



**AGENDA
CITY COUNCIL REGULAR MEETING
CITY COUNCIL CHAMBERS
5803 THUNDERBIRD
LAGO VISTA, TX
APRIL 20, 2023 AT 5:30 PM**

JOIN MEETING VIA VIDEO CONFERENCE

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CALL TO ORDER, CALL OF ROLL

Ed Tidwell, Mayor
Paul Prince, Mayor Pro-Tem
Gage Hunt, Council Member
Kevin Sullivan, Council Member

Rob Durbin, Council Member
Chelaine Marion, Council Member
Paul Roberts, Council Member

EXECUTIVE SESSION

Convene into a closed Executive Session pursuant to;

- A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).

ACTION ON EXECUTIVE SESSION ITEMS (action and/or vote may be taken on the following agenda items):

Reconvene from Executive Session into open session to act as deemed appropriate in City Council's discretion regarding:

- A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071)

PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG

CITIZEN COMMENTS

In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

To participate in the citizen comments portion of the meeting, you must submit a completed form. If you are attending the meeting in the City Council Chambers you must complete the form available at that location and provide it to the Mayor prior to the start of the meeting. If you will be participating using the online videoconferencing tool, you must complete the form and submit it by email in accordance with the instructions included within the form. It is found on the City's website at the link below. The Council will reconvene from executive session at or around 6:30 p.m.

[Citizen Participation Registration Form](#)

ITEMS OF COMMUNITY INTEREST

Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expression of thanks, gratitude, and condolences.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e. Proclamations.
- d. Reminders regarding City Council events.
- e. Reminders regarding community events.
- f. Health and safety announcements.

STAFF AND COUNCIL LIAISON REPORTS

1. Routine Reports from City staff.
2. Routine Reports from City Council Board/Commission/Committee Liaisons.

DISCUSSION ITEMS

3. Discussion regarding proposed extension of water and wastewater lines to property outside the City limits and possible annexation of a platted lot of approximately 5.393 acres of land located at 20100 Alfalfa Drive.
4. Receive an update regarding the CapMetro Bill.

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

5. Consider approval of the April 6, 2023, meeting minutes.
6. Consider approval of Ordinance 23-04-20-01, an Ordinance of the City Council of the City of Lago Vista repealing Ordinance No. 22-09-01-01.

ACTION ITEMS

7. Discussion, consideration and possible action regarding a request from Lago Vista Independent School District for the City to review the permit fee price for the construction of the Student Activity Center permit and reconsider the quoted fee price.

8. Discussion, consideration, and possible action regarding an application to the City Council for a variance in the maximum display area resulting from the conversion of the base of an existing monument sign located at 6400 Lohman Ford Road (Lago Vista Subdivision, Section 2, Lot 6A) into an additional multitenant display area and for relief from the required minimum setback for that existing sign base.
9. Discussion, consideration, and possible action authorizing the City Manager to begin preparing documents needed for the issuance of certificate of obligation bonds related to effluent disposal and wastewater treatment.
10. Discussion, consideration, and possible action on approving the paving plan for City streets and authorizing staff to start preparing it for inclusion in a future proposed certificate of obligation issuance.
11. Discussion, consideration and possible action regarding a future election for a General Obligation Bond to renovate the Lago Vista Golf Course.
12. Discussion, consideration and possible action on Resolution No. 23-1994, a Resolution of the City Council of the City of Lago Vista authorizing opposition to Legislative changes relating to H.B. 866, 1489, 2127, 2266, 2970, 3921, and S.B. 175, 814, 1412, 1421, 1786, 1787.
13. Discussion, consideration, and possible action authorizing the City Manager to enter into an agreement with LCRA for the purchase of raw or untreated water.

ADJOURNMENT

IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at 5:48 p.m. on the 13th day of April 2023.

Lucy Aldrich, City Secretary

THIS MEETING SHALL BE CONDUCTED PURSUANT TO THE TEXAS GOVERNMENT CODE SECTION 551.001 ET SEQ. AT ANY TIME DURING THE MEETING THE COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION ON ANY OF THE ABOVE POSTED AGENDA ITEMS IN ACCORDANCE WITH THE SECTIONS 551.071, 551.072, 551.073, 551.074, 551.075 OR 551.076.

THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.

AT THIS MEETING AT THE STATED LOCATION, A QUORUM OF THE CITY COUNCIL WILL BE PHYSICALLY PRESENT, AND THIS NOTICE SPECIFIES THE INTENT TO HAVE A QUORUM PRESENT THERE, AND THE MEMBER OF THE CITY COUNCIL PRESIDING OVER THE MEETING WILL BE PHYSICALLY PRESENT AT THAT LOCATION. ONE OR MORE MEMBERS OF THE CITY COUNCIL MAY PARTICIPATE IN THIS MEETING REMOTELY, AND IF SO, VIDEOCONFERENCE EQUIPMENT PROVIDING TWO-WAY AUDIO AND VIDEO DISPLAY AND COMMUNICATION WITH EACH MEMBER WHO IS PARTICIPATING BY VIDEOCONFERENCE CALL WILL BE MADE AVAILABLE.



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	April 20, 2023
SUBMITTED BY:	Lucy Aldrich, City Secretary
SUBJECT:	Routine Reports from City staff.
FINANCIAL IMPACT:	N/A



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Lucy Aldrich, City Secretary

SUBJECT: Routine Reports from City Council
Board/Commission/Committee Liaisons.

FINANCIAL IMPACT: N/A



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	April 20, 2023
SUBMITTED BY:	Tracie Hlavinka, City Manager
SUBJECT:	Discussion regarding proposed extension of water and wastewater lines to property outside the City limits and possible annexation of a platted lot of approximately 5.393 acres of land located at 20100 Alfalfa Drive.
BACKGROUND:	Mr. Lawless, owner of the property, made a request through Mayor Tidwell to come before City Council to present his request for a proposed extension of water and wastewater lines to his property outside the City limits and a possible annexation of a platted lot of approximately 5.393 acres of land located at 20100 Alfalfa Drive.
FINANCIAL IMPACT:	N/A



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CITY COUNCIL AGENDA ITEM REPORT

DATE:	April 20, 2023
SUBMITTED BY:	Tracie Hlavinka, City Manager
SUBJECT:	Receive an update regarding the CapMetro Bill.
FINANCIAL IMPACT:	N/A



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CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Lucy Aldrich, City Secretary

SUBJECT: Consider approval of the April 6, 2023, meeting minutes.

FINANCIAL IMPACT: N/A

ATTACHMENTS:
[Minutes 04-06-2023](#)

**OFFICIAL MINUTES OF THE CITY COUNCIL
REGULAR MEETING
THURSDAY, APRIL 6, 2023**

BE IT REMEMBERED that on the 6th day of April A.D., 2023, the City Council held a regular meeting at 5:30 p.m. in City Council Chambers, and via videoconference, there being present and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Gage Hunt	Council Member	Paul Roberts	Council Member
Kevin Sullivan	Council Member	Paul Prince	Council Member
Rob Durbin	Council Member		

CALL TO ORDER, CALL OF ROLL

Mayor Tidwell called the meeting to order at 5:30 p.m. and announced that all council members are present.

EXECUTIVE SESSION

1. At 5:32 p.m., Council convened into a closed Executive Session pursuant to;
 - A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071)
 - B. Consultation with Legal Counsel regarding the Water Treatment Plant 3 property. (Government Code Section 551.071 and Government Code Section 551.072)
 - C. Consultation with Legal Counsel regarding Cause No. D-1-GN-23-001164 in the 455th Travis County District Court, Caelum Capital, LLC, v. City of Lago Vista. (Government Code Section 551.071)
 - D. Consultation with Legal Counsel regarding dormant Planned Development Districts (PDD). (Government Code Section 551.071)
 - E. Consultation with Legal Counsel discussing the role of individual council members in legislating, governing, and investigating and discussing the rules regarding the same. (Government Code Section 551.071)

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

2. At 6:31 p.m., Council reconvened from Executive Session into open session, to act as deemed appropriate in City Council's discretion regarding;
 - A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071)
No action was taken but directions were given to City Manager to bring an ordinance to City Council repealing Ordinance 22-09-01-01 in regard to Agenda Item #9.

B. Consultation with Legal Counsel regarding the Water Treatment Plant 3 property. (Government Code Section 551.071 and Government Code Section 551.072)
No action taken.

C. Consultation with Legal Counsel regarding Cause No. D-1-GN-23-001164 in the 455th Travis County District Court, Caelum Capital, LLC, v. City of Lago Vista. (Government Code Section 551.071)
No action taken.

D. Consultation with Legal Counsel regarding dormant Planned Development Districts (PDD). (Government Code Section 551.071)
No action taken.

E. Consultation with Legal Counsel discussing the role of individual council members in legislating, governing, and investigating and discussing the rules regarding the same. (Government Code Section 551.071)
No action taken.

PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG

Mayor Tidwell led the Pledge of Allegiance and Pledge to Texas Flag.

04:54 – 05:17

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

No one signed up to speak.

05:18 – 22:26

ITEMS OF COMMUNITY INTEREST: Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
None to report.
- b. Information regarding holiday schedules.
None to report.
- c. Recognition of individuals, i.e., Proclamations.
Students and Teachers from Lago Vista School District were recognized for their recent awards and accomplishments.
Mayor Tidwell presented a Proclamation to the Lago Vista Police Department recognizing the week of April 9-15, 2023 as Nation Public Safety Telecommunicators Week.
- d. Reminders regarding City Council events.
None to report.
- e. Reminders regarding community events.
Lago Fest, April 22, 2023.
Balcones Canyonlands National Wildlife Refuge, Songbird Festival, April 21-23.
Northlake Church, Lago Egg Drop, April 8, 2023.
Farmers Market, Plant Swap, April 8, 2023.

Golf Tournaments at Lago Vista Golf Course: LVES PTO Tournament, April 16, 2023; WGA Eclectic Tournament, April 18 & 19, 2023; and CAPPS School Tournament, April 18 & 19, 2023.

2023 Texas Trash- Off, April 15, 2023.

North Lake Travis Chamber Luncheon with a keynote address presented by the Office of the Governor's Small Business Team and Texas Economic Development and Tourism, April 19, 2023.

Lions Club Blood Drive, April 15, 2023.

Lions Club Golf Tournament, May 5, 2023.

f. Health and safety announcements.

Lake Travis remains below normal lake levels.

Sewer averages have been calculated and are reflected on the water bills.

Mulch is available at the Green Center.

STAFF AND COUNCIL LIAISON REPORTS

22:36 – 24:24

1. Routine Reports from City Staff.

No action taken.

24:26 – 33:19

2. Routine Reports from City Council Board/Commission/Committee Liaisons.

No action taken.

CONSENT AGENDA

33:20 – 35:02

3. Consider approval of the March 2, 2023, meeting minutes.

5. Consider approval of the March 23, 2023, special meeting minutes.

6. Consider approval of the March 27, 2023, special joint meeting minutes.

7. Consider approval of a request by Northlake Church to locate three temporary electronic message centers in the Lohman Ford Road right-of-way to publicize their third annual "Lago Egg Drop" to be conducted on April 8, 2023, at the LVHS Football Stadium.

8. Consider approval authorizing the City Manager to purchase a 2022 Chevrolet 5500 heavy haul truck for \$67,400 that was approved in FY-23's Water Services Budget.

Mayor Pro-Tem Prince and Councilor Marion requested that consent agenda item 4 be pulled for separate consideration.

On a motion by Mayor Pro-Tem Prince, seconded by Councilor Roberts, City Council voted unanimously to approve consent agenda items 3, 5, 6, 7, and 8. Motion carried.

35:03 – 37:14

4. Consider approval of the March 16, 2023, meeting minutes.

Mayor Pro-Tem Prince requested a correction to the March 16, 2023, meeting minutes agenda item #2 Routine Reports from City Council Board/Commission/Committee Liaisons.

Councilor Marion identified that the same minutes did not reflect her excused absence. On a motion by Mayor Pro-Tem Prince, seconded by Councilor Marion, City Council voted unanimously to approve agenda item #4 as discussed. Motion carried.

Mayor Tidwell announced that Agenda Item #12 would be next on the agenda.

ACTION ITEMS

37:32 – 1:07:20

12. Discussion, consideration and possible action regarding an outdoor archery range located at Sunset Park from David Snyder.

Requestors of the outdoor archery range, Mr. David Snyder and his business associates, were available to provide additional information and answer questions.

Mayor Tidwell read a statement from Ms. Lia Coryell in support of the agenda item.

On a motion by Mayor Pro-Tem Prince, seconded by Councilor Roberts, City Council voted unanimously authorizing the City Manager to development an agreement with Mr. Snyder which would be brought back to City Council for further consideration and possible action. Motion carried.

Mayor Tidwell announced that Agenda Item #14 would be next on the agenda.

1:08:03 – 1:37:05

14. Discussion, consideration and possible action regarding response to the U.S. Department of Transportation, Federal Aviation Administration, Office of Airport Compliance and Management Analysis letter requesting exemption under 49 U.S.C. Section 47107(s)(3) at Lago Vista Rusty Allen Airport (RYW) concerning residential through the fence (RTTF) activities.

Councilor Durbin, who has been directed to be the lead on this subject by City Council was available to provide additional information and answer questions.

Mr. James Peck, Vice-Chair of the Airport Advisory Board and President of the Rusty Allen Airport Property Owners' Association spoke in support of the agenda item.

On a motion by Councilor Durbin, seconded by Councilor Marion, City Council voted 6 ayes to 1 nay, with Councilor Sullivan in opposition approving submission of the letter presented by Councilor Durbin with the amendments proposed by Mayor Pro-Tem Prince to the FAA. Motion carried.

Mayor Tidwell announced that Agenda Item #9 would be next on the agenda.

PUBLIC HEARING AND POSSIBLE ACTION

1:37:15 – 1:42:47

9. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the existing Planned Development District (PDD) approval applicable to the property located at 1900 American Drive and known as "The Peninsula" regarding the list and description of permitted uses for the "Condominiums Parcels;" and providing for related matters. (Tabled from March 2, 2023 and March 16, 2023) This item has been tabled at the last two meetings pending attendance of all council members for consideration and action on the item. The applicant withdrew their application on March 30, 2023.

The City Council recognized the withdrawal, and no action was taken.

Mayor Tidwell recognized the following citizens to hear their comments on the agenda item:

Ms. Jill Piasecki spoke on the agenda item.

Ms. Lynda Aird spoke on the agenda item.

1:42:48 – 2:00:34

10. The Lago Vista City Council will hold a public hearing and consider Ordinance 23-04-06-01; an Ordinance of the City Council of Lago Vista, Texas amending Section 1.12, Section 2.15, and Section 4.21 of Chapter 10 of the Lago Vista Code of Ordinances to amend the maximum number of lots that can be included in a preliminary subdivision plat without prior approval of a concept plan, and to clarify what divisions of property are considered lots for the purpose of that requirement.

The public hearing was opened at 8:12 p.m.

Roy Jambor, Director of Development Services, was available to provide additional information and answer questions.

No one signed up to speak.

The public hearing was closed at 8:28 p.m.

On a motion by Mayor Pro-Tem Prince, seconded by Councilor Marion, City Council voted unanimously to approve Ordinance 23-04-06-01 as presented. Motion carried.

ACTION ITEMS

2:00:37 – 2:01:09

11. Discussion, consideration and possible action approving Resolution 23-1994; "A Resolution by the City Council of the City of Lago Vista, Texas, Providing for a Public Hearing and Notice of Intent to Issue Special Assessment Revenue Bonds, Series 2023 (Tessera on Lake Travis Public Improvement District Improvement Area #3 Project) as Required by the City's Home Rule Charter; Providing an Effective Date; and Containing Other Matters Relating to the Subject".

Agenda item #11 was pulled from consideration.

Mayor Tidwell announced that Agenda Item #13 would be next on the agenda.

2:01:10 – 2:34:13

13. Discussion, consideration and possible action, including remediation by the City of Lago Vista, ensuring compliance with an order issued by the Building and Standards Commission regarding the dangerous condition of Lot C1A of Lago Vista Travis Plaza Subdivision, also known as 5603 Lago Vista Way.

Mr. Jim Mattox spoke on the agenda item.

Ms. Janet Mattox spoke on the agenda item.

Ms. Shaheen Hasan spoke on the agenda item.

On a motion by Councilor Roberts, seconded by Councilor Marion, City Council voted unanimously authorizing Lago Vista Code Enforcement to obtain the repair and/or securing of the building/structure, and to file a lien against such property for the cost and expense. Motion carried.

2:34:18 – 2:50:52

15. Discussion, consideration and possible action regarding Ordinance 23-04-06-02; an Ordinance of the City Council of the City of Lago Vista, Texas, amending the Code of Ordinances by repealing the existing sign regulations in Article 4.800 of Chapter 4, reenacting new sign regulations as Chapter 5, consolidating all building and fire code regulations in Chapter 3, and reserving Article 4.800 of Chapter 4 for future use.

On a motion by Councilor Roberts, seconded by Councilor Marion, City Council voted unanimously to approve Ordinance 23-04-06-02 as presented. Motion carried.

2:20:56 – 2:56:53

16. Discussion, consideration and possible action approving an emergency expense in the amount of \$54,000 for T.F.R. Enterprises, Inc. to chip and haul away brush collected from Winter Storm Mara.

On a motion by Mayor Pro-Tem Prince, seconded by Councilor Hunt, City Council voted unanimously to approve the expense with T.F.R. Enterprises, Inc. Motion carried.

2:56:56 – 3:23:54

17. Discussion, consideration and possible action authorizing the City Manager to enter into an agreement with LCRA for the purchase of raw water from Lake Travis.

On a motion by Councilor Roberts, seconded by Sullivan, City Council voted unanimously to table the agenda item directing City Manager Tracie Hlavinka to bring this agenda item back addressing the questions that City Council have asked. Motion carried.

ADJOURNMENT

Mayor Tidwell adjourned the meeting at 9:53 p.m.

Respectfully submitted,

Ed Tidwell, Mayor

ATTEST:

Lucy Aldrich, City Secretary

On a motion by Councilor _____, seconded by Councilor _____, the above and foregoing instrument was passed and approved this 20th day of April 2023.



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CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Joe Crawford, City Attorney

SUBJECT: Consider approval of Ordinance 23-04-20-01, an Ordinance of the City Council of the City of Lago Vista repealing Ordinance No. 22-09-01-01.

BACKGROUND: On April 6, 2023, City Council directed staff to bring an Ordinance back to City Council for consideration of repealing Ordinance No. 22-09-01-01.

FINDINGS: Council found by resolution that notice provided was insufficient to allow passage of Ordinance No. 22-09-01-01. Before Council could reconsider the subject matter of said ordinance, the application for such action was withdrawn. This ordinance was requested to memorialize Council's findings in its resolution that Ordinance No. 22-09-01-01 was ineffective.

FINANCIAL IMPACT: N/A

ATTACHMENTS:
[Ordinance 23-04-20-01](#)

ORDINANCE NO. 23-04-20-01

**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA
REPEALING ORDINANCE NO. 22-09-01-01.**

WHEREAS, a public hearing was held by the Planning and Zoning Commission on or around August 11, 2022, to consider a request by the owner of property referenced in City of Lago Vista Ordinance No. 22-09-01-01 (the “Property”) to amend the existing Planned Development District (PDD) for such property; and

WHEREAS, on or around September 1, 2022, a public hearing was held by City Council on the matter and Ordinance No. 22-09-01-01 was passed by City Council, finding in part that notice was properly given to the owners of land within 200 feet of the Property; and

WHEREAS, upon further investigation it has come to the attention of the City Council that such notice was given to some, but possibly not all of the property owners within 200-feet of the area affected by such Ordinance; and

WHEREAS, the City Council subsequently properly notified owners of land within 200 feet of the Property; and

WHEREAS, the Planning and Zoning Commission, at a public hearing held on February 9, 2023, has reviewed the request and the circumstances of the Property, and voted 3-3 on the question of whether to recommend approval of the application subsequently properly notified owners of land within 200 feet of the Property; and

WHEREAS, before City Council held a public hearing on or approved the application, the applicant withdrew its application; and

WHEREAS, the City Council would like to clarify its position that absent reconsideration of such application, the approvals included in Ordinance No. 22-09-01-01 are not effect.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF LAGO VISTA, TEXAS, THAT:**

SECTION 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. The City Council finds that insufficient notice of the hearing held by the Planning and Zoning Commission on or around August 11, 2022, was provided to those owners of real property located within 200 feet of the Property. As a result, the public hearing held by the Planning and Zoning Commission and the hearing held and action taken by City Council on or around September 1, 2022, on the proposed rezoning of the Property was not proper.

SECTION 3. Ordinance No. 22-09-01-01 is hereby repealed.

SECTION 4. Should any section or part of this Ordinance be held unconstitutional, illegal, invalid, or unenforceable, such unconstitutionality, illegality, invalidity, or unenforceability of such section or part shall in no way affect, impair, or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. It is officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551, Texas Local Government Code*.

PASSED AND APPROVED this the ____ day of _____, 2023.

Ed Tidwell, Mayor

ATTEST:

Lucy Aldrich, City Secretary



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Tracie Hlavinka, City Manager

SUBJECT: Discussion, consideration and possible action regarding a request from Lago Vista Independent School District for the City to review the permit fee price for the construction of the Student Activity Center permit and reconsider the quoted fee price.

BACKGROUND: The current fee schedule has a cost of \$0.85 per square foot for a commercial construction permit along with a review of \$600. The school district has submitted an application for a permit to construct the new Student Activity Center. The center consists of 51,189 square feet which results in a permit cost of \$52,752.

FINDINGS: The City Manager's office received a letter from the Lago Vista ISD Superintendent requesting that permit fee price be reviewed and reconsidered to match other building projects in the previous months such as the elementary additions for \$8,026, the high school additions for \$5,816 and the middle school addition for \$5,928. Ninety-seven percent of the Student Activity Center is open space that contains a lighting system, a fire sprinkler system and an exhaust fan system (no HVAC units). The remaining three percent of the building consist of storage space, restrooms and support space. A copy of the letter is attached for review and consideration.

