Ken Carr)
3. Appointment to the Airport Zoning Board
4. Special events moratorium (outdoor gathering of 75 or more)

Presentations, Discussions and Updates:

1. COVID-19 Update

Executive Session

December 7, 2020 Regular Meeting

City Council = Red

7th and 21st Regular Meetings @ 6p.m.

Special Mtgs 9th @ TBA

Planning & Zoning = Green 11-11-2020 @ 5:30 p.m.

Historic Review Board = Purple 11-4-2020 @ 5:30 p.m.

Board of Adjustment = Blue 11-12-2020 @ 5:30 p.m.

City Events = Yellow

Sun	Mon	Tues	Wed	Thur	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Proclamation

Consent

1. 11-16-2020 City Council Regular Meeting Minutes

Ordinances

Resolutions

Public Hearing

Approvals-Misc.

1. Stop Loss -
2. Sidewalk contract award.
3. Electric Meter Replacement Project Award.
4. Electric Meter Financing Award.

Presentations, Discussions and Updates:

- 2.

Executive Session