FINANCIAL IMPACT: A building of this size and simplicity is unprecedented in Lago Vista. Our commercial building permit fee schedule is based on the expected cost to the City (including a component to offset street repairs caused by construction equipment) for a typical commercial facility that is of average complexity and fully occupied by patrons of the business. The review fee is constant, but the permit fees are based on the building size only. Unfortunately, more equitable methods that account for a long list of factors for very large and very simple buildings are quite complex. The most accurate system based on construction costs were abandoned by municipalities many

years ago because of the reliably understated costs submitted by applicants.

Although many larger cities retain construction cost as the basis, they publish their own complex methods of estimating those costs so that they are not forced to rely on the accuracy of applicant furnished data. Others have used that same sort of data to generate a slightly less sophisticated system, but it remains relatively complex. The City of Austin for example, which routinely permits buildings of all sizes and types has a permit and review schedule that is significantly longer and has more variables than the entirety of the Lago Vista fee schedule (Appendix A of the Code of Ordinances). Nonetheless, in this instance it yields much more equitable results than our very simple and straightforward methods, which are very similar to the methods employed by all the smaller cities in the area with limited commercial development.

Although we did not include the spreadsheet and the breakdown of the various components (it was a lengthy chore), the Lago Vista High School Student Activity Center would have demanded a total review and permit fee of \$8,789.56 in the City of Austin. This amount more equitably factors in the simple nature of the building while recognizing the repetitive nature of many of the inspections required for very large buildings of this specific type and occupancy classification. Unlike Lago Vista however, the required inspections are not included in the permit and are instead assessed as they are scheduled throughout the project. We would estimate that a project of this nature in the City of Austin would generate at least \$2,000 in various inspection fees, including the final inspection that yields a certificate of occupancy.

As a result, the Development Services Department staff would have no objection to a waiver of the review and building permit required for the Lago Vista High School Student Activity Center for the entirety of the amount that exceeds \$10,789.56, exclusive of any required future re-inspection fees (caused by failed inspections).

ATTACHMENTS:
[Letter from LVISD](#)



LAGO VISTA INDEPENDENT SCHOOL DISTRICT

8039 Bar K Ranch Road
P.O. Box 4929
Lago Vista, TX 78645

(512) 267-8300 (Main) • (512) 267-8304 (Fax)

Darren Webb
Superintendent

Dr. Suzy Lofton-Bullis
Deputy Superintendent

Jason Stoner
Director of Finance

April 10, 2023

To Whom It May Concern:

I first want to say Lago Vista ISD is grateful for the working relationship we share with the City of Lago Vista. As you are aware, we passed bonds in 2020 and 2022 for district improvements and construction of new facilities. LVISD has been working on finalizing the building permit required to start construction on our new Student Activity Center at the high school.

The Student Activity Center permit falls under what is considered Commercial Property. Under the current fee schedule, the cost is \$0.85 per square foot. The SAC consist of 51,189 square feet. The total cost for the building permit is \$52,752. This cost is significantly more than the elementary additions for \$8,026, the high school additions for \$5,816 and the middle school addition for \$5,928. The SAC has 49,750 square feet (97% of the building) of open space that contains a lighting system, a fire sprinkler system and an exhaust fan system (no HVAC units). The remaining 1,439 square feet (3% of the building) consist of storage space, restrooms and support space.

Upon receiving this cost, I did visit with Mr. Roy Jambor about the cost compared to other projects from previous bonds. Mr. Jambor agreed the review of this building was not as difficult and took less time to review due to the simplicity of the building. However, due to this facility being considered a commercial building this was the fee he had to charge.

LVISD understands that reviewing such a plan does take time and a fee does need to be charged for their time and effort. However, due to the simplicity of the review, LVISD respectfully request the fee price be reviewed and reconsidered to match other building projects in the previous months.

Respectfully,

Darren Webb
Superintendent
Lago Vista ISD



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Roy Jambor, Development Services

SUBJECT: Discussion, consideration, and possible action regarding an application to the City Council for a variance in the maximum display area resulting from the conversion of the base of an existing monument sign located at 6400 Lohman Ford Road (Lago Vista Subdivision, Section 2, Lot 6A) into an additional multitenant display area and for relief from the required minimum setback for that existing sign base.

BACKGROUND: Following a permit application to add to the display area of an existing monument sign that was denied as inconsistent with the regulations in place at that time, the owner of 6400 Lohman Ford Road submitted a variance request on February 14, 2023. A sign variance request approved by the City Council requires a recommendation from the Building and Standards Commission. During the preparation of the packet for consideration by the Commission at their March 1, 2023, meeting, the Development Services Department staff began to suspect that the existing sign base was located within the minimum ten-foot setback currently required.

The staff was able to confirm that this office building was originally constructed in 2005. Research confirmed that Ordinance No. 01-07-26-03 and Ordinance No. 05-03-03-01 were previous amendments to the Lago Vista sign regulations. Both included a minimum ten-foot setback for this type of sign, confirming that the requirement existed at the time when the sign was originally permitted. Immediately prior to the Building and Standards Commission meeting on March 1, 2023, we were able to confirm that the existing sign base is located within the required setback and that the width of the right-of-way has not been increased at this location. We subsequently retrieved a site plan used for a previous permit that seems to accurately depict the location of the sign base. That site plan is included in this packet.

At that meeting, the City Attorney recommended that the Building and Standards Commission defer consideration of

their recommendation pending receipt of an amended variance application that includes a request for relief from the setback requirement. That amended application was received, and the required recommendation was rescheduled for consideration at the April 5, 2023, meeting of the Building and Standards Commission. The packet and staff report were updated prior to consideration of the amended request and included in the current packet for review by the City Council.

FINDINGS:

The discussion among the Commission members seemed to focus on the required finding for a “physical hardship” not caused by the applicant of the property owner. Although specifically related to zoning variances, the Commission was aware of the recent legislation that allowed a non-conformity to be considered a factor in finding a “hardship.” The Commission was also very aware that the City Council would be considering an amendment to the current sign regulations on the following evening that would permit an administrative approval of an increased display area to accommodate multiple tenants as part of a “Master Sign Program.”

That administrative approval for additional display area under the anticipated amended version of the sign regulations would not require a finding of a “physical hardship.” It would also preserve any of the potentially relevant conditions for approval that were mentioned in those prior staff reports. Following discussion, the Commission unanimously recommended approval of relief from the setback requirement only, leaving any increase in the display area to be addressed in a subsequent application for approval of a “Master Sign Program” after the effective date of the new sign regulations. Six Commission members participated in the recommendation, although one member participated remotely.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

[Edward Jones Sign Variance Packet](#)

**LAGO VISTA BUILDING AND STANDARDS COMMISSION
STAFF LAND USE REPORT – APRIL 5, 2023**



BSC CASE NO:	23-2333-SIGN-VAR: 6400 Lohman Ford Road
APPLICANT:	Charles E. Cox III
LANDOWNER:	TLC4B&B, LLC
LOCATION:	West side of Lohman Ford Rd. ± 210' north of Dawn Drive
ZONING:	C1-C ("Professional / Business Office, Low-Density Retail")
VARIANCE:	Increased multitenant display area / setback relief (existing)

UPDATE:

- This item was included on the March 1, 2023 agenda of the Building and Standards Commission. However, shortly before that meeting, we received confirmation from the Public Works Department that the existing sign base does not incorporate the required minimum 10-foot setback from the Lohman Ford Road right-of-way. In accordance with the instructions of the City Attorney, we informed the applicant about our need for an amended application that included a request for that required relief. This item was subsequently deferred at that meeting on March 1, 2023, pursuant to a request from the applicant received on February 28, 2023.
- That deferral request is included in the packet along with the amended application that was received on March 8, 2023. A site plan or survey was included with that amended application that confirms that the location of the existing sign is at or near the property common with the Lohman Ford Road right-of-way and does not include the setback that was required at the time it was originally permitted. That type of oversight was unfortunately not as rare as the staff might prefer.
- In addition, it encroaches within a dedicated public utility and drainage easement. However, this type of minor encroachment into an easement is not a problem and routinely approved unless it impedes an existing drainage pattern. New utility services can easily bore underneath the foundation of the existing sign.
- Instead, the more prevalent concern, although relatively minor, is the proximity of the sign base to the crushed granite driveway that was installed without a permit and violates several ordinance requirements. Nonetheless, the survey seems to indicate that any potential traffic hazard is minimized by the existing curb separating the aggregate from the concrete paving, despite portions of that aggregate being within the "vision triangle" potentially obstructed by the sign.
- The previous owner as well as his tenant (a contractor) were sent numerous notices of violations that mentioned uses of that paving that were prohibited by the zoning ordinance (offsite construction fabrication and construction equipment storage). The response to those notices included promises to remove the crushed granite and discontinue the prohibited uses. As such, it would not seem unreasonable to require some currently compliant remedy as a recommended condition. That could include removal of the aggregate or a compliant expansion of the existing parking area without the existing crushed granite driveway connecting to Lohman Ford Road.
- The existing building has a gross floor area of 3,045 square feet in accordance with a renovation completed in 2022. That area includes a significant amount of common space with the balance devoted to two larger offices and eight relatively small offices. That renovation did not include any fire separations or other accommodations for independent tenant spaces. As such, the tenants listed on the proposed new display area will presumably be operating as an office space "cooperative" in order to comply with commercial building codes.
- As a result, the number of separate tenants is somewhat unpredictable compared to other forms of leasable commercial office space. Nonetheless, the proposed new sign display area indicates exactly six separate panels for new tenants, each presumably with a height of twelve inches and a length of thirty-two inches, a seemingly reasonable size.

- If accurate however, the sample lettering on the application suggests that the height is approximately three inches, significantly less than the height of the existing address immediately below the proposed new display area. There are other seemingly analogous provisions in the Lago Vista Code of Ordinances that prescribe a minimum lettering height of four inches. Moreover, it seems that a display area with a height of twenty four inches could easily accommodate two rows of six-inch lettering, leaving a border of four inches between each row. As such, it would seem reasonable to consider specifying a minimum height to the lettering on the proposed new display area to ensure that the results are legible and do not contribute to a potential traffic safety hazard.
-

POTENTIAL ALTERNATIVE RECOMMENDATIONS:

- A. Recommend approval of the variance in accordance with the submitted materials, including a setback variance (confirmed to be required), subject to the following potential conditions:
 - 1. removal of the crushed granite driveway to Lohman Ford Road and the removal or replacement of the crushed granite parking area in accordance with an approved permit; and
 - 2. the minimum letter height for the new display area shall be as determined by the Commission at the meeting in which the recommendation is approved.
 - B. Recommend approval of the variance without conditions.
 - C. Recommend denial of the variance, which would not preclude the applicant from reducing the existing display area from 28 square feet to 16 square feet or seeking a permit under the proposed new ordinance after it has been adopted by the City Council. However, the newly discovered failure to provide the required setback would remain an issue that might preclude new sign permits.
-

**LAGO VISTA BUILDING AND STANDARDS COMMISSION
STAFF LAND USE REPORT – MARCH 1, 2023**



BSC CASE NO:	23-2333-SIGN-VAR: 6400 Lohman Ford Road
APPLICANT:	Charles E. Cox III
LANDOWNER:	TLC4B&B, LLC
LOCATION:	West side of Lohman Ford Rd. ± 210' north of Dawn Dr.
ZONING:	C1-C ("Professional / Business Office, Low-Density Retail")
VARIANCE:	Increased display area (proposed new multitenant panels)

GENERAL INFORMATION / LOCATION:

- The property that is subject of this application is Lot 6A of Lago Vista Subdivision, Block G. The two former lots are addressed as 6400 Lohman Ford Road and is immediately north of the real estate office located at the northwest corner of Dawn Drive and Lohman Ford Road. According to the Travis County Appraisal District, the current owners acquired the property and improvements on November 17, 2021.
- A commercial remodeling permit application was submitted on December 13, 2021, and issued on January 3, 2022. On March 8, 2022, a sign permit was issued to replace the existing display area mounted to the same stone base depicted in the current application. That permit approved a two-sided acrylic sign with a display area of 28 square feet on each face mounted on a cabinet with back-lighting for the graphic depicting "Edward Jones."
- On April 14, 2022, a permit was issued for a real estate sign with a display area of 24 square feet offering "OFFICE SPACE FOR LEASE." Presumably that solicitation was recently successful as this application seeks to leave the existing cabinet sign intact and to add a series of multitenant signs to each face of the existing stone base. The total display area proposed to be added to each face of the stone base is 16 square feet which would require a sign variance approval.

SITE PLAN / CONTEXT CONSIDERATIONS:

- The application accurately depicts the existing sign to remain as well as the proposed additional display area. The staff suspects that the existing stone base and sign are not the required minimum distance of ten feet from the right-of-way. We have made a request of the Public Works Department to assist us with an accurate assessment. Hopefully we will receive a response in a timely manner so that your recommendation can account for this possibility.
- The existing sign location does not present an obstruction to the required vision triangle as there is no approved adjacent driveway. However, there was an existing crushed stone-area added by the previous owner without a permit that was repeatedly cited as a violation, but never completely removed. If properly permitted additional parking is ever desired on this ample portion of the existing lot, the location of any new potential driveway access to Lohman Ford Road will have to account for this sight-obstruction. Hopefully the existing driveway access will prove sufficient.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- The existing sign ordinance limits the total display area of a freestanding sign to a maximum of 32 square feet for each side of a two-sided sign when the faces are parallel and the distance between each face is four feet or less at the widest point. As a result, the current proposal which includes a total display area of 44 square feet requires a variance approved by the City Council following a recommendation from the Building and Standards Commission.
- A variance approval could be avoided by reducing the display area of the existing sign that was permitted on March 8, 2022, from 28 square feet to 16 square feet. For example, a reduction of the height from 3'-6" to 2'-0" would be sufficient, as would any number of other height and width combinations. Nonetheless, the setback variance mentioned above may be required regardless.

- It also seems relevant that the proposed sign ordinance amendment that appears on this same agenda includes an administrative remedy specifically intended for this type of multitenant sign. However, it maintains the same minimum setback of ten feet. Therefore, if it proves that the existing base encroaches into that required setback, a variance approval cannot be avoided absent a relocation of the sign or generously assuming that it is somehow legally non-conforming. That would remain true even if the existing display area were reduced to 16 square feet or the permit application delayed until the effective date of an amended sign ordinance that includes that anticipated administrative remedy.

POTENTIAL ALTERNATIVE RECOMMENDATIONS:

- A. Recommend approval of the variance in accordance with the submitted materials, including a setback variance if it proves that one is required.
 - B. Recommend denial of the variance, which would not preclude the applicant from reducing the existing display area from 28 square feet to 16 square feet or seeking a permit under the proposed new ordinance after it has been adopted by the City Council.
-

23-2333-SIGN-VAR
6400 Lohman Ford Road

Attachment 1
Amended Application

Roy Jambor

From: Cox,Trey <Trey.Cox@edwardjones.com>
Sent: Tuesday, February 28, 2023 9:42 AM
To: undisclosed.for.privacy@edwardjones.com
Subject: FW: 6400 Lohman Ford Rd.-Sign Variance

Importance: High

Roy,

Good morning. In regards to the message below from Kristall I would like to defer our application for the variance for next months meeting in order to get together the information needed to include the nonconforming setback. Let me know if this deferral is approved and what date the next meeting date will be.

Trey Cox
Financial Advisor
Edward Jones
6400 Lohmans Ford Rd
Lago Vista, TX 78645
(512) 267-0646
www.edwardjones.com

If you are not the intended recipient of this message (including attachments) or if you have received this message in error, immediately notify us and delete it and any attachments.

If you do not wish to receive any email messages from Edward Jones, excluding administrative communications, please email this request to Opt-Out@edwardjones.com from the email address you wish to unsubscribe.

For important additional information related to this email, visit www.edwardjones.com/disclosures/email.html. Edward D. Jones & Co., L.P.

CITY OF LAGO VISTA DEVELOPMENT SERVICES

5803 THUNDERBIRD SUITE 103 PO BOX 4727 LAGO VISTA, TX. 78645
512-267-5259 FAX 512-267-5265

APPLICATION FOR SIGN VARIANCE

Date Submitted: 3/8/2023

Fee: \$100.00

Applicant's Name: Charles E Cox III / TLC4B+B, LLC

Applicant's mailing address: 6400 Lohman Ford Rd, Lago Vista, TX 78645

Subject property address or lot subdivision legal description: _____

Applicant's email: trex.cox@edwardjones.com

Applicant's phone numbers: 512-731-0218

Criteria: The city council, after a report from the building committee, in their sole judgment, may grant variances to the sign ordinance where the strict compliance with the sign ordinance may cause physical hardship due to topography or other physical limitations on the site, within the immediate vicinity, or within the adjacent rights-of-way; such conditions not being caused by the actions of the applicant for variance or the owner of the premises.

Variance requested and rationale. State physical hardship. (additional pages may be added) We have several other tenants and without this sign, there would be little to no visibility for them from the road. It will help with identification of the correct location for anyone who is visiting the tenants. Without the sign, visitors would need to drive in and out of the property to confirm if they are in the correct space. Also would like to ask for a variance due to the set back of the sign being currently within the current city set back space of 10ft. from the property line. The monument was originally created with the proper set back when erected back in 2009. We are not asking to move the sign. Just add a marquee to the front of the rock.

Attach a to-scale drawing of the proposed sign or signs showing dimensions, size, and the message for the sign.

Attach a map of where the sign would be located.

Attach land owner's permission for the sign.

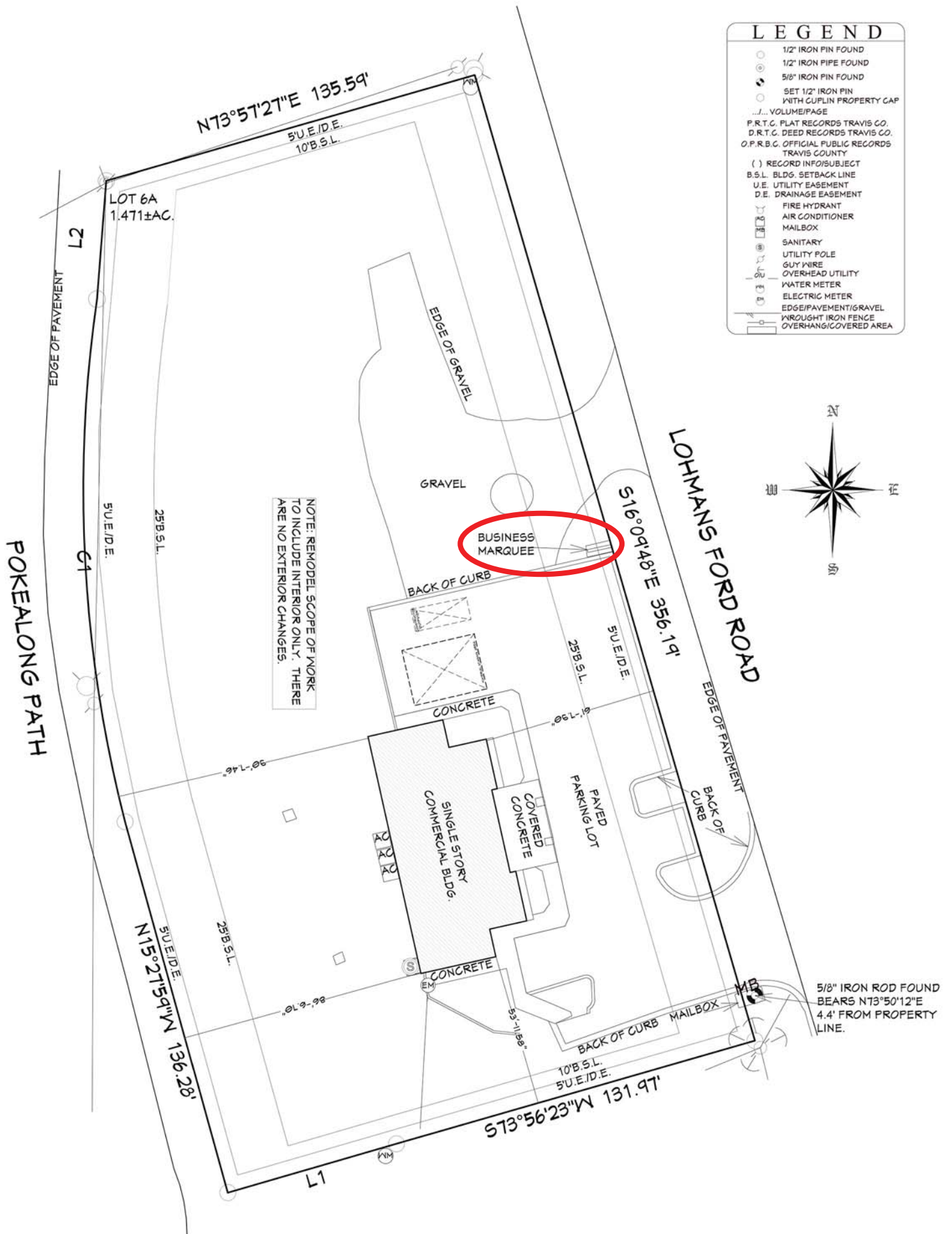
In the event I cannot attend the Building Committee or City Council meetings, I designate Jeremy Pringer to act on my behalf. Phone number and e-mail 512-401-6500, jeremy.p@texascustomsigns.com

Meeting dates and times. Staff will notify the applicant of meeting dates and times after the Building Committee has chosen a date.

\\D7ZBD011\RedirectedFolders\Frobins\My Documents\Sign Variance Ap 081712.rtf

23-2333-SIGN-VAR
6400 Lohman Ford Road

Attachment 2
Site Plan (Survey) / Floor Plan





WALL LEGEND

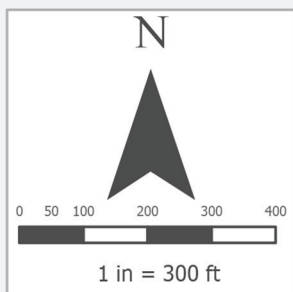
	EXISTING WOOD FRAMED WALL
	NEW WOOD FRAMED WALL
	EXISTING WOOD FRAMED WALL W/ MASONRY VENEER
	NEW WOOD FRAMED WALL W/ MASONRY VENEER

NEW FLOOR PLAN
SCALE: 1/4" = 1'-0"



23-2333-SIGN-VAR
6400 Lohman Ford Road

Attachment 3
Location Map



6400 Lohman Ford Road			
Request Type	Sign Variance	Project	23-2333-SIGN-VAR
Change Request	Increased Display Area	Date	02/22/2023
Map Type	Aerial Image and Topography	Drawn By	RJambor
This document is for information purposes only and is not suitable for use as the basis for a legal description or project design. It represents only the approximate location of property boundaries rather than information obtained from a field survey.			

Contours

- 10 ft
- 50 ft
- Street
- Project Area
- TaxParcel

23-2333-SIGN-VAR
6400 Lohman Ford Road

Attachment 4
Sign Details

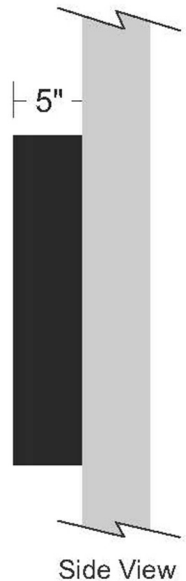
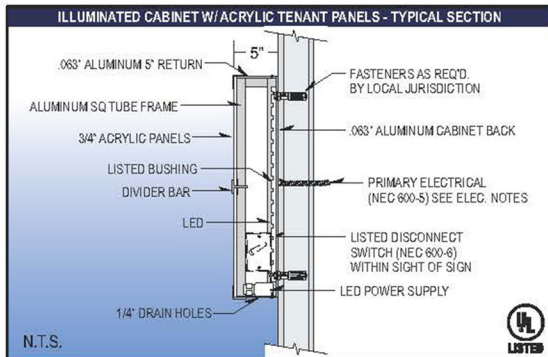


Single Sided Illuminated Cabinet w/ Acrylic Panels

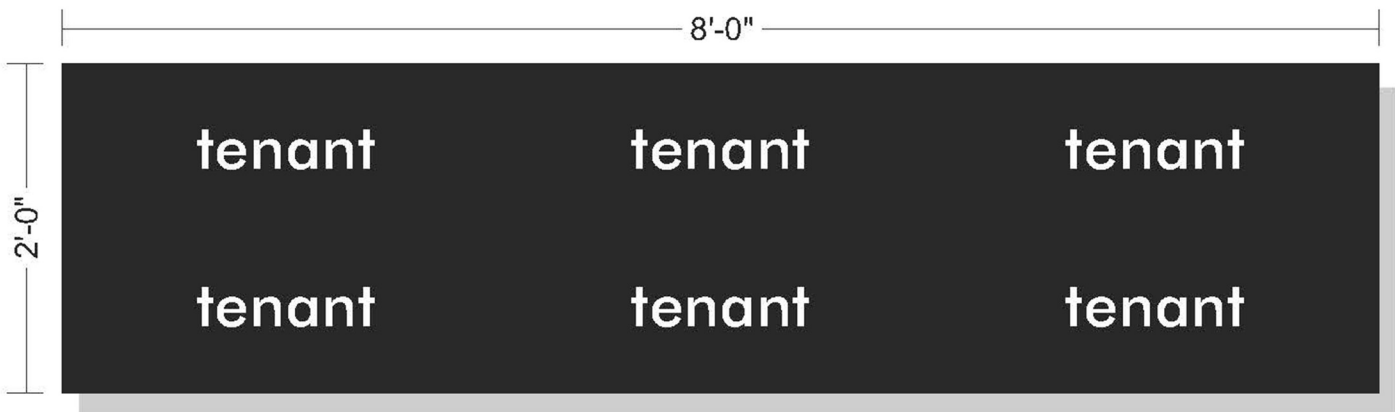
Scale: 1:18






Fabricate & Install **Two (2)** Single Sided Internally Illuminated Cabinets to Specs

- 3/16" #7328 White Acrylic Tenant Faces
- .063" Aluminum 1" Retainers PTM P1
- .063" Aluminum 5" Returns PTM P1
- .063" Aluminum Cabinet Back
- 1" Aluminum Square Tube Cabinet Frame
- Illuminated w/ Principle Quikmod 2 White LED
- 60W Principle LED Power Supplies Contained in Cabinet
- Signs Mounted to Existing Monument w/ Approved Fasteners



MP Black



 <p>2007 Windy Terrace, Suite A Cedar Park, Texas 78613 Ph: 512-401-6500 Fax: 512-401-6502 www.texascustomsigns.com</p>  <p>TSCL# 18361</p>   	<p>Signs will be manufactured with 120 Volts A/C. All Primary electrical service to the sign is the responsibility of the buyer. This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. All bonding & grounding must be done by a qualified, licensed electrician and in accordance with UL Article 600 of the NEC. The location of the disconnect switch after installation shall comply with Article 600.6(A) (1) of the National Electrical Code.</p> <p>This is an original un-published drawing created by Texas Custom Signs, unless otherwise indicated. It is submitted for your personal use in regards to the project being considered. You are not to show these drawings to anyone outside your organization, nor can you use, reproduce, copy, or otherwise exhibit them in any fashion not directly related to the project being planned and produced by TCS.</p>	<p>Client Name: Edward Jones Address: 6400 Lohmans Rd., Lago Vista, TX Start Date: 01.18.2023 Filename: EdwardJones-C-Tenant_Cabinet-Spec3 Page: 1 of 2 Project Manager: Jeremy Prenger jeremyp@texascustomsigns.com</p>
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Existing Elevation - NTS



Proposed Elevation - 1/4" = 1'- 0"



Elevation

Scale: 1/4" = 1'- 0"

<p>Texas Custom SIGNS</p> <p>2007 Windy Terrace, Suite A Cedar Park, Texas 78613 Ph: 512-401-6500 Fax: 512-401-6502 www.texascustomsigns.com</p> <p>TSCL# 18361</p> <p>UL TEXAS SIGN ASSOCIATION MEMBER</p>	<p>Signs will be manufactured with 120 Volts A/C. All Primary electrical service to the sign is the responsibility of the buyer. This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. All bonding & grounding must be done by a qualified, licensed electrician and in accordance with UL Article 600 of the NEC. The location of the disconnect switch after installation shall comply with Article 600.6(A) (1) of the National Electrical Code.</p> <p>This is an original un-published drawing created by Texas Custom Signs, unless otherwise indicated. It is submitted for your personal use in regards to the project being considered. You are not to show these drawings to anyone outside your organization, nor can you use, reproduce, copy, or otherwise exhibit them in any fashion not directly related to the project being planned and produced by TCS.</p>	<p>Client Name: Edward Jones Address: 6400 Lohmans Rd., Lago Vista, TX Start Date: 01.18.2023 Filename: EdwardJones-C-Tenant_Cabinet-Spec3 Page: 2 of 2 Project Manager: Jeremy Prenger jeremyp@texascustomsigns.com</p>
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Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Taylor Whichard, Public Works

SUBJECT: Discussion, consideration, and possible action authorizing the City Manager to begin preparing documents needed for the issuance of certificate of obligation bonds related to effluent disposal and wastewater treatment.

BACKGROUND: Currently there is a leak in Effluent Pond #17's liner that needs immediate attention. Also, during the Strategic Planning meeting, Council expressed desire to issue C.O. Bonds for improvements to the City's wastewater infrastructure.

FINDINGS: The City's Wastewater Plant is nearing the point where engineering designs need to be initiated as per TCEQ requirements. The costs associated with each type of upgrade and the rehabilitation of Pond #17's liner can be found in the attached presentation. It also includes the cost to rebuild Pond #2. At the time of publishing this agenda item, it is unknown if we need to increase Wastewater Plant Capacity to 1.5 MGD or 2.0 MGD. Staff is currently waiting on the installation of an influent flow meter at the plant to accurately measure the incoming wastewater stream.

Freese & Nichols is in the process of refining these costs to more closely reflect current market conditions.

FINANCIAL IMPACT: Future action would include a C.O. Bond issuance.

RECOMMENDATION:

1. Staff recommends approval of \$3.0 million in C.O. Bond issuance to reline Pond #17 and build Pond #2 as per TCEQ Requirements.
2. Staff also recommends approval of \$22 million in C.O. Bond issuance to upgrade the Wastewater Treatment Plant capacity to 1.5 MGD or 2.0 MGD and switch to Type 1 treatment.

ATTACHMENTS:
[Presentation](#)



Effluent Holding Ponds

- To repair and reline Pond #17 as is (without modifications) - \$1.2 Million
 - As per draft EOPC provided by FNI
- To build Pond #2 – \$1.1 million
 - As per draft EOPC provided by FNI
 - Cost may change due to TCEQ sizing requirements for a 1.5 MGD plant upgrade
 - Cost does not include re-installing a transmission line that was previously abandoned
- Total estimated cost for effluent holding ponds – \$2.6 - \$2.9 Million
 - This includes construction cost plus engineering/construction management fees

Wastewater Treatment

- It is not recommended to install filters at Pond #17 for Type 1 treatment
 - Not guaranteed to achieve the level of treatment required by TCEQ
 - Will create an operational nightmare for staff
- Switch from Type 2 to Type 1 treatment without a capacity upgrade
 - Estimated cost \$13.8 - \$18.0 Million
 - FNI currently reviewing this cost estimate for accuracy
- Switch from Type 2 to Type 1 treatment with a capacity upgrade to 1.5 MGD
 - Estimated cost \$20 - \$24 Million
 - FNI currently reviewing this cost estimate in greater detail
- Remain at Type 2 treatment and upgrade capacity to 1.5 MGD
 - Estimated cost between \$8 - \$10 Million
- Increase capacity to 2 MGD with Type 1 treatment
 - Estimated cost \$35 - \$40 million
 - These numbers are pure estimates and were not provided by FNI.



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Taylor Whichard, Public Works

SUBJECT: Discussion, consideration, and possible action on approving the paving plan for City streets and authorizing staff to start preparing it for inclusion in a future proposed certificate of obligation issuance.

BACKGROUND: During the Strategic Planning Meeting, and part of the certificate of obligation issuance discussion, City Council tasked Public Works with preparing a 3-year and 5-year paving plan to repave every road listed in fair, poor, and very poor condition.

FINDINGS: There are 267 roads listed in either very poor, poor, or fair condition. Each of these roads need to be rehabilitated with a mill and overlay treatment.

If Council elects to proceed with the 3-year plan, it is estimated to cost a total of \$12 million, and would allow for 89 roads to be repaved per year at approximately \$4 million per year.

If Council elects to proceed with the 5-year plan, it is estimated to cost a total of \$13 million, and would allow for 54 roads to be repaved per year at approximately \$2.6 million per year.

FINANCIAL IMPACT: This cost would be part of a proposed future issuance of certificates of obligation. The total estimated cost is \$12 million for the 3-year plan, or \$13 million for the 5-year plan.

RECOMMENDATION: Approval of plan

ATTACHMENTS:
[Presentation](#)

Mayor
Ed Tidwell



Council Members

Gage Hunt
Kevin Sullivan
Rob Durbin
Chelaine Marion
Paul Roberts

Mayor Pro-Tem
Paul Prince

March 28, 2023

RE: Three Year & Five Year Paving Plan

Mayor & Council,

During the Strategic Planning Meeting, Public Works was directed to provide a practical paving plan. In this report, you will find the total number of roads that need to be paved based on their current condition listed as either Fair, Fair/Poor, Poor, or Very Poor. Roads that are listed as Poor or Very Poor will most likely require base work which will increase the cost. Below is a table summarizing the totals based on their listed condition.

Road Condition	Estimated Cost	# of Roads
Fair	\$ 4,773,564	119
Fair/Poor	\$ 133,176	2
poor	\$ 4,220,399	102
Very Poor	\$ 1,574,818	44
Total	\$ 10,701,957	267

Three Year Plan

There are a total of 267 roads that require rehabilitation at an estimated cost of \$10.7 million. During a three (3) year period this would be 89 roads per year, which would be manageable by current staff. To account for unknowns (base work, price increases, and roads missed during initial assessment), it is recommended that value be increased to **\$12 million**. This is roughly a 12% contingency. To complete this plan, it would require that \$4 million be allocated every year for three (3) years. Also, please note that not every one of these roads have utilities installed. Staff will work as diligently as possible to prevent utility cuts in any newly rehabilitated road, but it will inevitably happen.

Five Year Plan

To accomplish this work over a five (5) year period, the total number of roads will remain the same, but a cost escalation of 4% year over year will be applied to the estimated \$12 million. This brings the total estimated amount to \$13 million. During this five (5) year period, it would be 54 roads per year at an average cost of \$2.6 million per year.

Conclusion

To repave roads listed as Fair, Fair/Poor, Poor, Very Poor that have all utilities installed, it would cost the City roughly \$3 million total as previously mentioned during the Strategic Planning Meeting.

To accomplish the repaving of 267 roads in a three (3) year window would be 89 roads per year, at a cost of \$4 million per year to account for unknowns. This is a manageable amount of work for current City staff.

To repave 267 roads in a five (5) year period, would be 54 roads per year at a cost of \$2.6 million per year which will account for unknowns. This is a manageable amount of work for current staff.

Sincerely,

Taylor M. Whichard
Director of Public Works

Planned Year	Street Name	From	To	Current Condition of Roadway	Base Work Needed (Y/N)	Utilities Installed for this Entire section (Y/N)	% Built Out	Total Est. Cost (Mill + Overlay)
2024	Adobe Trl	Arena	End	fair	n	n	21%	\$ 111,233
2025	Alta Vista Dr	Fawn	Paseo	fair	n	n	16%	\$ 34,012
2025	Arroyo Ave	Bronco	Arapaho	fair	n	n	6%	\$ 57,701
2023	Austin Blvd	Observatory	End	fair	n	n	0%	\$ 209,831
2023	Avienda Ann	Fawn	Park	fair	n	y	57%	\$ 52,226
2025	Bar K Clubhouse Ct	Bar K Ranch	End	fair	n	n	0%	\$ 33,821
2024	Bell Cv	Bell	End	fair	n	n	0%	\$ 6,509
2025	Bell Ln	Boone	Bell	fair	n	n	0%	\$ 22,192
2024	Bison Trl	Bar K Ranch	Rawhide	fair	n	n	10%	\$ 47,635
2024	Blue Jay Blvd	Emerald	Cardinal	fair	n	y	36%	\$ 23,754
2024	Blue Sky Ln	Bluff Ridge	Bluff Ridge	fair	n	y	50%	\$ 38,704
2023	Bluff Ridge Trl	Bluff Ridge	Blue Sky	fair	n	n	0%	\$ 12,785
2024	Brahma Trl	Bronco	1431	fair	n	n	0%	\$ 12,367
2024	Bridle Path Rd	Thunderbird	Falcon	fair	n	y	60%	\$ 31,925
2023	Broken Arrow Drive	Arrowhead	El Dorado	fair	n	N	26%	\$ 47,930
2024	Broken Bow Cv	Paseo	End	fair	n	y	45%	\$ 17,521
2024	Buckskin Ridge Dr	Sunset	End	fair	n	n	16%	\$ 115,150
2023	Buena Vista	Roundup	Lakeshore	fair	n	N	22%	\$ 93,915
2024	Bunyan Cir	Boone	Boone	fair	n	y	59%	\$ 52,479
2023	Burnside Circle	Boone	Boone	fair	n	y	67%	\$ 48,772
2024	Canyon Dr	El Dorado	Bonanza	fair	n	n	0%	\$ 43,052
2024	Canyon Dr	Bonanza	Dawn	fair	n	n	0%	\$ 28,472
2025	Cardinal Ave	Emerald	Blue Jay	fair	n	n	17%	\$ 64,524
2023	Cedar Ridge Dr	Paseo	Deepwood	fair	n	N	29%	\$ 66,167
2023	Chestnut	Bar K Ranch	Chantily	fair	n	y	14%	\$ 45,740
2025	Chestnut Cv	Chantily	End	fair	n	n	7%	\$ 84,955
2024	Circulo Dr	Dawn	End	fair	n	y	43%	\$ 39,859
2024	Clark Ave	Continental	Constitution	fair	n	n	7%	\$ 28,640
2026	Cleveland Ave	Coolidge	Cooper	fair	n	n	0%	\$ 38,555
2023	Comstock Cove	Coyote	End	fair	n	y	58%	\$ 24,440
2025	Custer Cv	Continental	End	fair	n	n	0%	\$ 24,639
2024	Deep Creek Cv	Thunderbird	End	fair	n	y	63%	\$ 28,430
2024	Deepwood Dr	Cedar Ridge	Brewer	fair	n	n	13%	\$ 24,049
2023	Deer Run Dr	Sunset	Park	fair	n	y	9%	\$ 25,229
2025	Deer Run Dr	Park	Avenida Ann	fair	n	y	11%	\$ 57,407
2024	Diamond Cv	Diamond	End	fair	n	y	50%	\$ 12,222
2024	Dodge Trl	Bronco	Arapaho	fair	n	y	50%	\$ 15,438
2026	Dogie Cv	Dakota	End	fair	n	n	0%	\$ 10,993
2023	Emerald Rd	Boggy	Blue Jay	fair	n	y	33%	\$ 24,849
2023	Emerald Rd	Blue Jay	Falcon	fair	n	n	10%	\$ 30,746
2024	Emerald Rd	Falcon	End	fair	n	n	14%	\$ 87,057
2024	Falcon Ln	Crystal	Emerald	fair	n	y	13%	\$ 87,773
2025	Fawn Path	Falcon	Heather	fair	n	n	13%	\$ 32,122
2024	Fawn Ridge Dr	Paseo	Paseo	fair	n	y	29%	\$ 70,463
2024	Flintlock Cir	Bar K Ranch	Bar K Ranch rd	fair	n	y	60%	\$ 97,575

Planned Year	Street Name	From	To	Current Condition of Roadway	Base Work Needed (Y/N)	Utilities Installed for this Entire section (Y/N)	% Built Out	Total Est. Cost (Mill + Overlay)
2025	Foothill Cv	Bar k Ranch	Foothill	fair	n	n	2%	\$ 11,961
2024	Gilbert Cv	Hancock	End	fair	n	y	22%	\$ 14,381
2024	Green Shore Cv	Green Shore	End	fair	n	y	25%	\$ 5,791
2024	Hamilton Ave	Henry	Eisenhower	fair	n	n	11%	\$ 67,388
2024	Harding Cv	Henry	End	fair	n	y	57%	\$ 6,655
2024	Harrison Cv	Hancock	End	fair	n	y	39%	\$ 56,269
2024	Harvard Cv	Henry	End	fair	n	y	57%	\$ 10,399
2024	Heather Dr	Mockingbird	End	fair	n	y	26%	\$ 46,454
2024	High Mountain Cir	High Mountain	End	fair	n	n	0%	\$ 10,235
2024	Hitching Post Ct	Camel Back	Camel Back	fair	n	y	55%	\$ 24,470
2024	Irving Cv	Henry	End	fair	n	n	9%	\$ 9,220
2024	La Paloma dr	Paseo	End	fair	n	n	13%	\$ 32,276
2025	Lincoln Cv	Republic	End	fair	n	y	63%	\$ 28,598
2024	Little Oak Cir	Little	End	fair	n	y	43%	\$ 15,794
2023	Ming Trail	Alfalfa	Destination	fair	n	N	0%	\$ 190,204
2024	Mohawk Cv	Arrowhead	End	fair	n	y	25%	\$ 17,226
2024	Morgan Ln	Marshall	Mt. Vernon	fair	n	n	21%	\$ 40,981
2024	Mount View Cir	Mount View	End	fair	n	y	22%	\$ 11,035
2024	Nashville Cv	Newton	End	fair	n	y	55%	\$ 19,501
2024	Newhaven Cv	Nimitz	End	fair	n	y	71%	\$ 12,256
2024	Oak Hill Ln	White Oak	Northland	fair	n	y	20%	\$ 22,016
2025	Orlando Cv	Oredon	End	fair	n	n	7%	\$ 23,984
2025	Oxford Dr	Boggy	Patriot	fair	n	n	19%	\$ 58,839
2024	Pacemaker Trl	Dodge	End	fair	n	y	44%	\$ 36,642
2024	Paddock Cv	Paseo	End	fair	n	y	80%	\$ 12,587
2024	Palomino Cv	Paseo	End	fair	n	y	24%	\$ 36,348
2024	Panhandle Cv	Diamond	Panhandle	fair	n	y	28%	\$ 32,557
2026	Panhandle Cv	Panhandle	End	fair	n	y	28%	\$ 32,810
2023	Panorama Ridge	Lohman	Fawn	fair	n	n	0%	\$ 29,406
2023	Park	Pokealong	Valley View	fair	n	N	14%	\$ 113,718
2026	Park Cir	Outpost	End	fair	n	n	0%	\$ 21,453
2024	Paseo De Vaca Cir	Paseo	End	fair	n	y	43%	\$ 18,915
2026	Patton Cv	Truman	End	fair	n	n	0%	\$ 7,076
2025	Pierce Cv	American	End	fair	n	n	0%	\$ 24,526
2026	Pilgrim Cv	Polk	End	fair	n	n	0%	\$ 5,896
2026	Pioneer Cv	Polk	End	fair	n	n	0%	\$ 6,846
2024	Pitt Cv	Perishing	End	fair	n	y	25%	\$ 7,179
2024	Plymouth Cv	Perishing	End	fair	n	n	0%	\$ 10,338
2026	Polk Cv	American	End	fair	n	n	5%	\$ 40,123
2026	Portsmouth Cv	Boggy	End	fair	n	y	71%	\$ 26,829
2024	Pueblo Cv	Dodge	End	fair	n	y	67%	\$ 18,915
2027	Ramrod Trl	Rawhide	Redriver	fair	n	n	3%	\$ 65,788
2027	Rawhide Trl	Rollin Hills	End	fair	n	n	0%	\$ 83,730
2027	Red River Cv	Rawhide	End	fair	n	n	7%	\$ 30,187
2024	Redbird Cv	Redbird	End	fair	n	y	25%	\$ 9,572

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2024	Roosevelt Cv	Boggy	End	fair	n	y	78%	\$ 6,823
2027	Rustlers Way	Rolin Hills	Ranger	fair	n	n	0%	\$ 12,635
2025	Sagebrush Trl	Sierra	Seirra	fair	n	y	7%	\$ 86,005
2023	Santa Carlo Ave	American	End	fair	n	n	77%	\$ 83,225
2023	Santa Carlo Ave	Boggy	American	fair	n	n	23%	\$ 71,769
2025	Santa Marta Cv	Santa Rosa	End	fair	n	n	0%	\$ 11,056
2023	Seminole	Country Club	End	fair	n	N	22%	\$ 21,901
2024	Sidewinder Cv	Sierra	End	fair	n	y	29%	\$ 11,845
2023	Sleepy Hollow Ln	Surry	Sierrea	fair	n	N	53%	\$ 34,073
2024	Sombrero Cv	Surrey	End	fair	n	y	0%	\$ 8,630
2023	Spanish Oak	Ridgeview	Ridgview	fair	n	Y	58%	\$ 67,457
2024	Stagecouch Cv	Surrey	End	fair	n	y	38%	\$ 16,575
2024	Stampede Trl	Sierra	Bar K Ranch rd	fair	n	y	64%	\$ 74,843
2026	Stetson Cv	Surrey	End	fair	n	n	17%	\$ 7,441
2026	Telegraph Pass	Angus	End	fair	n	n	0%	\$ 18,361
2024	Thurber Ln	Oxford	Patton	fair	n	n	0%	\$ 74,212
2023	Truman Cove	Patriot	End	fair	n	Y	58%	\$ 27,882
2023	Truman Dr	Redbird	Patriot	fair	n	n	13%	\$ 94,091
2025	Vancouver Cv	Highland	End	fair	n	n	0%	\$ 9,995
2024	Wagon Wheel Way	El Dorado	Bonanza	fair	n	y	57%	\$ 35,337
2024	War Bonnet Way	Bar K Ranch	Flightline	fair	n	n	#DIV/0!	\$ 11,870
2024	Warren Cv	Santa Carlo	End	fair	n	y	54%	\$ 45,024
2026	Western Trl	Bison	End	fair	y	n	0%	\$ 134,394
2026	Westward Ho Pass	Western	End	fair	y	n	0%	\$ 70,055
2024	White Oak Dr	Ridgeview	Post Oak	fair	n	y	48%	\$ 62,966
2026	Wilderness Trl	Westward Ho	End	fair	y	n	0%	\$ 38,136
2026	Wildwood Cv	Bison	End	fair	n	n	0%	\$ 8,190
2023	Winthrop Cove	Santa Carlo	End	fair	n	Y	64%	\$ 25,481
2024	Wishbone Dr	Arrowhead	Broken Arrow	fair	n	y	36%	\$ 32,055
2024	Continental Dr	Clark	Constitution	fair/poor	n	n	19%	\$ 68,568
2023	Hancock Ave	Highland	End	fair/poor	n	n	11%	\$ 64,609
2025	Adobe Trl	Arena	End	good	n	n	7%	\$ 12,720
2024	Alamo Cv	Highland	End	good	n	y	80%	\$ 12,643
2026	Ambush Cv	Arapaho	End	good	n	n	0%	\$ 10,801
2024	American Cv	American	End	good	n	y	20%	\$ 9,132
2026	Angus Trl	Adobe	End	good	n	n	0%	\$ 54,585
2024	Apache Cv	Falcon	End	good	n	y	50%	\$ 8,232
2026	Appalosa Trl	Arapaho	Arroyo	good	n	n	0%	\$ 38,538
2026	Archer Cv	Adobe	End	good	n	n	0%	\$ 10,154
2024	Austin Cv	Highland	End	good	n	y	50%	\$ 8,615
2026	Aztech Trl	Arapaho	Arroyo	good	n	n	0%	\$ 44,940
2024	Azure Ave	Blue Jay	Mockingbird	good	n	n	0%	\$ 40,138
2024	Bear Rd	Glendale	Rockpark	good	n	y	55%	\$ 46,498
2024	Blackfoot Cv	Country Club	End	good	n	y	71%	\$ 14,795
2025	Blue Lake Dr	Dove	Mockingbird	good	n	n	0%	\$ 13,428

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2025	Blueberry Cir	Bronco	Bronco	good	n	y	41%	\$ 47,731
2024	Bluebonnet Cir	Bronco	Bronco	good	n	y	29%	\$ 34,184
2023	Bluff Ridge Trl	Blue Sky	Bar K Ranch rd	good	n	y	22%	\$ 22,112
2024	Bradley Cv	Boone	End	good	n	y	50%	\$ 6,318
2024	Bramble Bush Cir	Bronco	Bronco	good	n	y	25%	\$ 38,969
2024	Branding Iron Dr	Moss	Oak Ridge	good	n	y	46%	\$ 30,867
2024	Briarwood Cir	Bronco	Bronco	good	n	n	25%	\$ 46,130
2024	Bronco Buster Trl	Bar K Ranch	Bar K Ranch rd	good	n	y	50%	\$ 49,699
2024	Buckeye Dr	Stillwood	Oak Dale	good	n	y	27%	\$ 27,882
2024	Byrd Ave	Boone	Highland	good	n	y	71%	\$ 29,482
2024	Cartier Cv	Capitol	End	good	n	n	14%	\$ 9,955
2024	Cedar Glen Dr	Outpost	Leaning Oak	good	n	y	25%	\$ 24,122
2024	Cedar Ridge Cir	Paseo	End	good	n	y	22%	\$ 14,194
2026	Cliffside Cv	Clearwater	End	good	n	n	0%	\$ 21,279
2024	Clinton Ln	Congress	End	good	n	n	47%	\$ 7,328
2025	Cody Ave	Continental	End	good	n	y	78%	\$ 80,319
2024	Collier Ln	Capitol	Clinton	good	n	n	9%	\$ 24,302
2025	Colonial Ln	Congress	End	good	n	y	12%	\$ 31,117
2024	Concord Cv	Constitution	End	good	n	y	60%	\$ 14,023
2024	Constitution Cir	Constitution	Constitution	good	n	y	#DIV/0!	\$ 97,796
2024	Constitution Cv	Constitution	End	good	n	y	43%	\$ 7,353
2024	Cornell Cv	Continental	End	good	n	y	41%	\$ 32,714
2026	Creekside Cv	Coral	End	good	n	n	0%	\$ 11,808
2024	Davenport Cv	Highland	End	good	n	y	20%	\$ 8,148
2024	Davis	Highland	End	good	n	y	72%	\$ 33,736
2024	Doolittle Cv	Highland	End	good	n	y	39%	\$ 32,716
2025	Dove Rd	Azure	Blue Lake	good	n	y	8%	\$ 23,038
2024	Dusk Ct	Mockingbird	End	good	n	y	18%	\$ 17,743
2024	Eisenhower Ave	Hamilton	Highland	good	n	y	30%	\$ 107,544
2024	Emerson Cv	Highland	End	good	n	y	50%	\$ 7,371
2024	First St	1431	Bronco	good	n	y	67%	\$ 13,210
2026	Foothill Cv	Bar K Ranch	End	good	n	n	3%	\$ 63,640
2024	Franklin	Highland	End	good	n	y	38%	\$ 12,677
2024	Genessee Cv	Grant	End	good	n	y	17%	\$ 11,245
2024	Greeley Cv	Grant	End	good	n	y	33%	\$ 12,268
2024	Green Cv	Hancock	End	good	n	y	38%	\$ 17,085
2025	Green Park Dr	Park	Rockwood	good	n	y	31%	\$ 56,901
2024	Green Shore Cir	Outpost	End	good	n	n	35%	\$ 82,635
2025	Hayes Cv	Hancock	End	good	n	y	8%	\$ 19,242
2024	High Mountain Dr	Mount Laurel	Mount Laurel	good	n	y	45%	\$ 91,859
2024	Hillside Cir	Hillside	End	good	n	y	60%	\$ 9,970
2024	Homes Cv	Henry	End	good	n	y	17%	\$ 8,309
2024	Homestead Cv	Henry	End	good	n	y	14%	\$ 7,497
2024	Horizon Cv	Jackson	End	good	n	y	63%	\$ 13,166
2024	Huaco Cv	Country Club	End	good	n	y	50%	\$ 11,598

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2024	Jackson Ave	Henry	MaCarthur	good	n	y	30%	\$ 22,196
2024	Jamestown Cv	MaCarthur	End	good	n	n	0%	\$ 8,201
2024	Jewel Park Dr	Robin Trail	Emerald	good	n	y	40%	\$ 15,478
2024	Key Cv	Highland	End	good	n	y	20%	\$ 9,863
2024	Longfellow Cv	Lee	End	good	n	y	50%	\$ 6,413
2024	Magellan	MaCarthur	End	good	n	y	63%	\$ 13,650
2025	Mann Cv	MaCarthur	End	good	n	y	11%	\$ 14,783
2025	Marshall's Point Cv	Marshall's Point	End	good	n	n	0%	\$ 122,999
2024	Marshall's Point Dr	Shoreline	End	good	n	n	0%	\$ 134,210
2024	Mayflower Cv	MaCarthur	End	good	n	y	29%	\$ 13,386
2024	Mustang Dr	Outpost	Falcon	good	n	y	38%	\$ 19,795
2024	Nantucket Cv	Newton	End	good	n	y	44%	\$ 14,404
2024	Nevis Cv	Newton	End	good	n	y	40%	\$ 7,122
2024	Newport Cv	Norton	End	good	n	y	36%	\$ 18,009
2024	Nocona Cv	Nimitz	End	good	n	y	33%	\$ 9,561
2023	Oak Dale	Rock Terrace	Outpost	good	n	Y	17%	\$ 77,497
2024	Oak Glen Cv	Wagon Wheel	End	good	n	y	25%	\$ 6,444
2024	Palo Duro Dr	Avenida Ann	Roundup	good	n	n	27%	\$ 57,659
2024	Park Strip Dr	Travis	Lohman	good	n	y	20%	\$ 43,381
2024	Parliament Cv	American	North End	good	n	y	37%	\$ 75,517
2024	Patton Dr	Truman	American	good	n	n	3%	\$ 67,810
2024	Penn Cv	Paine	End	good	n	y	44%	\$ 17,996
2024	Perry Cv	Paine	End	good	n	y	33%	\$ 20,132
2024	Piasino Trl	Dodge	Peacemaker	good	n	n	0%	\$ 27,250
2024	Pinto Cv	Palomino	End	good	n	y	73%	\$ 16,862
2026	Pioneer Cv	Paseo	End	good	n	y	80%	\$ 10,039
2024	Point Cv	Partiot	End	good	n	y	47%	\$ 34,537
2023	Pope Dr	American	Truman	good	n	y	22%	\$ 52,984
2024	Porter Cv	Poe	End	good	n	y	100%	\$ 7,036
2024	Raleigh Cv	Boggy	End	good	n	y	50%	\$ 6,796
2024	Ridgeway Cv	Boggy	End	good	n	y	57%	\$ 14,868
2025	Robing Trl	Emerald	Jewel	good	n	n	0%	\$ 11,699
2025	Robing Trl	Jewel	Emerald	good	n	y	0%	\$ 17,850
2023	Rock Park Ln	Outpost	National	good	n	y	50%	\$ 72,990
2024	Rockefeller Cv	Boggy	End	good	n	y	73%	\$ 5,475
2024	Rockpart Cir	Rockpart	End	good	n	y	50%	\$ 12,758
2023	Rockwood Dr	Outpost	Boggy	good	n	y	10%	\$ 26,492
2024	Santa Monica Ave	Highland	End	good	n	n	7%	\$ 50,093
2024	Santa Rosa Cv	Santa Rosa	End	good	n	y	33%	\$ 13,325
2024	Shady Ln	Roundup	Park	good	n	y	39%	\$ 57,449
2024	Sioux Cv	Country Club	End	good	n	y	40%	\$ 7,665
2024	Stillwood Ct	Stillwood	End	good	n	y	50%	\$ 35,639
2026	Tawny Cv	Trapper	End	good	n	n	0%	\$ 11,200
2024	Thrope Cv	Ticonderoga	End	good	n	y	33%	\$ 4,170
2024	Ticonderoga Cv	Ticonderoga	End	good	n	y	63%	\$ 7,217

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2024	Twain Cv	Boggy	End	good	n	y	100%	\$ 7,514
2026	Wagoner Cv	Wyoming	End	good	n	n	0%	\$ 8,822
2024	Webster Ln	Santa CARlo	Boggy	good	n	n	0%	\$ 22,112
2026	Whispering Oaks Cv	Westward Ho	End	good	n	n	0%	\$ 14,887
2024	Whittier Cv	Santa Carlo	End	good	n	y	52%	\$ 35,930
2026	Willow Cv	Westward Ho	End	good	n	n	0%	\$ 12,635
2024	Winslow Cv	Santa Rosa	End	good	n	y	71%	\$ 22,701
2026	Wrangler Cv	Western	End	good	n	n	0%	\$ 9,189
2026	Wyatt Cv	Wyoming	End	good	n	n	0%	\$ 12,195
2026	Wyoming Pass	Western	End	good	n	n	0%	\$ 70,023
2026	Agarita Dr	Lohman	Redwood	poor	y	n	0%	\$ 57,008
2025	Bacon Cv	Boone	End	poor	y	y	50%	\$ 7,317
2025	Bar K Ranch	War Bonnet	End	poor	n	n	11%	\$ 80,359
2025	Bell Ln	Bell	End	poor	n	n	0%	\$ 38,434
2026	Bighorn Cir	Bronco	Bronco	poor	n	n	3%	\$ 59,271
2025	Blue Lake Dr	Cardinal	Dove	poor	y	n	0%	\$ 11,793
2026	Bobcat Cv	Bronco	End	poor	y	n	100%	\$ 7,719
2026	Brewer Cv	Brewer	End	poor	n	n	0%	\$ 13,168
2026	Bronco Cv	Bronco	End	poor	n	n	0%	\$ 12,543
2026	Browning Cv	Bison	End	poor	y	n	0%	\$ 10,721
2025	Buchanan Cv	Boone	End	poor	n	y	33%	\$ 21,871
2026	Buckbuard Cv	Paseo	End	poor	n	y	8%	\$ 18,855
2024	Buckskin Ridge Dr	End	End	poor	n	n	22%	\$ 114,813
2024	Buffalo Trl	Bronco	Bullet	poor	n	n	33%	\$ 25,608
2026	Cactus Bend Cv	1431	End	poor	y	n	0%	\$ 60,787
2026	Cadar Ridge Cv	Paseo	End	poor	n	n	0%	\$ 11,538
2023	Cardinal Ave	Azure	Blue Jay	poor	n	n	10%	\$ 172,346
2026	Cedar Glen Cv	Coral	End	poor	y	n	0%	\$ 71,079
2026	Cedar Ridge Ct	Paseo	End	poor	n	n	0%	\$ 8,561
2026	Chantily Cv	Chestnut	End	poor	y	n	0%	\$ 18,103
2025	Chantily Trl	Chestnut	Chestnut	poor	y	y	3%	\$ 30,114
2025	Cimmaron Trl	La Mesa	Park	poor	n	y	10%	\$ 72,274
2026	Clearwater Cv	Chestnut	End	poor	y	n	0%	\$ 89,562
2023	Congress Ave	Constitution	Colonial	poor	n	n	11%	\$ 63,429
2023	Cooper Lane	Crockett	End	poor	n	N	21%	\$ 82,003
2026	Coral Cv	Catcus Bend	End	poor	y	n	0%	\$ 91,455
2024	Crockett Ave	Cooper	Constitution	poor	n	n	0%	\$ 16,847
2025	Dakota Cir	Bar K Ranch	Dakota	poor	n	y	89%	\$ 106,642
2026	Dakota Cv	Dakota	End	poor	n	y	40%	\$ 9,511
2023	Deede Dr	Paseo De Vaca	Avenida Ann	poor	n	n	29%	\$ 100,030
2025	Democracy Cv	Highland	End	poor	n	y	11%	\$ 13,309
2025	Earhart Cv	Grille	End	poor	y	n	0%	\$ 47,922
2025	Earhart Cv	Earhart	End	poor	n	n	0%	\$ 4,319
2025	Edison Cv	Earhart	End	poor	n	n	0%	\$ 12,406
2025	Folklore Cir	Sierra	Bar K Ranch rd	poor	y	n	11%	\$ 71,137

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2025	Gold Ln	Falcon	End	poor	y	y	0%	\$ 8,764
2025	Hawthorne Cv	Hancock	End	poor	n	n	0%	\$ 17,521
2025	Hemingway Cv	Hancock	End	poor	n	n	0%	\$ 8,255
2025	Hudson Cv	Hancock	End	poor	n	n	0%	\$ 5,829
2024	Jacksonville Cv	Henry	End	poor	n	n	0%	\$ 6,819
2024	Jones Cv	MaCarthur	End	poor	y	y	33%	\$ 9,706
2026	Lansing Cv	Liberty	End	poor	n	n	0%	\$ 12,348
2026	Lee Ln	Liberty	Lindberg	poor	n	n	7%	\$ 26,816
2026	Lewis Cv	Liberty	End	poor	n	n	0%	\$ 13,439
2026	Lexington Cv	Liberty	End	poor	n	n	0%	\$ 10,989
2026	Live Oak Dr	Paseo De Vaca	Cedar Ridge	poor	y	n	2%	\$ 113,044
2026	Livingston Cv	Liberty End	End	poor	n	n	0%	\$ 8,822
2025	Marquette Cv	MaCarthur	End	poor	y	y	38%	\$ 9,890
2024	Marshall	Nimitz	Mt. Vernon	poor	n	n	8%	\$ 70,337
2026	McAllister Cir	Pope	Pope	poor	y	y	19%	\$ 40,054
2026	McAllister Cv	McAllister	End	poor	n	n	0%	\$ 13,799
2024	Needles Cv	Norton	End	poor	y	n	23%	\$ 19,290
2025	Nevada Cv	Nimitz	End	poor	n	y	11%	\$ 12,888
2025	Niagra Cv	Newton	End	poor	n	y	50%	\$ 20,986
2025	Nobel Cir	Norton	Norton	poor	y	n	10%	\$ 62,028
2025	Noris Cv	Newton	End	poor	n	y	40%	\$ 16,173
2027	Ocho Mesas Cv	Timber	End	poor	n	n	0%	\$ 43,937
2025	Ohara Ln	Truman	Thurber	poor	n	n	0%	\$ 35,590
2026	Ohenry Ave	Truman	Thurber	poor	n	n	0%	\$ 51,805
2025	Oneil Ave	Truman	Thurber	poor	n	n	0%	\$ 40,896
2025	Oregon Ln	Boggy	Crystal	poor	n	n	20%	\$ 63,964
2027	Oro Vista Cv	Outrider	End	poor	n	n	0%	\$ 7,505
2027	Ortega Cv	Timber	End	poor	n	n	0%	\$ 16,491
2023	Osage Ln	Patriot	Boggy	poor	n	n	17%	\$ 72,232
2027	Outlaw Cv	Ranger	End	poor	n	n	0%	\$ 10,889
2027	Outrider Pass	Rawhide	Ocho Mesas	poor	n	n	0%	\$ 42,202
2027	Oxbow Cir	Timber	End	poor	n	n	0%	\$ 44,936
2027	Oxbow Trl	Timber	End	poor	n	n	0%	\$ 9,603
2026	Pecos Cv	Dodge	End	poor	n	n	0%	\$ 11,889
2026	Powder Cv	Dodge	End	poor	y	n	0%	\$ 66,657
2027	Ranger Trl	Rawhide	Timber	poor	n	n	0%	\$ 79,687
2025	Redbird Dr	Truman	Thurber	poor	n	n	0%	\$ 35,337
2026	Redwood Dr	Paseo	Agarita	poor	n	n	0%	\$ 51,299
2026	Ridgeview Cir	Ridgeview	End	poor	n	y	400%	\$ 106,726
2027	Running Book Cove	Rawhide	End	poor	n	n	6%	\$ 29,674
2024	Santa Alto Ave	Highland	Santa Carlo	poor	n	n	0%	\$ 84,699
2025	Santa Bianca Cv	Santa Rosa	End	poor	y	n	0%	\$ 5,284
2025	Santa Cecelia Cv	Santa Rosa	End	poor	y	n	0%	\$ 10,774
2025	Santa Cruz Cir	Santa Alto	Santa Alto	poor	y	n	0%	\$ 46,716
2025	Santa Cruz Cv	Santa Cruz	End	poor	y	n	0%	\$ 15,507

Planned Year	Street Name	From	To	Current Condition of Roadway	Base Work Needed (Y/N)	Utilities Installed for this Entire section (Y/N)	% Built Out	Total Est. Cost (Mill + Overlay)
2023	Santa Domingo Ln	Boggy	Santa Alto	poor	n	n	32%	\$ 38,538
2025	Santa Madrina Ln	Santa Rosa	American	poor	y	y	11%	\$ 21,595
2025	Santa Mateo Ln	Santa Rosa	End	poor	n	n	0%	\$ 22,433
2023	Santa Paula	American	End	poor	y	n	23%	\$ 51,173
2023	Santa Rosa E	American	Santa Paula	poor	n	N	43%	\$ 94,933
2023	Santa Rosa W Ave	Highland	American	poor	n	n	14%	\$ 105,463
2023	Stillwood Ln	Oak Dale	Outpost	poor	n	n	24%	\$ 47,561
2024	Stirrup Cv	Surrey	End	poor	y	y	20%	\$ 7,420
2025	Stone Cliff Dr	NorthRidge	Twisting	poor	y	n	0%	\$ 68,863
2025	Surrey Ln	Stirrup	Sierra	poor	n	y	12%	\$ 34,001
2027	Tegua Cv	Tejas	End	poor	n	n	0%	\$ 20,132
2027	Tejas Trl	El Cajon	Timber	poor	y	n	0%	\$ 105,379
2027	Tepee Cv	Tejas	End	poor	n	n	0%	\$ 19,585
2026	Teton Pass	Timber	Tejas	poor	y	n	0%	\$ 70,126
2025	Thoreau Ln	Boggy	Santa Carlo	poor	y	n	0%	\$ 25,363
2027	Timber Trl	Arena	End	poor	y	n	0%	\$ 212,653
2024	Valley Forge Cv	Santa Paula	End	poor	y	y	67%	\$ 8,508
2025	Vicksburg Cv	Santa Paula	End	poor	n	y	33%	\$ 13,669
2025	Whitney Cv	Santa Rosa	End	poor	n	y	13%	\$ 15,438
2026	Wichita Cv	Western	End	poor	y	n	0%	\$ 13,353
2023	Wilson Ave	Santa Carlo	Boggy	poor	n	y	37%	\$ 88,405
2026	Winchester Cv	Western	End	poor	y	n	0%	\$ 10,855
2023	Lakeshore Blvd	Shoreline	End	very good	n	n	14%	\$ 252,109
2024	Redbird Dr	Patriot	Truman	very good	n	y	60%	\$ 9,940
2025	Bessemer Cv	Boone	End	very poor	y	y	20%	\$ 9,679
2025	Bowie Cv	Boone	End	very poor	y	n	0%	\$ 34,856
2023	Brewer	Paseo De Vaca	Deepwood	very poor	y	y	30%	\$ 50,403
2024	Bronco Ln	Blueberry	Bison	very poor	y	n	13%	\$ 85,158
2024	Buckskin Ridge Dr	La Mesa	End	very poor	n	n	26%	\$ 116,509
2024	Bunker Cv	Boone	End	very poor	n	y	33%	\$ 10,223
2025	Butler Cv	Bell	End	very poor	y	n	0%	\$ 15,032
2023	Calhoun Ave	Congress	Constitution	very poor	y	n	6%	\$ 37,569
2025	Carnege Cv	Congress	End	very poor	y	n	0%	\$ 31,309
2025	Charlestown Cv	Congress	End	very poor	y	n	0%	\$ 23,295
2024	Dakota Cir	Dakota	Bar K Ranch rd	very poor	n	y	36%	\$ 104,536
2027	Eagle Pass	Bar K Ranch	El Cajon	very poor	y	n	0%	\$ 36,137
2027	El Cajon Ln	Rawhide	End	very poor	y	n	0%	\$ 84,994
2023	High Dr	Rockwood	National	very poor	y	n	25%	\$ 79,687
2026	Liberty Ln	Boggy	End	very poor	n	n	11%	\$ 94,076
2024	Lindberg Ln	Boggy	Lee	very poor	y	y	69%	\$ 32,936
2025	Newark Cv	Nimitz	End	very poor	y	n	0%	\$ 17,770
2024	Newberry Cv	Newton	End	very poor	n	y	40%	\$ 11,762
2027	Oswego Cv	Timber	End	very poor	y	n	0%	\$ 13,554
2027	Overland Trl	Outrider	Timber	very poor	y	n	0%	\$ 68,484
2024	Owens Ln	Owens Cv	Crystal	very poor	n	y	76%	\$ 22,330

Planned Year	Street Name	From	To	Current Condition of Roadway	Base Work Needed (Y/N)	Utilities Installed for this Entire section (Y/N)	% Built Out	Total Est. Cost (Mill + Overlay)
2024	Pokealong Path	Deer Run	Park	very poor	n	n	31%	\$ 45,024
2023	Post Oak Dr	Deepwood	White Oak	very poor	y	n	19%	\$ 110,257
2027	Ramrod Cv	Ramrod	End	very poor	n	n	0%	\$ 14,320
2027	Rendezvous Cove	Ranger	End	very poor	n	n	0%	\$ 10,453
2027	Ringtail Cv	Ranger	End	very poor	n	n	0%	\$ 8,328
2027	Roughneck Cv	Ranger	End	very poor	n	n	0%	\$ 8,730
2025	Santa Elena Cir	Santa Domingo	Santa Alto	very poor	y	n	27%	\$ 41,865
2024	Shady Ln	Park	End	very poor	n	n	0%	\$ 21,067
2026	Tahoe Ln	Talon	Teton	very poor	y	n	0%	\$ 21,365
2023	Talon	Bar K Ranch	Bar K Ranch rd	very poor	n	n	10%	\$ 58,249
2024	Tenderfoot Cv	Bar K Ranch	End	very poor	y	n	13%	\$ 12,942
2026	Tombstone Cv	Timber	End	very poor	y	n	0%	\$ 12,593
2026	Trapper Ln	Bar K Ranch	Teton	very poor	y	n	0%	\$ 9,448
2026	Trinity Cv	Timber	End	very poor	y	n	0%	\$ 25,826
2026	Twilight Cv	Timber	End	very poor	y	n	0%	\$ 16,924
2024	Una Mas Dr	Buena Vista	Deede	very poor	y	y	50%	\$ 9,603
2024	War Bonnet Cv	Bar K Ranch	End	very poor	n	n	29%	\$ 13,884
2026	Warrior Trl	Bar K Ranch	End	very poor	n	n	0%	\$ 48,435
2024	Washington Cv	Santa Rosa	End	very poor	n	y	40%	\$ 8,512
2026	Washita Cv	Bar K Ranch	End	very poor	n	n	0%	\$ 24,719
2026	White Cloud Cv	Bar K Ranch	End	very poor	n	n	0%	\$ 15,921
2026	Wigwam Cir	Bar K Ranch	End	very poor	y	n	0%	\$ 25,271
2026	Wild Bear Path	Bar K Ranch	End	very poor	y	n	0%	\$ 30,784
2026	Coral Ln	Cactus Bend	End				0%	\$ -



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	April 20, 2023
SUBMITTED BY:	Lucy Aldrich, City Secretary
SUBJECT:	Discussion, consideration and possible action regarding a future election for a General Obligation Bond to renovate the Lago Vista Golf Course.
BACKGROUND:	The City Council held a Strategic Planning Session on February 24, 2023; and discussed future General Obligation Bond elections. After the Strategic Planning Session, Golf Course Architect Jeffrey D. Blume, ASGCA gave a presentation to City Council that provided a new design and detailed plans for Golf Course renovations and a future master plan of the Golf Course.
FINDINGS:	A recent presentation included three (3) different concepts and is attached to this agenda item for review. Staff recommends City Council agree on when staff should prepare an ordinance calling a General Obligation Bond special election. Future election dates are as follows: November 2023 (election would need to be called in August 2023), May 2024 (election would need to be called in February 2024), November 2024 (election would need to be called in August 2024).
FINANCIAL IMPACT:	There is no fiscal impact at this time.
RECOMMENDATION:	Staff recommends City Council discuss and take action as it pertains to a future GO Bond election. This item will not itself call a bond election.
ATTACHMENTS:	Golf Course Cost Estimate Concept 1 Golf Course Cost Estimate Concept 2 Golf Course Cost Estimate Concept 3 Golf Course Master Plan Presentation

LAGO VISTA GOLF COURSE				
GREENS, BUNKERS, FAIRWAYS & TEES - CONCEPT I				
Item	Unit	Quantity	Unit Price	Total Price
1. Mobilization & Staking (Lump Sum)	ls	1	150,000.00	150,000.00
Total Lump Sum Price for Mobilization & Staking				150,000.00
2. Clearing & Grubbing				
2.1 Existing Turf Removal	ac	45	2,000.00	90,000.00
2.2 Clearing	ac	5	5,000.00	25,000.00
Total Measured Sum Price for Clearing				115,000.00
3. Earthmoving & Rough Shaping				
3.1 Earthmoving				
3.1.1 Excavation	cy	100,000	6.00	600,000.00
Total Measured Sum Price for Earthmoving & Rough Shaping				600,000.00
4. Subsurface Drainage				
4.1 Inlet Structures				
4.1.1 12" Catchbasins	ea	50	900.00	45,000.00
4.1.2 18" Catchbasins	ea	0	0.00	0.00
4.1.3 24" Catchbasins	ea	0	0.00	0.00
4.1.4 48" Lake Overflow Structures	ea	0	0.00	0.00
4.2 Pipe				
4.2.1 6" C.P.P.	lf	8,000	13.00	104,000.00
4.2.2 8" C.P.P.	lf	0	0.00	0.00
4.2.3 12" C.P.P.	lf	0	0.00	0.00
4.2.4 24" C.P.P.	lf	0	0.00	0.00
Total Measured Sum Price for Subsurface Drainage				149,000.00
5. Fine Grading				
5.1 Tee, Green & Bunker Construction				
5.1.1 Root Zone Mix	cy	4,444	150.00	666,600.00
5.1.2 Greens Gravel	cy	1,481	120.00	177,720.00
5.1.3 Bunker Gravel	cy	629	120.00	75,480.00
5.1.4 Bunker Sand	cy	494	230.00	113,620.00
5.1.5 4" Perf. Pipe (Rigid)	lf	16,000	10.00	160,000.00
5.1.6 4" Solid Pipe (Rigid)	lf	12,000	10.00	120,000.00
5.1.6 Better Billy Bunker	sf	40,000	2.35	94,000.00
5.1.8 Tee Mix (2" Depth)	cy	1,086	100.00	108,600.00
5.2 Feature Shaping	Hole	19	15,000.00	285,000.00
Total Measured Sum Price for Fine Grading & Lump Sum Price for Feature Shaping				1,801,020.00

6. Grassing				
6.1 Planting Greens	sf	120,000	0.85	102,000.00
6.2 Planting Tees	sf	176,000	0.55	96,800.00
6.3 Planting Fairways & Roughs	ac	31.57	4,200.00	132,594.00
6.4 Sodding	sy	65,000	7.50	487,500.00
Total Measured Sum Price for Grassing				818,894.00
7. Other Construction				
7.1 SWPPP (Permit Application & Fees)	ls	1	5,000.00	5,000.00
7.2 Reinforced Silt Fence	lf	4,000	6.50	26,000.00
7.3 Bulkheading	lf	1,500	300.00	450,000.00
Total Measured Sum Price for Other Construction				481,000.00
8. Cart Path Construction				
8.1 Cart Paths (8' wide, 4" thick)	sf	30,000	6.50	195,000.00
8.2 Cart Path Crossing (Bridges)	ea	0	0.00	0.00
8.3 Curbing	lf	9,000	10.00	90,000.00
8.4 Cart Path Demolition	sf	25,000	1.00	25,000.00
Total Measured Sum Price for Cart Path Construction				310,000.00
9. Irrigation				
9.1 Irrigation	ls	1	0.00	0.00
Total Measured Sum Price for Irrigation				0.00
TOTAL CONTRACT SUM				4,424,914.00
10. Non-Construction items				
10.1 Grow-in	ls	1	160,000.00	160,000.00
10.2 Golf Course Architecture Fees	ls	1	275,000.00	275,000.00
10.3 Irrigation Design Fees	ls	1	0.00	0.00
10.4 Performance & Payment Bond	ls	1	90,000.00	90,000.00
Total Lump Sum Price for Non-Construction Items				525,000.00

LAGO VISTA GOLF COURSE				
COMPLETE RENOVATION - CONCEPT II				
Item	Unit	Quantity	Unit Price	Total Price
1. Mobilization & Staking (Lump Sum)	ls	1	200,000.00	200,000.00
Total Lump Sum Price for Mobilization & Staking				200,000.00
2. Clearing & Grubbing				
2.1 Existing Turf Removal	ac	75	2,000.00	150,000.00
2.2 Clearing	ac	5	5,000.00	25,000.00
Total Measured Sum Price for Clearing				175,000.00
3. Earthmoving & Rough Shaping				
3.1 Earthmoving				
3.1.1 Excavation	cy	150,000	6.00	900,000.00
Total Measured Sum Price for Earthmoving & Rough Shaping				900,000.00
4. Subsurface Drainage				
4.1 Inlet Structures				
4.1.1 12" Catchbasins	ea	50	900.00	45,000.00
4.1.2 18" Catchbasins	ea	15	1,500.00	22,500.00
4.1.3 24" Catchbasins	ea	7	2,200.00	15,400.00
4.1.4 48" Lake Overflow Structures	ea	0	0.00	0.00
4.2 Pipe				
4.2.1 6" C.P.P.	lf	8,000	13.00	104,000.00
4.2.2 8" C.P.P.	lf	3,000	18.00	54,000.00
4.2.3 12" C.P.P.	lf	1,500	23.00	34,500.00
4.2.4 24" C.P.P.	lf	0	0.00	0.00
Total Measured Sum Price for Subsurface Drainage				275,400.00
5. Fine Grading				
5.1 Tee, Green & Bunker Construction				
5.1.1 Root Zone Mix	cy	4,444	150.00	666,600.00
5.1.2 Greens Gravel	cy	1,481	120.00	177,720.00
5.1.3 Bunker Gravel	cy	629	120.00	75,480.00
5.1.4 Bunker Sand	cy	494	230.00	113,620.00
5.1.5 4" Perf. Pipe (Rigid)	lf	16,000	10.00	160,000.00
5.1.6 4" Solid Pipe (Rigid)	lf	12,000	10.00	120,000.00
5.1.6 Better Billy Bunker	sf	40,000	2.35	94,000.00
5.1.8 Tee Mix (2" Depth)	cy	1,086	100.00	108,600.00
5.2 Feature Shaping	Hole	19	15,000.00	285,000.00
Total Measured Sum Price for Fine Grading & Lump Sum Price for Feature Shaping				1,801,020.00

6. Grassing				
6.1 Planting Greens	sf	120,000	0.85	102,000.00
6.2 Planting Tees	sf	176,000	0.55	96,800.00
6.3 Planting Fairways & Roughs	ac	63	4,200.00	264,600.00
6.4 Sodding	sy	65,000	7.50	487,500.00
Total Measured Sum Price for Grassing				950,900.00
7. Other Construction				
7.1 SWPPP (Permit Application & Fees)	ls	1	5,000.00	5,000.00
7.2 Reinforced Silt Fence	lf	4,000	6.50	26,000.00
7.3 Bulkheading	lf	1,500	300.00	450,000.00
Total Measured Sum Price for Other Construction				481,000.00
8. Cart Path Construction				
8.1 Cart Paths (8' wide, 4" thick)	sf	76,000	6.50	494,000.00
8.2 Cart Path Crossing (Bridges)	ea	0	0.00	0.00
8.3 Curbing	lf	9,000	10.00	90,000.00
8.4 Cart Path Demolition	sf	70,000	1.00	70,000.00
Total Measured Sum Price for Cart Path Construction				654,000.00
9. Irrigation				
9.1 Irrigation	ls	1	0.00	0.00
Total Measured Sum Price for Irrigation				0.00
TOTAL CONTRACT SUM				5,437,320.00
10. Non-Construction items				
10.1 Grow-in	ls	1	200,000.00	200,000.00
10.2 Golf Course Architecture Fees	ls	1	325,000.00	325,000.00
10.3 Irrigation Design Fees	ls	1	0.00	0.00
10.4 Performance & Payment Bond	ls	1	100,000.00	100,000.00
Total Lump Sum Price for Non-Construction Items				625,000.00

LAGO VISTA GOLF COURSE				
GREENS, BUNKERS, & TEES - CONCEPT III				
Item	Unit	Quantity	Unit Price	Total Price
1. Mobilization & Staking (Lump Sum)	ls	1	150,000.00	150,000.00
Total Lump Sum Price for Mobilization & Staking				150,000.00
2. Clearing & Grubbing				
2.1 Existing Turf Removal	ac	30	2,000.00	60,000.00
2.2 Clearing	ac	5	5,000.00	25,000.00
Total Measured Sum Price for Clearing				85,000.00
3. Earthmoving & Rough Shaping				
3.1 Earthmoving				
3.1.1 Excavation	cy	90,000	6.00	540,000.00
Total Measured Sum Price for Earthmoving & Rough Shaping				540,000.00
4. Subsurface Drainage				
4.1 Inlet Structures				
4.1.1 12" Catchbasins	ea	50	900.00	45,000.00
4.1.2 18" Catchbasins	ea	0	0.00	0.00
4.1.3 24" Catchbasins	ea	0	0.00	0.00
4.1.4 48" Lake Overflow Structures	ea	0	0.00	0.00
4.2 Pipe				
4.2.1 6" C.P.P.	lf	8,000	13.00	104,000.00
4.2.2 8" C.P.P.	lf	0	0.00	0.00
4.2.3 12" C.P.P.	lf	0	0.00	0.00
4.2.4 24" C.P.P.	lf	0	0.00	0.00
Total Measured Sum Price for Subsurface Drainage				149,000.00
5. Fine Grading				
5.1 Tee, Green & Bunker Construction				
5.1.1 Root Zone Mix	cy	4,444	150.00	666,600.00
5.1.2 Greens Gravel	cy	1,481	120.00	177,720.00
5.1.3 Bunker Gravel	cy	629	120.00	75,480.00
5.1.4 Bunker Sand	cy	494	230.00	113,620.00
5.1.5 4" Perf. Pipe (Rigid)	lf	16,000	10.00	160,000.00
5.1.6 4" Solid Pipe (Rigid)	lf	12,000	10.00	120,000.00
5.1.6 Better Billy Bunker	sf	40,000	2.35	94,000.00
5.1.8 Tee Mix (2" Depth)	cy	1,086	100.00	108,600.00
5.2 Feature Shaping	Hole	19	12,500.00	237,500.00
Total Measured Sum Price for Fine Grading & Lump Sum Price for Feature Shaping				1,753,520.00

6. Grassing				
6.1 Planting Greens	sf	120,000	0.85	102,000.00
6.2 Planting Tees	sf	176,000	0.55	96,800.00
6.3 Planting Fairways & Roughs	ac	10	4,200.00	42,000.00
6.4 Sodding	sy	65,000	7.50	487,500.00
Total Measured Sum Price for Grassing				728,300.00
7. Other Construction				
7.1 SWPPP (Permit Application & Fees)	ls	1	5,000.00	5,000.00
7.2 Reinforced Silt Fence	lf	4,000	6.50	26,000.00
7.3 Bulkheading	lf	0	300.00	0.00
Total Measured Sum Price for Other Construction				31,000.00
8. Cart Path Construction				
8.1 Cart Paths (8' wide, 4" thick)	sf	0	6.50	0.00
8.2 Cart Path Crossing (Bridges)	ea	0	0.00	0.00
8.3 Curbing	lf	0	10.00	0.00
8.4 Cart Path Demolition	sf	0	1.00	0.00
Total Measured Sum Price for Cart Path Construction				0.00
9. Irrigation				
9.1 Irrigation	ls	1	0.00	0.00
Total Measured Sum Price for Irrigation				0.00
TOTAL CONTRACT SUM				3,436,820.00
10. Non-Construction items				
10.1 Grow-in	ls	1	160,000.00	160,000.00
10.2 Golf Course Architecture Fees	ls	1	225,000.00	225,000.00
10.3 Irrigation Design Fees	ls	1	0.00	0.00
10.4 Performance & Payment Bond	ls	1	70,000.00	70,000.00
Total Lump Sum Price for Non-Construction Items				455,000.00



Lago Vista Golf Course Lago Vista, Texas

Jeffrey D. Blume, ASGCA

Presentation Outline

- ◆ Introduction – Jeffrey D. Blume, Limited
- ◆ Project Goals
- ◆ Scope of Renovations
- ◆ Master Plan
- ◆ Estimated Cost
- ◆ Construction Schedule

Jeffrey D. Blume, ASGCA

- ◆ Golf Course Architect with thirty-four years of experience in new course design and renovation.
- ◆ Member – American Society of Golf Course Architects
 - ◆ ASGCA Executive Committee (President) – 2018-2019
 - ◆ ASGCA Board of Governors – 2013-2020
 - ◆ ASGCA Foundation Board of Governors – 2022 - Present
- ◆ Houston Golf Association (1997-2016) - Shell Houston Open
 - ◆ Tournament General Chairman – 2009 & 2010
- ◆ Member – South Texas Golf Course Superintendents Association.
- ◆ USGA Construction Education Committee, Greens Section, Pace of Play Committee and Innovation Symposium

Presentation Outline

- ◆ Introduction – Jeffrey D. Blume, Limited
- ◆ Project Goals
- ◆ Scope of Renovations
- ◆ Master Plan
- ◆ Estimated Cost
- ◆ Construction Schedule

Project Goals

- ◆ To improve the overall reputation and marketability of the golf course at Lago Vista.
- ◆ To enhance the golfer and guest experience to attract new clientele to the facility.
- ◆ To improve and make more efficient the operations and maintenance of the facility.
- ◆ To modernize and replace aging infrastructure.
- ◆ To adjust the course routing to address the weakness of holes #3, #9, #15, and the practice facilities.

Scope of Renovations

- ◆ **Greens to be redesigned and re-built according to USGA Guidelines**
 - ◆ Renovation should improve internal drainage promoting a better environment for turf growth.
 - ◆ Contouring will reflect modern greens speeds and turf varieties.
 - ◆ Modern turf variety will bring greens up to current golfer expectations.
 - ◆ Leave a minimal “footprint” on the surrounding environment.

- ◆ **Bunkers to be redesigned and rebuilt**
 - ◆ Bunker life is typically 7-10 years (Lago Vista bunkers are now well past their serviceable life).
 - ◆ Will bring the course aesthetic and playability up to modern standards.
 - ◆ Will include modern bunker liner to reduce maintenance cost.
 - ◆ Bunker design and locations will change to be more descriptive of shot values.

Scope of Renovations

- ◆ Tees to be redesigned and re-built
 - ◆ Increase the size to disperse wear patterns and improve conditions.
 - ◆ Relocate teeing grounds to adjust to modern standards and incorporate a more varied group of players.
 - ◆ Relocate tees and change turf type to minimize shade impact on conditions.
- ◆ Fairways to be re-finished and re-grassed
 - ◆ All fairways will be re-finished to address minor drainage issues.
 - ◆ A new turf variety will be introduced to improve the playability and aesthetic appeal of the golf course.
 - ◆ Where possible, the fairways will be shaped to contain golf shots thereby making the course more playable and enjoyable for all levels of golfers.

Scope of Renovations

- ◆ Course routing to be adjusted to eliminate weak holes and take advantage of unrealized opportunities
 - ◆ Hole #3 will be increased in length to create a short par 4. This will make up the shot to par lost by the change to hole #9.
 - ◆ Hole #9 will be changed to a par 3 with the new green being located on the top of the hill. This will eliminate the need to play tee shots over the surrounding property, speed up play by eliminating a blind tee shot, and allow the green site to be used for alternative purposes.
 - ◆ A new putting green will be created adjacent to both starting holes to allow for efficient practice prior to the start of the round. This will free up space adjacent to the clubhouse for other uses.
 - ◆ The main practice tee will be increased in size by utilizing the space vacated by the old putting green.
 - ◆ The site of #9 green can be repurposed as a short game area, new tennis and pickle ball facility, cart storage or additional parking. It can also serve as the stage area for the natural amphitheater created by the large hill to the south.
 - ◆ The existing tennis/pickle ball facility can remain in place or be converted into new cart staging, storage and a covered hitting area for the practice range.

LAGO VISTA GOLF COURSE

LAGO VISTA, TEXAS

PREPARED FOR:

CITY OF LAGO VISTA
5803 THUNDERBIRD
SUITE 101
LAGO VISTA, TX 78645

(512)267-1155

SCORECARD

HOLE	PAR	YARDS	HOLE	PAR	YARDS
1	4	342	10	5	522
2	5	602	11	4	410
3	4	292	12	3	197
4	4	409	13	4	393
5	4	375	14	4	303
6	3	172	15	5	502
7	4	340	16	4	402
8	5	565	17	4	415
9	3	208	18	3	192
OUT	36	3,305	IN	36	3,336
			TOTAL	72	6,641

LENGTHS SHOWN IN YARDS FROM THE REGULAR MEN'S TEE

Jeffrey D. Blum, Limited
Golf Course Architect
10000 210 210, Suite 111
Houston, Texas 77054
(281) 416-1111
jdb@jeffreyblum.com

SCALE

DATE

REVISION

LAGO VISTA GOLF COURSE
DESIGNED BY
JEFFREY D. BLUM, LIMITED
ARCHITECTS
10000 210 210, Suite 111
HOUSTON, TEXAS 77054
(281) 416-1111
jdb@jeffreyblum.com

Estimated Cost – Concept 1

LAGO VISTA GOLF COURSE				
GREENS, BUNKERS, FAIRWAYS & TEES - CONCEPT I				
Item	Unit	Quantity	Unit Price	Total Price
1. Mobilization & Staking (Lump Sum)	ls	1	150,000.00	150,000.00
Total Lump Sum Price for Mobilization & Staking				150,000.00
2. Clearing & Grubbing				
2.1 Existing Turf Removal	ac	45	2,000.00	90,000.00
2.2 Clearing	ac	5	5,000.00	25,000.00
Total Measured Sum Price for Clearing				115,000.00
3. Earthmoving & Rough Shaping				
3.1 Earthmoving				
3.1.1 Excavation	cy	100,000	6.00	600,000.00
Total Measured Sum Price for Earthmoving & Rough Shaping				600,000.00
4. Subsurface Drainage				
4.1 Inlet Structures				
4.1.1 12" Catchbasins	ea	50	900.00	45,000.00
4.1.2 18" Catchbasins	ea	0	0.00	0.00
4.1.3 24" Catchbasins	ea	0	0.00	0.00
4.1.4 48" Lake Overflow Structures	ea	0	0.00	0.00
4.2 Pipe				
4.2.1 6" C.P.P.	lf	8,000	13.00	104,000.00
4.2.2 8" C.P.P.	lf	0	0.00	0.00
4.2.3 12" C.P.P.	lf	0	0.00	0.00
4.2.4 24" C.P.P.	lf	0	0.00	0.00
Total Measured Sum Price for Subsurface Drainage				149,000.00
5. Fine Grading				
5.1 Tee, Green & Bunker Construction				
5.1.1 Root Zone Mix	cy	4,444	150.00	666,600.00
5.1.2 Greens Gravel	cy	1,481	120.00	177,720.00
5.1.3 Bunker Gravel	cy	629	120.00	75,480.00
5.1.4 Bunker Sand	cy	494	230.00	113,620.00
5.1.5 4" Perf. Pipe (Rigid)	lf	16,000	10.00	160,000.00
5.1.6 4" Solid Pipe (Rigid)	lf	12,000	10.00	120,000.00
5.1.6 Better Billy Bunker	sf	40,000	2.35	94,000.00
5.1.8 Tee Mix (2" Depth)	cy	1,086	100.00	108,600.00
5.2 Feature Shaping	Hole	19	15,000.00	285,000.00
Total Measured Sum Price for Fine Grading & Lump Sum Price for Feature Shaping				1,801,020.00

Lago Vista Golf Course

1

February 20, 2023

6. Grassing				
6.1 Planting Greens	sf	120,000	0.85	102,000.00
6.2 Planting Tees	sf	176,000	0.55	96,800.00
6.3 Planting Fairways & Roughs	ac	31.57	4,200.00	132,594.00
6.4 Sodding	sy	65,000	7.50	487,500.00
Total Measured Sum Price for Grassing				818,894.00
7. Other Construction				
7.1 SWPPP (Permit Application & Fees)	ls	1	5,000.00	5,000.00
7.2 Reinforced Silt Fence	lf	4,000	6.50	26,000.00
7.3 Bulkheading	lf	1,500	300.00	450,000.00
Total Measured Sum Price for Other Construction				481,000.00
8. Cart Path Construction				
8.1 Cart Paths (8' wide, 4" thick)	sf	30,000	6.50	195,000.00
8.2 Cart Path Crossing (Bridges)	ea	0	0.00	0.00
8.3 Curbing	lf	9,000	10.00	90,000.00
8.4 Cart Path Demolition	sf	25,000	1.00	25,000.00
Total Measured Sum Price for Cart Path Construction				310,000.00
9. Irrigation				
9.1 Irrigation	ls	1	0.00	0.00
Total Measured Sum Price for Irrigation				0.00
TOTAL CONTRACT SUM				4,424,914.00
10. Non-Construction items				
10.1 Grow-in	ls	1	160,000.00	160,000.00
10.2 Golf Course Architecture Fees	ls	1	275,000.00	275,000.00
10.3 Irrigation Design Fees	ls	1	0.00	0.00
10.4 Performance & Payment Bond	ls	1	90,000.00	90,000.00
Total Lump Sum Price for Non-Construction Items				525,000.00

Lago Vista Golf Course

2

February 20, 2023

Estimated Cost – Concept 2

LAGO VISTA GOLF COURSE				
COMPLETE RENOVATION - CONCEPT II				
Item	Unit	Quantity	Unit Price	Total Price
1. Mobilization & Staking (Lump Sum)	ls	1	200,000.00	200,000.00
Total Lump Sum Price for Mobilization & Staking				200,000.00
2. Clearing & Grubbing				
2.1 Existing Turf Removal	ac	75	2,000.00	150,000.00
2.2 Clearing	ac	5	5,000.00	25,000.00
Total Measured Sum Price for Clearing				175,000.00
3. Earthmoving & Rough Shaping				
3.1 Earthmoving				
3.1.1 Excavation	cy	150,000	6.00	900,000.00
Total Measured Sum Price for Earthmoving & Rough Shaping				900,000.00
4. Subsurface Drainage				
4.1 Inlet Structures				
4.1.1 12" Catchbasins	ea	50	900.00	45,000.00
4.1.2 18" Catchbasins	ea	15	1,500.00	22,500.00
4.1.3 24" Catchbasins	ea	7	2,200.00	15,400.00
4.1.4 48" Lake Overflow Structures	ea	0	0.00	0.00
4.2 Pipe				
4.2.1 6" C.P.P.	lf	8,000	13.00	104,000.00
4.2.2 8" C.P.P.	lf	3,000	18.00	54,000.00
4.2.3 12" C.P.P.	lf	1,500	23.00	34,500.00
4.2.4 24" C.P.P.	lf	0	0.00	0.00
Total Measured Sum Price for Subsurface Drainage				275,400.00
5. Fine Grading				
5.1 Tee, Green & Bunker Construction				
5.1.1 Root Zone Mix	cy	4,444	150.00	666,600.00
5.1.2 Greens Gravel	cy	1,481	120.00	177,720.00
5.1.3 Bunker Gravel	cy	629	120.00	75,480.00
5.1.4 Bunker Sand	cy	494	230.00	113,620.00
5.1.5 4" Perf. Pipe (Rigid)	lf	16,000	10.00	160,000.00
5.1.6 4" Solid Pipe (Rigid)	lf	12,000	10.00	120,000.00
5.1.6 Better Billy Bunker	sf	40,000	2.35	94,000.00
5.1.8 Tee Mix (2" Depth)	cy	1,086	100.00	108,600.00
5.2 Feature Shaping	Hole	19	15,000.00	285,000.00
Total Measured Sum Price for Fine Grading & Lump Sum Price for Feature Shaping				1,801,020.00

Lago Vista Golf Course

1

February 20, 2023

6. Grassing				
6.1 Planting Greens	sf	120,000	0.85	102,000.00
6.2 Planting Tees	sf	176,000	0.55	96,800.00
6.3 Planting Fairways & Roughs	ac	63	4,200.00	264,600.00
6.4 Sodding	sy	65,000	7.50	487,500.00
Total Measured Sum Price for Grassing				950,900.00
7. Other Construction				
7.1 SWPPP (Permit Application & Fees)	ls	1	5,000.00	5,000.00
7.2 Reinforced Silt Fence	lf	4,000	6.50	26,000.00
7.3 Bulkheading	lf	1,500	300.00	450,000.00
Total Measured Sum Price for Other Construction				481,000.00
8. Cart Path Construction				
8.1 Cart Paths (8' wide, 4" thick)	sf	76,000	6.50	494,000.00
8.2 Cart Path Crossing (Bridges)	ea	0	0.00	0.00
8.3 Curbing	lf	9,000	10.00	90,000.00
8.4 Cart Path Demolition	sf	70,000	1.00	70,000.00
Total Measured Sum Price for Cart Path Construction				654,000.00
9. Irrigation				
9.1 Irrigation	ls	1	0.00	0.00
Total Measured Sum Price for Irrigation				0.00
TOTAL CONTRACT SUM				5,437,320.00
10. Non-Construction items				
10.1 Grow-in	ls	1	200,000.00	200,000.00
10.2 Golf Course Architecture Fees	ls	1	325,000.00	325,000.00
10.3 Irrigation Design Fees	ls	1	0.00	0.00
10.4 Performance & Payment Bond	ls	1	100,000.00	100,000.00
Total Lump Sum Price for Non-Construction Items				625,000.00

Lago Vista Golf Course

2

February 20, 2023

Estimated Cost – Concept 3

LAGO VISTA GOLF COURSE				
GREENS, BUNKERS, & TEES - CONCEPT III				
Item	Unit	Quantity	Unit Price	Total Price
1. Mobilization & Staking (Lump Sum)	ls	1	150,000.00	150,000.00
Total Lump Sum Price for Mobilization & Staking				150,000.00
2. Clearing & Grubbing				
2.1 Existing Turf Removal	ac	30	2,000.00	60,000.00
2.2 Clearing	ac	5	5,000.00	25,000.00
Total Measured Sum Price for Clearing				85,000.00
3. Earthmoving & Rough Shaping				
3.1 Earthmoving				
3.1.1 Excavation	cy	90,000	6.00	540,000.00
Total Measured Sum Price for Earthmoving & Rough Shaping				540,000.00
4. Subsurface Drainage				
4.1 Inlet Structures				
4.1.1 12" Catchbasins	ea	50	900.00	45,000.00
4.1.2 18" Catchbasins	ea	0	0.00	0.00
4.1.3 24" Catchbasins	ea	0	0.00	0.00
4.1.4 48" Lake Overflow Structures	ea	0	0.00	0.00
4.2 Pipe				
4.2.1 6" C.P.P.	lf	8,000	13.00	104,000.00
4.2.2 8" C.P.P.	lf	0	0.00	0.00
4.2.3 12" C.P.P.	lf	0	0.00	0.00
4.2.4 24" C.P.P.	lf	0	0.00	0.00
Total Measured Sum Price for Subsurface Drainage				149,000.00
5. Fine Grading				
5.1 Tee, Green & Bunker Construction				
5.1.1 Root Zone Mix	cy	4,444	150.00	666,600.00
5.1.2 Greens Gravel	cy	1,481	120.00	177,720.00
5.1.3 Bunker Gravel	cy	629	120.00	75,480.00
5.1.4 Bunker Sand	cy	494	230.00	113,620.00
5.1.5 4" Perf. Pipe (Rigid)	lf	16,000	10.00	160,000.00
5.1.6 4" Solid Pipe (Rigid)	lf	12,000	10.00	120,000.00
5.1.6 Better Billy Bunker	sf	40,000	2.35	94,000.00
5.1.8 Tee Mix (2" Depth)	cy	1,086	100.00	108,600.00
5.2 Feature Shaping	Hole	19	12,500.00	237,500.00
Total Measured Sum Price for Fine Grading & Lump Sum Price for Feature Shaping				1,753,520.00

Lago Vista Golf Course

1

February 20, 2023

6. Grassing				
6.1 Planting Greens	sf	120,000	0.85	102,000.00
6.2 Planting Tees	sf	176,000	0.55	96,800.00
6.3 Planting Fairways & Roughs	ac	10	4,200.00	42,000.00
6.4 Sodding	sy	65,000	7.50	487,500.00
Total Measured Sum Price for Grassing				728,300.00
7. Other Construction				
7.1 SWPPP (Permit Application & Fees)	ls	1	5,000.00	5,000.00
7.2 Reinforced Silt Fence	lf	4,000	6.50	26,000.00
7.3 Bulkheading	lf	0	300.00	0.00
Total Measured Sum Price for Other Construction				31,000.00
8. Cart Path Construction				
8.1 Cart Paths (8' wide, 4" thick)	sf	0	6.50	0.00
8.2 Cart Path Crossing (Bridges)	ea	0	0.00	0.00
8.3 Curbing	lf	0	10.00	0.00
8.4 Cart Path Demolition	sf	0	1.00	0.00
Total Measured Sum Price for Cart Path Construction				0.00
9. Irrigation				
9.1 Irrigation	ls	1	0.00	0.00
Total Measured Sum Price for Irrigation				0.00
TOTAL CONTRACT SUM				3,436,820.00
10. Non-Construction items				
10.1 Grow-in	ls	1	160,000.00	160,000.00
10.2 Golf Course Architecture Fees	ls	1	225,000.00	225,000.00
10.3 Irrigation Design Fees	ls	1	0.00	0.00
10.4 Performance & Payment Bond	ls	1	70,000.00	70,000.00
Total Lump Sum Price for Non-Construction Items				455,000.00

Lago Vista Golf Course

2

February 20, 2023

Project Schedule – Concepts I & III

Done in two consecutive years

TASK	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24
DESIGN														
PRELIM DESIGN														
CONSTR. DOCUMENTS														
BIDDING														
CONSTR. OBSERVATION														
CONSTRUCTION														
MOBILIZATION														
STAKING & CLEARING														
BULK EARTHMOVING														
DRAINAGE														
IRRIGATION														
FINE GRADING														
TILE DRAINAGE														
SEED BED MIX														
BUNKER CONSTR.														
TEE CONSTRUCTION														
CART PATHS														
GRASSING & FERTILIZE														
GROW-IN														
TOTAL														

Lago Vista Golf Course
Construction Schedule - Concepts I, III

March 16, 2023

Project Schedule – Concepts II

Done in two consecutive years

TASK	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24
DESIGN														
PRELIM DESIGN														
CONSTR. DOCUMENTS														
BIDDING														
CONSTR. OBSERVATION														
CONSTRUCTION														
MOBILIZATION														
STAKING & CLEARING														
BULK EARTH MOVING														
DRAINAGE														
IRRIGATION														
FINE GRADING														
TILE DRAINAGE														
SEED BED MIX														
BUNKER CONSTR.														
TEE CONSTRUCTION														
CART PATHS														
GRASSING & FERTILIZE														
GROW-IN														
TOTAL														

Lago Vista Golf Course
Construction Schedule - Concept II
March 16, 2023

Questions?





Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 20, 2023

SUBMITTED BY: Tracie Hlavinka, City Manager

SUBJECT: Discussion, consideration and possible action on Resolution No. 23-1994, a Resolution of the City Council of the City of Lago Vista authorizing opposition to Legislative changes relating to H.B. 866, 1489, 2127, 2266, 2970, 3921, and S.B. 175, 814, 1412, 1421, 1786, 1787.

BACKGROUND: The 2023 Texas Legislative Session has begun and multiple bills have been filed that would undermine the role of local government in shaping the character and quality of their neighborhoods.

FINANCIAL IMPACT: N/A

RECOMMENDATION: Consider approval of Resolution No. 23-1994.

ATTACHMENTS:
[Resolution 23-1994](#)
[HB 866E](#)
[HB 1489I](#)
[HB 2127I](#)
[SB 814I](#)
[HB 2266I](#)
[HB 2970E](#)
[HB 3921I](#)
[SB 1787I](#)
[SB 175E](#)
[SB 1412I](#)
[SB 1421E](#)
[SB 1786I](#)

RESOLUTION NO. 23-1994

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA AUTHORIZING OPPOSITION TO LEGISLATIVE CHANGES RELATING TO H.B. 866, 1489, 2127, 2266, 2970, 3921 AND S.B. 175, 814, 1412, 1421, 1787.

WHEREAS, The City of Lago Vista is a small city on the outskirts of a major metropolitan area (Austin) and the Northwest corner of Travis County; a county with more than 300,000 residents; and

WHEREAS, due to the topographical features of the Texas Hill Country, the community and its residents are uniquely different from Austin and most of Travis County; and

WHEREAS, the City prides itself as a lakefront resort community, situated on the beautiful Eastern edge of the Hill Country and north shore of Lake Travis. The City promotes beautification efforts through Keep Lago Vista Beautiful; a Keep Texas Beautiful Goldstar Affiliate, is a Gold Scenic Certified City with Scenic Texas, works to protect the night skies for present and future generations through the International Dark-Sky Association; and

WHEREAS, the City works to provide residents with the open space and wonders of nature that come with this part of Texas; and

WHEREAS, the City believes that allowing local residents and community groups to participate in the decision-making process, cities are better able to tailor their policies to the specific needs and preferences of their communities.

WHEREAS, H.B. 866 limits the ability of the City to ensure that “plats” and “plans” that are brought before the Planning and Zoning Commission and City Council meet certain minimum requirements; and

WHEREAS, H.B. 1489 limits the usage of certificates of obligation to only in a public emergency, in response to a court order, or to comply with state or federal regulation; and

WHEREAS, H.B. 2127 AND S.B. 814 preempts city regulations in a field occupied by the Agriculture, Finance, Insurance, Labor, Natural Resources, and Occupations Code. Property and Finance Code and prohibits a city from regulating licensed animal businesses; and

WHEREAS, H.B. 2266 allows a state license holder to bring legal action against a city if city regulation results in adverse economic impact on the license holder; and

WHEREAS, H.B. 2970 allows HUD-code homes in all residential under certain circumstances;

WHEREAS, H.B. 3921 and S.B. 1787 undermine the role of local government in shaping the character and quality of their neighborhoods.

WHEREAS, S.B. 175 prohibits cities and other political subdivisions from spending public funds to hire lobbyists or join nonprofit associations (like TML) that represent political subdivisions and contract with individuals who are required to register as lobbyists; and

WHEREAS, S.B. 1412 allows an accessory dwelling unit (ADU) in a single-family zoning or un-zoned areas by right, and prohibit much of a city's ability to regulate an ADU; and

WHEREAS, S.B. 1421 limits city regulation of agricultural operations and vegetation height restrictions within city limits and the extraterritorial jurisdiction; and

WHEREAS, S.B. 1786 modifies approval procedures for property development application review and inspection for cities including allowing for third-party reviews and inspectors; and

WHEREAS, the 2023 Texas Legislative Session has begun.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

SECTION 1. The City Council opposes legislation that undermines local decision-making authority and disregards the unique needs and circumstances of individual communities.

SECTION 2. The City Council opposes the passage of such Shot Clock Legislation (H.B. 866) as currently drafted.

SECTION 3. The City Council opposes legislation (H.B. 1489) that would limit the circumstances in which a city council could issue a CO to finance certain public works only: (1) to comply with a state or federal law, rule, or regulation if the city is officially notified of its noncompliance; (2) if the city council believes an expenditure on a public work is necessary to mitigate the impact of a public health emergency or natural disaster; or (3) if a court renders a decision that requires the city to construct or improve a public work.

SECTION 4. The City Council opposes legislation (H.B. 2127 and S.B. 814) that undermines the home-rule authority Article XI, Section 5 of the Texas Constitution provides. It will subject cities to a flood of litigation challenging city ordinances based on claims under eight state codes, which will discourage cities from adopting and enforcing ordinances to protect public health, safety, and welfare. It provides little guidance about what a city can or cannot do, and the direction it does provide is left entirely to the courts to interpret.

SECTION 5. The City Council opposes legislation (H.B. 2266) that will unintentionally result in a flood of litigation to prevent enforcement of city ordinances and regulations, such as local health, building, and fire code amendments, designed to protect the health, safety, and welfare of city residents.

SECTION 6. The City Council opposes legislation (H.B. 2970) that would permit the placement of a new HUD-code manufactured home by right in all zoning classifications that allow detached single family or duplexes.

SECTION 7. The City Council opposes legislation (H.B. 3921 and S.B. 1787) that would restrict local authority and reduce compatibility between distinct residential zoning districts by superimposing a one-size-fits-all approach without regard to its appropriateness or impact on established neighborhoods. legislation that undermines their ability to maintain orderly development and implementation of a comprehensive plan through zoning ordinances and subdivision regulations that address compatibility concerns such as density, setbacks, desired open space, and tree preservation.

SECTION 8. The City Council opposes legislation (S.B. 175) that would prohibit membership in a non-profit organization that provides many benefits for my city, such as training for city officials and employees, legal assistance on matters of municipal law, and access to a wide array of experts and information – all of which helps us to better serve the citizens of our city. Services which individual cities have neither time, money nor strength to do alone. Local elected officials would lose the ability to meaningfully participate in the statewide discussions that keenly affect local governments and the diverse group of Texans they represent.

SECTION 9. The City Council opposes legislation (S.B. 1412) that would generally restrict a city from adopting or enforcing regulations that prohibit an owner from building, selling, or renting an accessory dwelling unit (ADU), or require owner occupancy of the primary dwelling unit of a lot with an ADU for any lot zoned for single-family or duplex uses with only minimal oversight by the city.

SECTION 10. The City Council opposes legislation (S.B. 1421) that would prohibit a city from imposing a governmental regulation on agricultural operations located anywhere within city limits until certain conditions are met.

SECTION 11. The City Council opposes legislation (S.B. 1786) that would modify approval procedures for property development application review and inspection for cities including allowing for third-party reviews and inspectors.

SECTION 4. The City Council supports legislation that allows jurisdictions to preserve or craft their own unique local character with traditional land use regulations that recognize a potential need for diverse housing forms and choices.

Signature page follows

PASSED AND APPROVED this the 20th day of April, 2023.

Ed Tidwell, Mayor

ATTEST:

Lucy Aldrich, City Secretary

On a motion by Councilor _____, seconded by Councilor _____, the
above foregoing instrument was passed and approved.

By: Oliverson, Bell of Montgomery, Swanson,
et al.

H.B. No. 866

A BILL TO BE ENTITLED

AN ACT

relating to approval of certain land development applications by a
municipality or county.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections [212.001](#)(2) and (3), Local Government
Code, are amended to read as follows:

(2) ~~["Plan" means a subdivision development plan,
including a subdivision plan, subdivision construction plan, site
plan, land development application, and site development plan.~~

~~[(3)]~~ "Plat" includes a preliminary plat, ~~[general
plan,~~] final plat, and replat.

SECTION 2. Subchapter [A](#), Chapter [212](#), Local Government
Code, is amended by adding Section [212.0015](#) to read as follows:

Sec. 212.0015. CONSTRUCTION OF SUBCHAPTER. This subchapter
may not be construed to restrict a municipality from establishing a
submittal calendar to be used by an applicant to facilitate
compliance with the approval process described by Sections [212.009](#),
[212.0091](#), [212.0093](#), and [212.0095](#).

SECTION 3. Section [212.004](#), Local Government Code, is
amended by adding Subsection (f) to read as follows:

(f) A plat is considered filed on the date the applicant
submits the plat, along with a completed plat application and the
application fees and other requirements prescribed by or under this
subchapter, to:

- 1 (1) the governing body of the municipality; or
2 (2) the municipal authority responsible for approving
3 plats.

4 SECTION 4. Sections 212.0065(a) and (c), Local Government
5 Code, are amended to read as follows:

6 (a) The governing body of a municipality or the municipal
7 planning commission may delegate to one or more officers or
8 employees of the municipality or of a utility owned or operated by
9 the municipality the ability to approve, approve with conditions,
10 or disapprove a plat [÷

11 ~~[(1) amending plats described by Section 212.016,~~

12 ~~[(2) minor plats or replats involving four or fewer~~
13 ~~lots fronting on an existing street and not requiring the creation~~
14 ~~of any new street or the extension of municipal facilities; or~~

15 ~~[(3) a replat under Section 212.0145 that does not~~
16 ~~require the creation of any new street or the extension of municipal~~
17 ~~facilities].~~

18 (c) An applicant has the right to appeal to the governing
19 body of the municipality or the municipal planning commission if
20 the designated [The] person disapproves a [~~or persons shall not~~
21 ~~disapprove the~~] plat [~~and shall be required to refer any plat which~~
22 ~~the person or persons refuse to approve to the municipal authority~~
23 ~~responsible for approving plats within the time period specified in~~
24 ~~Section 212.009]~~.

25 SECTION 5. Sections 212.009(a), (b), (b-2), (c), and (d),
26 Local Government Code, are amended to read as follows:

27 (a) The municipal authority responsible for approving plats

1 shall approve, approve with conditions, or disapprove a ~~[plan or]~~
2 plat within 30 days after the date the ~~[plan or]~~ plat is filed. A
3 ~~[plan or]~~ plat is approved by the municipal authority unless it is
4 disapproved within that period and in accordance with Section
5 212.0091.

6 (b) If an ordinance requires that a ~~[plan or]~~ plat be
7 approved by the governing body of the municipality in addition to
8 the planning commission, the governing body shall approve, approve
9 with conditions, or disapprove the ~~[plan or]~~ plat within 30 days
10 after the date the ~~[plan or]~~ plat is approved by the planning
11 commission or is approved by the inaction of the commission. A
12 ~~[plan or]~~ plat is approved by the governing body unless it is
13 disapproved within that period and in accordance with Section
14 212.0091.

15 (b-2) Notwithstanding Subsection (a) or (b), the parties
16 may extend the 30-day period described by those subsections for one
17 or more periods, each ~~[a period]~~ not to exceed 30 days if:

18 (1) the applicant requests the extension in writing to
19 the municipal authority responsible for approving plats or the
20 governing body of the municipality, as applicable; and

21 (2) the municipal authority or governing body, as
22 applicable, approves the extension request.

23 (c) If a ~~[plan or]~~ plat is approved, the municipal authority
24 giving the approval shall endorse the ~~[plan or]~~ plat with a
25 certificate indicating the approval. The certificate must be signed
26 by:

27 (1) the authority's presiding officer and attested by

1 the authority's secretary; or

2 (2) a majority of the members of the authority.

3 (d) If the municipal authority responsible for approving
4 plats fails to approve, approve with conditions, or disapprove a
5 ~~[plan-or]~~ plat within the prescribed period, the authority on the
6 applicant's request shall issue a certificate stating the date the
7 ~~[plan-or]~~ plat was filed and that the authority failed to act on the
8 ~~[plan-or]~~ plat within the period. The certificate is effective in
9 place of the endorsement required by Subsection (c).

10 SECTION 6. Section [212.0091](#)(a), Local Government Code, is
11 amended to read as follows:

12 (a) A municipal authority or governing body that
13 conditionally approves or disapproves a ~~[plan-or]~~ plat under this
14 subchapter shall provide the applicant a written statement of the
15 conditions for the conditional approval or reasons for disapproval
16 that clearly articulates each specific condition for the
17 conditional approval or reason for disapproval.

18 SECTION 7. Sections [212.0093](#), [212.0095](#), and [212.0096](#), Local
19 Government Code, are amended to read as follows:

20 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
21 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
22 approval or disapproval of a ~~[plan-or]~~ plat under Section [212.0091](#),
23 the applicant may submit to the municipal authority or governing
24 body that conditionally approved or disapproved the ~~[plan-or]~~ plat
25 a written response that satisfies each condition for the
26 conditional approval or remedies each reason for disapproval
27 provided. The municipal authority or governing body may not

1 establish a deadline for an applicant to submit the response.

2 Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
3 OF RESPONSE. (a) A municipal authority or governing body that
4 receives a response under Section 212.0093 shall determine whether
5 to approve or disapprove the applicant's previously conditionally
6 approved or disapproved [~~plan-or~~] plat not later than the 15th day
7 after the date the response was submitted.

8 (b) A municipal authority or governing body that
9 conditionally approves or disapproves a [~~plan-or~~] plat following
10 the submission of a response under Section 212.0093:

11 (1) must comply with Section 212.0091; and

12 (2) may disapprove the [~~plan-or~~] plat only for a
13 specific condition or reason provided to the applicant under
14 Section 212.0091.

15 (c) A municipal authority or governing body that receives a
16 response under Section 212.0093 shall approve a previously
17 conditionally approved or disapproved [~~plan-or~~] plat if the
18 response adequately addresses each condition of the conditional
19 approval or each reason for the disapproval.

20 (d) A previously conditionally approved or disapproved
21 [~~plan-or~~] plat is approved if:

22 (1) the applicant filed a response that meets the
23 requirements of Subsection (c); and

24 (2) the municipal authority or governing body that
25 received the response does not disapprove the [~~plan-or~~] plat on or
26 before the date required by Subsection (a) and in accordance with
27 Section 212.0091.

Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL PROCESS. (a) Notwithstanding Sections 212.009, 212.0091, 212.0093, and 212.0095, an applicant may elect at any time to seek approval for a ~~[plan-or]~~ plat under an alternative approval process adopted by a municipality if the process allows for a shorter approval period than the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

(b) An applicant that elects to seek approval under the alternative approval process described by Subsection (a) is not:

(1) required to satisfy the requirements of Sections 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action challenging a disapproval of a ~~[plan-or]~~ plat under this subchapter; and

(2) prejudiced in any manner in bringing the action described by Subdivision (1), including satisfying a requirement to exhaust any and all remedies.

SECTION 8. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.00965 to read as follows:

Sec. 212.00965. APPROVAL PROCEDURE: ALTERNATIVE REVIEW PROCESS FOR UNREVIEWED APPLICATIONS. (a) If a municipality fails to approve, approve with conditions, or disapprove an applicant's plat earlier than the 15th day after the date prescribed by Section 212.009 or 212.0095, as applicable, the applicant may have the plat reviewed by:

(1) a person with the authority to review plats for:

(A) the municipality; or

(B) a political subdivision other than the

1 municipality if the municipality approves the reviewer; or

2 (2) an engineer licensed under Chapter 1001,
3 Occupations Code.

4 (b) A person may not review a plat under Subsection (a) if
5 the person:

6 (1) is the applicant; or

7 (2) prepared the plat that is the subject of the
8 application.

9 (c) A person who performs a review under this section:

10 (1) has the authority to approve, approve with
11 conditions, or disapprove a plat as if the person were delegated
12 authority under Section 212.0065;

13 (2) must ensure the plat satisfies all applicable
14 regulations; and

15 (3) must provide notice of the review to the
16 municipality not later than the 15th day after the date of the
17 review.

18 (d) The municipality may prescribe a reasonable format for
19 the notice provided under Subsection (c)(3).

20 (e) The municipality may not collect an additional fee
21 related to the review performed under Subsection (a).

22 SECTION 9. Section 212.0099, Local Government Code, is
23 amended to read as follows:

24 Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
25 action challenging a disapproval of a [~~plan or~~] plat under this
26 subchapter, the municipality has the burden of proving by clear and
27 convincing evidence that the disapproval meets the requirements of

1 this subchapter or any applicable case law. The court may not use a
2 deferential standard.

3 SECTION 10. Section [232.001](#), Local Government Code, is
4 amended by adding Subsection (g) to read as follows:

5 (g) A plat is considered filed on the date the applicant
6 submits the plat, along with a completed plat application and the
7 application fees and other requirements prescribed by or under this
8 subchapter, to:

9 (1) the commissioners court; or

10 (2) the county authority responsible for approving
11 plats.

12 SECTION 11. Subchapter [A](#), Chapter [232](#), Local Government
13 Code, is amended by adding Sections 232.0012 and 232.0022 to read as
14 follows:

15 Sec. 232.0012. CONSTRUCTION OF SUBCHAPTER. This subchapter
16 may not be construed to restrict a county from establishing a
17 submittal calendar to be used by an applicant to facilitate
18 compliance with the approval process described by Sections
19 [232.0025](#), [232.0026](#), [232.0027](#), and [232.0028](#).

20 Sec. 232.0022. DELEGATION OF APPROVAL RESPONSIBILITY. (a)
21 The commissioners court of a county or the court's designee may
22 designate to one or more officers or employees of the county the
23 authority to approve, approve with conditions, or disapprove a
24 plat.

25 (b) An applicant has the right to appeal to the
26 commissioners court or the court's designee if the designated
27 person or persons disapprove a plat.

1 SECTION 12. The heading to Section 232.0025, Local
2 Government Code, is amended to read as follows:

3 Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS
4 ~~[AND PLANS]~~.

5 SECTION 13. Section 232.0025, Local Government Code, is
6 amended by amending Subsections (b), (c), (d), (f), (g), (h), and
7 (i) and adding Subsection (f-1) to read as follows:

8 (b) If a person submits a plat application to the
9 commissioners court that does not include all of the documentation
10 or other information required by Subsection (a), the commissioners
11 court or the county authority responsible for approving plats
12 ~~[court's designee]~~ shall, not later than the 10th business day
13 after the date the commissioners court receives the application,
14 notify the applicant of the missing documents or other information.
15 The commissioners court shall allow an applicant to timely submit
16 the missing documents or other information.

17 (c) An application is considered complete when all
18 documentation or other information required by Subsection (a) is
19 received. Acceptance by the commissioners court or the county
20 authority responsible for approving plats ~~[court's designee]~~ of a
21 completed plat application with the documentation or other
22 information required by Subsection (a) shall not be construed as
23 approval of the documentation or other information.

24 (d) Except as provided by Subsection (f), the commissioners
25 court or the county authority responsible for approving plats
26 ~~[court's designee]~~ shall approve, approve with conditions, or
27 disapprove a plat application not later than the 30th day after the

1 date the completed application is received by the commissioners
2 court or the county authority [~~court's designee~~]. An application is
3 approved by the commissioners court or the county authority
4 [~~court's designee~~] unless the application is disapproved within
5 that period and in accordance with Section 232.0026.

6 (f) The 30-day period under Subsection (d):

7 (1) for a purpose related to Chapter 2007, Government
8 Code, may be extended for a period not to exceed 30 days, if:

9 (A) requested and agreed to in writing by the
10 applicant and approved by the commissioners court or the county
11 authority responsible for approving plats [~~court's designee~~]; or

12 (B) Chapter 2007, Government Code, requires the
13 county to perform a takings impact assessment in connection with
14 the plat application; or [~~and~~]

15 (2) for a purpose unrelated to Chapter 2007,
16 Government Code, may be extended for one or more periods, not to
17 exceed 30 days, if requested and agreed to in writing by the
18 applicant and approved by the commissioners court or the county
19 authority.

20 (f-1) The 30-day period under Subsection (d) applies only to
21 a decision wholly within the control of the commissioners court or
22 the county authority responsible for approving plats [~~court's~~
23 ~~designee~~].

24 (g) The commissioners court or the county authority
25 responsible for approving plats [~~court's designee~~] shall make the
26 determination under Subsection (f)(1) of whether the 30-day period
27 will be extended not later than the 20th day after the date a

1 completed plat application is received by the commissioners court
2 or the county authority [~~court's designee~~].

3 (h) The commissioners court or the county authority
4 responsible for approving plats [~~court's designee~~] may not require
5 an applicant to waive the time limits or approval procedure
6 contained in this subchapter.

7 (i) If the commissioners court or the county authority
8 responsible for approving plats [~~court's designee~~] fails to
9 approve, approve with conditions, or disapprove a plat application
10 as required by this subchapter:

11 (1) the commissioners court shall refund the greater
12 of the unexpended portion of any application fee or deposit or 50
13 percent of an application fee or deposit that has been paid;

14 (2) the application is granted by operation of law;
15 and

16 (3) the applicant may apply to a district court in the
17 county where the tract of land is located for a writ of mandamus to
18 compel the commissioners court to issue documents recognizing the
19 plat application's approval.

20 SECTION 14. Section [232.0026](#)(a), Local Government Code, is
21 amended to read as follows:

22 (a) A commissioners court or county authority responsible
23 for approving plats [~~designee~~] that conditionally approves or
24 disapproves of a plat application under this subchapter shall
25 provide the applicant a written statement of the conditions for the
26 conditional approval or the reasons for disapproval that clearly
27 articulates each specific condition for the conditional approval or

1 reason for disapproval.

2 SECTION 15. Sections 232.0027 and 232.0028, Local
3 Government Code, are amended to read as follows:

4 Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
5 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
6 approval or disapproval of a plat application under Section
7 232.0026, the applicant may submit to the commissioners court or
8 county authority responsible for approving plats ~~[designee]~~ that
9 conditionally approved or disapproved the application a written
10 response that satisfies each condition for the conditional approval
11 or remedies each reason for disapproval provided. The
12 commissioners court or county authority ~~[designee]~~ may not
13 establish a deadline for an applicant to submit the response.

14 Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
15 OF RESPONSE. (a) A commissioners court or county authority
16 responsible for approving plats ~~[designee]~~ that receives a response
17 under Section 232.0027 shall determine whether to approve or
18 disapprove the applicant's previously conditionally approved or
19 disapproved plat application not later than the 15th day after the
20 date the response was submitted under Section 232.0027.

21 (b) A commissioners court or county authority responsible
22 for approving plats ~~[designee]~~ that conditionally approves or
23 disapproves a plat application following the submission of a
24 response under Section 232.0027:

25 (1) must comply with Section 232.0026; and

26 (2) may disapprove the application only for a specific
27 condition or reason provided to the applicant for the original

1 application under Section 232.0026.

2 (c) A commissioners court or county authority responsible
3 for approving plats [~~designee~~] that receives a response under
4 Section 232.0027 shall approve a previously conditionally approved
5 or disapproved plat application if the applicant's response
6 adequately addresses each condition for the conditional approval or
7 each reason for the disapproval.

8 (d) A previously conditionally approved or disapproved plat
9 application is approved if:

10 (1) the applicant filed a response that meets the
11 requirements of Subsection (c); and

12 (2) the commissioners court or county authority
13 responsible for approving plats [~~designee~~] that received the
14 response does not disapprove the application on or before the date
15 required by Subsection (a) and in accordance with Section 232.0026.

16 SECTION 16. Subchapter A, Chapter 232, Local Government
17 Code, is amended by adding Section 232.00287 to read as follows:

18 Sec. 232.00287. ALTERNATIVE REVIEW PROCESS. (a) If a
19 county fails to approve, approve with conditions, or disapprove a
20 plat or an applicant's written response earlier than the 15th day
21 after the date prescribed by Section 232.0025 or 232.0028, as
22 applicable, an applicant may have the plat reviewed by:

23 (1) a person with authority to review plats for:
24 (A) the county; or
25 (B) a political subdivision other than the county
26 if the county approves the reviewer; or

27 (2) an engineer licensed under Chapter 1001,

Occupations Code.

(b) A person may not review a plat under Subsection (a) if the person:

(1) is the applicant; or

(2) prepared the plat that is the subject of the application.

(c) A person who performs a review under this section:

(1) has the authority to approve, approve with conditions, or disapprove a plat as if the person were delegated authority under Section 232.0022;

(2) must ensure the plat satisfies all applicable regulations; and

(3) must provide notice of the review to the county not later than the 15th day after the date of the review.

(d) The county may prescribe a reasonable format for the notice provided under Subsection (c)(3).

(e) The county may not collect an additional fee related to the review performed under Subsection (a).

SECTION 17. The following provisions of the Local Government Code are repealed:

(1) Section 212.009(b-1); and

(2) Section 232.0025(d-1).

SECTION 18. The changes in law made by this Act apply only to a plat application filed on or after the effective date of this Act.

SECTION 19. This Act takes effect September 1, 2023.

By: Tepper

H.B. No. 1489

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of certificates of obligation by local governments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Certificate of Obligation Reform Act of 2023.

SECTION 2. Sections 271.043, 271.045, and 271.0461, Local Government Code, are amended to read as follows:

Sec. 271.043. DEFINITIONS. In this subchapter:

(10) "Public work" means:

(i) streets, roads, highways, bridges, sidewalks, parks, landfills, parking structures, or airports;

(ii) telecommunications, wireless communications, information technology systems, applications, hardware, or software;

(iii) cybersecurity; or

(iv) as part of any utility system, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, or flood control and drainage project.

Sec. 271.045. PURPOSES FOR WHICH CERTIFICATES MAY BE AUTHORIZED. (a) The governing body of an issuer may authorize only the necessary certificates to pay a contractual obligation to be incurred for the construction, renovation, repair, or improvement

of a public work:

(1) to comply with a state or federal law, rule, or regulation if the political subdivision has been officially notified of noncompliance with the law, rule, or regulation;

(2) if the governing body believes the construction, renovation, repair, or improvement of a public work is necessary to mitigate the impact of:

(i) a public health emergency that poses an imminent danger to a resident's physical health or safety in the governing body's jurisdiction; or

(ii) a natural disaster in the governing body's jurisdiction and:

(A) the governor declares or renews a declaration of a state of disaster under Section 418.014, Government Code, in that fiscal year, and the governor's designation of the area threatened includes all or part of the geographic territory of the local government; or

(B) the presiding officer of the governing body of a political subdivision declares or renews a declaration of a local state of disaster under Section 418.108, Government Code, in that fiscal year, and the presiding officer's designation of the area threatened includes all or part of the geographic territory of the local government; or

(3) if a court renders a decision that requires the local government to construct, renovate, repair, or improve a public work.

~~[(1) construction of any public work,~~

1 ~~(2) purchase of materials, supplies, equipment, machinery,~~
2 ~~buildings, land, and rights-of-way for authorized needs and~~
3 ~~purposes; or~~

4 ~~(3) payment of contractual obligations for professional~~
5 ~~services, including services provided by tax appraisers,~~
6 ~~engineers, architects, attorneys, map makers, auditors, financial~~
7 ~~advisors, and fiscal agents.]~~

8 (b) If necessary because of change orders, the governing
9 body of an issuer may authorize certificates [~~may be authorized~~] in
10 an amount not to exceed 15 [~~25~~] percent of a contractual obligation
11 incurred for the construction of public works, but certificates may
12 be delivered only in the amount necessary to discharge contractual
13 obligations.

14 (c) The governing body of a municipality may issue
15 certificates of obligation to pay all or part of a municipality's
16 obligations incurred by contract for interests in and rights to
17 water or sewer treatment capacity in connection with a water supply
18 and transmission project or sewer treatment or collection project
19 to be constructed in whole or in part on behalf of the municipality
20 by another governmental entity or political subdivision pursuant to
21 a written agreement expressly authorized under Section [552.014](#) of
22 this code or Section [791.026](#), Government Code.

23 (d) In exercising its authority to issue certificates of
24 obligation for the purposes specified in Subsection (c), the
25 municipality must limit the principal amount of certificates to be
26 issued for the purpose of funding its contractual obligations to an
27 amount equal to (i) the aggregate of the contractual payments or the

total costs allocated or attributed, under generally accepted accounting principles, to the capital costs of the project, as opposed to any maintenance or operating costs to be paid under the written agreement or (ii) the total cost of the project multiplied by the percentage of the nameplate capacity of the project acquired or conveyed by the written agreement to the municipality, whichever limitation is applicable to the contractual interests or rights being conveyed or identified in the written agreement.

(e) Work that is directly attributable under generally accepted accounting principles to the costs of the project and that is performed by employees of the issuer may be allocated or attributed to the capital costs of the project.

(f) If the governing body of an issuer authorizes certificates to pay a contractual obligation under this section, the governing body must enter into a contract or written agreement for the construction, renovation, repair, or improvement of a public work not later than 90 days after the governing body authorizes the certificates.

(g) If the governing body of an issuer authorizes certificates to pay a contractual obligation under this Subsection (a)(2)(i), the governing body shall adopt a resolution stating the conditions and circumstances of the public health emergency.

(h) The provisions of this subchapter relating to advertisement for competitive bids apply to contractual obligations to be incurred for a purpose for which certificates are to be issued under this section.

Sec. 271.0461. ADDITIONAL PURPOSE FOR CERTIFICATES:

1 DEMOLITION OF DANGEROUS STRUCTURES [~~OR RESTORATION OF HISTORIC~~
2 ~~STRUCTURES~~]. Certificates may be issued by any municipality for the
3 payment of contractual obligations to be incurred in demolishing
4 dangerous structures [~~or restoring historic structures~~] and may be
5 sold for cash, subject to the restrictions and other conditions of
6 Section 271.050.

7 SECTION 3. Sections 271.047(c) and (d), Local Government
8 Code, are amended to read as follows:

9 (c) A certificate may not mature over a period greater than
10 30 [~~40~~] years from the date of the certificate and may not bear
11 interest at a rate greater than that allowed by Chapter 1204,
12 Government Code.

13 (d) Except as provided by this subsection, the governing
14 body of an issuer may not authorize a certificate to pay a
15 contractual obligation to be incurred if a bond proposition to
16 authorize the issuance of bonds for the same purpose was submitted
17 to the voters during the preceding five [~~three~~] years and failed to
18 be approved. A governing body may authorize a certificate that the
19 governing body is otherwise prohibited from authorizing under this
20 subsection:

21 (1) in a case described by Sections 271.056(1)-(3);
22 and

23 (2) to comply with a state or federal law, rule, or
24 regulation if the political subdivision has been officially
25 notified of noncompliance with the law, rule, or regulation.

26 SECTION 4. Section 271.049(c), Local Government Code, is
27 amended to read as follows:

1 (c) If before the date tentatively set for the authorization
2 of the issuance of the certificates or if before the authorization,
3 the municipal secretary or clerk if the issuer is a municipality, or
4 the county clerk if the issuer is a county, receives a petition
5 signed by at least two [~~five~~] percent of the qualified voters of the
6 issuer protesting the issuance of the certificates, the issuer may
7 not authorize the issuance of the certificates unless the issuance
8 is approved at an election ordered, held, and conducted in the
9 manner provided for bond elections under Chapter [1251](#), Government
10 Code.

11 SECTION 5. Section [271.046](#), Local Government Code, is
12 repealed.

13 SECTION 6. Chapter [271](#), Local Government Code, as amended
14 by this Act, applies to a certificate issued on or after the
15 effective date of this Act.

16 SECTION 7. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section [39](#), Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

April 5, 2023

The Honorable Giovanni Capriglione
Chairman, House Pensions, Investments and Financial Services Committee
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Dear Chairman Capriglione:

The purpose of this letter is to inform you of the Texas Municipal League's opposition to **House Bill 1489** by **Representative Tepper**. H.B. 1489 would all but eliminate cities' use of certificates of obligation (CO) to finance necessary infrastructure repairs and projects. That's because the bill would limit the circumstances in which a city council could issue a CO to finance certain public works only: (1) to comply with a state or federal law, rule, or regulation if the city is officially notified of its noncompliance; (2) if the city council believes an expenditure on a public work is necessary to mitigate the impact of a public health emergency or natural disaster; or (3) if a court renders a decision that requires the city to construct or improve a public work. By so dramatically limiting the purposes for which a CO may be authorized, H.B. 1489 would largely eliminate the use of COs altogether. This would not only hinder the development of necessary water, sewer, electric, transportation, and broadband infrastructure across the state, but force taxpayers to pay more in the process.

According to the Bond Review Board, the majority of outstanding city debt in Texas is not tax-supported debt but instead is considered "self-supporting" debt.¹ This means most city debt is ultimately issued for water, sewer, and other revenue producing projects that are paid by utility revenues, and not property taxes. Cities have a couple of different debt options to pay for utility system work – revenue bonds and COs. Both debt obligations require attorney general approval, neither requires an upfront election, but COs are issued with more notice and the potential for voter approval, unlike revenue bonds. And, most importantly, COs can be issued in a significantly more cost-efficient way for city residents.

Cities commonly issue COs in lieu of revenue bonds to finance needed utility construction and upgrades. The reason for this is pretty straightforward – COs typically cost much less to issue than a revenue bond. COs issued by cities are generally repaid with revenues from city utility systems instead of property taxes. However, the city's property tax base can serve as "credit support" in a

¹ See BRB's 2022 *Local Government Annual Report*:
<http://www.brb.state.tx.us/pub/lgs/fy2022/2022LocalARFinal.pdf>.

CO, thus reducing borrowing costs and interest rates. Overall, the use of self-supporting COs by Texas cities has saved taxpayers hundreds of millions of dollars as compared to other debt instruments.² By eliminating the purposes for which a CO may be issued, H.B. 1489 would have the unintended effect of costing city taxpayers and ratepayers significantly more money, with no discernable public benefit.

It should also be noted that COs are regularly used by Texas cities to evidence loans under state and federal financial assistance programs. For instance, cities commonly issue COs to the state to draw down funding from the Texas Water Development Board for various critical water infrastructure project needs. In doing so, cities obtain reduced interest rates and financial assistance from the state. The state agency receives stronger credit ratings in return due to the underlying property tax pledge supporting the CO. H.B. 1489 would prohibit the use of COs by a city to draw down needed state and federal infrastructure funding. This means that at the same time the Texas Legislature potentially invests billions of dollars into water infrastructure projects this session, H.B. 1489 would drastically limit cities ability to access the new funding.

The Texas Legislature has enacted several substantive and process reforms relating to the issuance of certificates of obligation in recent years. In 2015, the legislature passed H.B. 1378 to prohibit the issuance of a CO within three years of a failed bond election on the same project. Four years later in 2019, the legislature passed H.B. 477, which significantly enhanced the notice required when a CO is issued, from requiring additional published and internet notice to increasing the amount of time voters may circulate a petition to call an election on a CO issuance. Last session, H.B. 1869 passed to eliminate some of the rare but controversial uses of COs. We ask this committee to let recent CO reforms continue to work, while rejecting attempts to effectively eliminate the use of COs as H.B. 1489 proposes to do.

For the reasons stated above, we are opposed to H.B. 1489.

Sincerely,

A handwritten signature in black ink, appearing to read 'Monty Wynn' with a stylized flourish at the end.

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

² Masterson, Drew. "What if Certificates of Obligation Go Away." *Texas Town and City*, March 20, 2021, https://www.tml.org/DocumentCenter/View/2540/032021_TTC.

By: Burrows

H.B. No. 2127

A BILL TO BE ENTITLED

AN ACT

relating to state preemption of certain municipal and county regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Texas Regulatory Consistency Act.

SECTION 2. The legislature finds that:

(1) the State of Texas has historically been the exclusive regulator of many aspects of commerce and trade in this state;

(2) in recent years, several local jurisdictions have sought to establish their own regulations of commerce that are different than the state's regulations; and

(3) the local regulations have led to a patchwork of regulations across this state that provide inconsistency.

SECTION 3. The purpose of this Act is to provide regulatory consistency across this state and return the historic exclusive regulatory powers to the state where those powers belong.

SECTION 4. Chapter 1, Agriculture Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. The provisions of this code preclude municipalities or counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. A municipal

or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 5. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 102A to read as follows:

CHAPTER 102A. MUNICIPAL AND COUNTY LIABILITY FOR PREEMPTED REGULATION

Sec. 102A.001. LIABILITY FOR CERTAIN PREEMPTED REGULATION.
Any person, including a taxpayer, adversely affected by a municipal or county ordinance, order, rule, or policy adopted or enforced by a municipality, county, municipal official or county official acting in their official capacity in violation of any of the following provisions has standing to bring and may bring an action against the municipality, county or official:

- (1) Section 1.004, Agriculture Code;
- (2) Section 1.004, Finance Code;
- (3) Section 30.005, Insurance Code;
- (4) Section 1.005, Labor Code;
- (5) Section 1.003, Natural Resources Code; or
- (6) Section 1.004, Occupations Code.

Sec. 102A.002. REMEDIES. A claimant is entitled to recover in an action brought under this chapter:

- (1) declaratory and injunctive relief; and
- (2) costs and reasonable attorney's fees.

Sec. 102A.003. IMMUNITY WAIVER AND PROHIBITED DEFENSES.

(a) Governmental immunity, official immunity, and qualified immunity, as applicable, are waived to the extent of liability created by this chapter.

1 (b) Official and qualified immunity may not be asserted as a
2 defense in an action brought under this chapter.

3 Sec. 102A.004. VENUE. Notwithstanding any other law,
4 including Chapter 15, a claimant may bring an action under this
5 chapter in any county in this state. If the action is brought in a
6 venue authorized by this section, the action may not be transferred
7 to a different venue without the written consent of all parties.

8 Section 102A.005. PERSON. For purposes of this section
9 "person" means an individual, corporation, business trust, estate,
10 trust, partnership, limited liability company, association, joint
11 venture, government, governmental subdivision, agency or
12 instrumentality, public corporation, or any legal or commercial
13 entity, or protected series or registered series of a for-profit
14 entity.

15 SECTION 6. Chapter 1, Finance Code, is amended by adding
16 Section 1.004 to read as follows:

17 Sec. 1.004. FIELD PREEMPTION. The provisions of this code
18 preclude municipalities and counties from adopting or enforcing an
19 ordinance, order, rule, or policy in a field occupied by a provision
20 of this code unless explicitly authorized by statute. A municipal
21 or county ordinance, order, rule, or policy that violates this
22 section is void and unenforceable.

23 SECTION 7. Chapter 30, Insurance Code, is amended by adding
24 Section 30.005 to read as follows:

25 Sec. 30.005. FIELD PREEMPTION. The provisions of this code
26 preclude municipalities and counties from adopting or enforcing an
27 ordinance, order, rule, or policy in a field occupied by a provision

of this code unless explicitly authorized by statute. A municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 8. Chapter 1, Labor Code, is amended by adding Section 1.005 to read as follows:

Sec. 1.005. FIELD PREEMPTION. The provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. A municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 9. Chapter 1, Natural Resources Code, is amended by adding Section 1.003 to read as follows:

Sec. 1.003. FIELD PREEMPTION. The provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. A municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 10. Chapter 1, Occupations Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. The provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. A municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

1 SECTION 11. Chapter 102A, Civil Practice and Remedies Code,
2 as added by this Act, applies only to a cause of action that accrues
3 on or after the effective date of this Act.

4 SECTION 12. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2023.

By: Creighton

S.B. No. 814

A BILL TO BE ENTITLED

AN ACT

relating to state preemption of certain municipal and county regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Texas Regulatory Consistency Act.

SECTION 2. The legislature finds that:

(1) the State of Texas has historically been the exclusive regulator of many aspects of commerce and trade in this state;

(2) in recent years, several local jurisdictions have sought to establish their own regulations of commerce that are different than the state's regulations; and

(3) the local regulations have led to a patchwork of regulations across this state that provide inconsistency.

SECTION 3. The purpose of this Act is to provide regulatory consistency across this state and return the historic exclusive regulatory powers to the state where those powers belong.

SECTION 4. Chapter 1, Agriculture Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. The provisions of this code preclude municipalities or counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. A

municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 5. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 102A to read as follows:

CHAPTER 102A. MUNICIPAL AND COUNTY LIABILITY FOR PREEMPTED REGULATION

Sec. 102A.001. LIABILITY FOR CERTAIN PREEMPTED REGULATION.

Any person, including a taxpayer, adversely affected by a municipal or county ordinance, order, rule, or policy adopted or enforced by a municipality, county, municipal official or county official acting in their official capacity in violation of any of the following provisions has standing to bring and may bring an action against the municipality, county or official:

(1) Section 1.004, Agriculture Code;

(2) Section 1.004, Finance Code;

(3) Section 30.005, Insurance Code;

(4) Section 1.005, Labor Code;

(5) Section 1.003, Natural Resources Code; or

(6) Section 1.004, Occupations Code.

Sec. 102A.002. REMEDIES. A claimant is entitled to recover in an action brought under this chapter:

(1) declaratory and injunctive relief; and

(2) costs and reasonable attorney's fees.

Sec. 102A.003. IMMUNITY WAIVER AND PROHIBITED DEFENSES.

(a) Governmental immunity, official immunity, and qualified immunity, as applicable, are waived to the extent of liability created by this chapter.

1 (b) Official and qualified immunity may not be asserted as
2 a defense in an action brought under this chapter.

3 Sec. 102A.004. VENUE. Notwithstanding any other law,
4 including Chapter 15, a claimant may bring an action under this
5 chapter in any county in this state. If the action is brought in a
6 venue authorized by this section, the action may not be transferred
7 to a different venue without the written consent of all parties.

8 Section 102A.005. PERSON. For purposes of this section
9 "person" means an individual, corporation, business trust, estate,
10 trust, partnership, limited liability company, association, joint
11 venture, government, governmental subdivision, agency or
12 instrumentality, public corporation, or any legal or commercial
13 entity, or protected series or registered series of a for-profit
14 entity.

15 SECTION 6. Chapter 1, Finance Code, is amended by adding
16 Section 1.004 to read as follows:

17 Sec. 1.004. FIELD PREEMPTION. The provisions of this code
18 preclude municipalities and counties from adopting or enforcing an
19 ordinance, order, rule, or policy in a field occupied by a
20 provision of this code unless explicitly authorized by statute. A
21 municipal or county ordinance, order, rule, or policy that violates
22 this section is void and unenforceable.

23 SECTION 7. Chapter 30, Insurance Code, is amended by adding
24 Section 30.005 to read as follows:

25 Sec. 30.005. FIELD PREEMPTION. The provisions of this code
26 preclude municipalities and counties from adopting or enforcing an
27 ordinance, order, rule, or policy in a field occupied by a

1 provision of this code unless explicitly authorized by statute. A
2 municipal or county ordinance, order, rule, or policy that violates
3 this section is void and unenforceable.

4 SECTION 8. Chapter 1, Labor Code, is amended by adding
5 Section 1.005 to read as follows:

6 Sec. 1.005. FIELD PREEMPTION. The provisions of this code
7 preclude municipalities and counties from adopting or enforcing an
8 ordinance, order, rule, or policy in a field occupied by a
9 provision of this code unless explicitly authorized by statute. A
10 municipal or county ordinance, order, rule, or policy that violates
11 this section is void and unenforceable.

12 SECTION 9. Chapter 1, Natural Resources Code, is amended by
13 adding Section 1.003 to read as follows:

14 Sec. 1.003. FIELD PREEMPTION. The provisions of this code
15 preclude municipalities and counties from adopting or enforcing an
16 ordinance, order, rule, or policy in a field occupied by a
17 provision of this code unless explicitly authorized by statute. A
18 municipal or county ordinance, order, rule, or policy that violates
19 this section is void and unenforceable.

20 SECTION 10. Chapter 1, Occupations Code, is amended by
21 adding Section 1.004 to read as follows:

22 Sec. 1.004. FIELD PREEMPTION. The provisions of this code
23 preclude municipalities and counties from adopting or enforcing an
24 ordinance, order, rule, or policy in a field occupied by a
25 provision of this code unless explicitly authorized by statute. A
26 municipal or county ordinance, order, rule, or policy that violates
27 this section is void and unenforceable.

1 SECTION 11. Chapter 102A, Civil Practice and Remedies Code,
2 as added by this Act, applies only to a cause of action that accrues
3 on or after the effective date of this Act.

4 SECTION 12. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

April 4, 2023

The Honorable Charles Schwertner
Chairman, Senate Business and Commerce Committee
Texas Senate
P.O. Box 12068
Austin, TX 78768-2068

Dear Chairman Schwertner:

I am writing on behalf of the Texas Municipal League to express our opposition to **S.B. 814** by **Senator Creighton**. S.B. 814 would prohibit a city from “regulating conduct in a field of regulation that is occupied by a provision of [a state] code.” Individuals and organizations would be authorized to file lawsuits to challenge ordinances they believe are preempted under this vague preemption theory. The bill strips the power of city residents and their local officials to make decisions they think are best for their communities and punts tough regulatory decisions to the courts. By not defining key standards, like when a field is occupied, or when a city is expressly authorized to act, S.B. 814 raises more questions than it answers.

When does the state occupy a field? For over fifty years, Texas courts have explained that for the state legislature to preempt city authority, it must do so with unmistakable clarity. S.B. 814 would prohibit a city from adopting or enforcing an ordinance when a field of regulation is occupied by a code. But the bill does not define nor provide clear guidance about when the state has occupied a legislative field. Is one regulation enough? Two regulations? Five regulations? Can a state occupy a field by choosing not to regulate certain conduct? The existing “unmistakable clarity” standard lets cities know what they can and cannot do and guides the courts when determining whether a city has crossed the line. S.B. 814 provides little clarity about what it does or does not preempt. While Section 4 of the bill attempts to spell out a regulatory baseline for city regulation, which is helpful, that section is not part of the statutory language and therefore may have little usefulness for the courts.

When is a city expressly authorized to act? S.B. 814 provides generally that a city may not regulate in an occupied field unless expressly authorized by another statute. Under S.B. 814, must a city be able to point to a statute expressly authorizing the exercise of a particular authority, or must it be able to show that it can take that specific action? Is a city expressly authorized to act under S.B. 814 through a general police power statute like Local Government Code Sec. 51.001 (a city may adopt an ordinance “for the good government, peace, or order of the municipality or for the trade and commerce of the municipality”)? Is a city expressly authorized to act if a statute does not grant

a city the authority to act but explains that a statute “shall not be construed” to limit a city’s authority to act under certain circumstances, as so many state statutes do?

What about home-rule city ordinances enacted in the absence of express city authority? For example, the state only expressly authorizes a county to regulate outdoor music festivals in Chapter 2014 of the Occupations Code. Can the state occupy a field by only granting certain authority to specific governmental entities but not others? The lack of express city authority could render home-rule city ordinances in these fields subject to preemption under S.B. 814.

What if two provisions of state law provide different authority? For example, Chapter 234 of the Local Government Code authorizes a county to regulate massage parlors. But Section 455.005 of the Occupations Code “does not affect a local regulation” that requires background investigations for massage parlor owners and operators. Under current law, a home rule city has the clear ability to regulate under the authority granted by the statute and the Texas Constitution. S.B. 814 could change that since a city may not be deemed to have express authority to act.

Why can some cities regulate payday lending while others cannot? S.B. 814 also includes an odd provision that would preserve existing city payday lending ordinances but preempt any other cities from adopting similar or identical ordinances. If the state occupies the payday lending field, how can some cities regulate the practice while others cannot? This provision seemingly conflicts with the bill’s purpose.

S.B. 814 is troublesome for several reasons. It undermines the home-rule authority Article XI, Section 5 of the Texas Constitution provides. It will subject cities to a flood of litigation challenging city ordinances based on claims under eight state codes, which will discourage cities from adopting and enforcing ordinances to protect public health, safety, and welfare. It provides little guidance about what a city can or cannot do, and the direction it does provide is left entirely to the courts to interpret.

For the above reasons, the League respectfully opposes S.B. 814 and urges the committee to take no action on this bill.

Sincerely,

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

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

By: Leach

H.B. No. 2266

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of certain local laws applicable to state license holders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Regulations with Economic Impact in Need of Scrutiny (REINS) Act.

SECTION 2. The purpose of this Act is to provide a judicial remedy to ensure that a state license holder has the right to engage in an occupation or business activity authorized by and regulated under state law without burdensome or inconsistent local regulation of the state license holder's occupation or lawful business activities.

SECTION 3. Title 2, Occupations Code, is amended by adding Chapter 60 to read as follows:

CHAPTER 60. JUDICIAL REVIEW OF CERTAIN LOCAL LAWS AFFECTING

LICENSE HOLDERS

Sec. 60.001. DEFINITIONS. In this chapter:

(1) "Local law" means an ordinance, rule, regulation, or other measure adopted by the governing body of a municipality that establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of a license holder within the municipality or the municipality's extraterritorial jurisdiction.

(2) "License holder" means an individual or entity

1 that, under state law, in order to practice the individual's
2 occupation or conduct the entity's business in this state, is
3 required to obtain a license, permit, registration certificate, or
4 other evidence of authority from, and is subject to regulation by, a
5 state licensing authority.

6 (3) "State licensing authority" means a state agency,
7 department, board, or commission or the executive or administrative
8 officer of a state agency, department, board, or commission that
9 issues a license, permit, registration certificate, or other
10 evidence of authority to an individual or entity authorizing the
11 individual to practice the individual's occupation or the entity to
12 conduct the entity's business in this state.

13 Sec. 60.002. SUIT TO ENJOIN ENFORCEMENT OF CERTAIN LOCAL
14 LAWS AFFECTING LICENSE HOLDERS. (a) A license holder subject to a
15 local law may bring an action under this section to enjoin the
16 enforcement of the local law if the local law:

17 (1) establishes requirements for, imposes
18 restrictions on, or otherwise regulates the occupation or business
19 activity of the license holder in a manner that is more stringent
20 than the requirements, restrictions, or regulations imposed on the
21 license holder under state law; or

22 (2) would result in an adverse economic impact on the
23 license holder.

24 (b) A license holder must bring the action in a district
25 court in:

26 (1) a county that includes any territory of the
27 municipality that adopted the local law; or

1 (2) Travis County.

2 (c) The license holder bringing the action under this
3 section must show by a preponderance of the evidence that the local
4 law is a local law described by Subsection (a). The license holder
5 may provide evidence regarding the adverse economic impact of
6 similar local laws in other jurisdictions inside or outside of this
7 state.

8 (d) If the license holder satisfies the burden of proof
9 required by Subsection (c), the municipality defending the action
10 has the burden of establishing by clear and convincing evidence
11 that the local law:

12 (1) does not conflict with state law; and

13 (2) is necessary and narrowly tailored to protect
14 against actual and specific harm to the public's health or safety.

15 (e) The court may grant any prohibitory or mandatory relief
16 warranted by the facts, including a temporary restraining order,
17 temporary injunction, or permanent injunction.

18 (f) If the license holder prevails in the action, the court
19 shall award to the license holder court costs and reasonable and
20 necessary attorney's fees to be paid by the municipality defending
21 the action.

22 SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

March 27, 2023

The Honorable Jeff Leach
Chairman, Judiciary and Civil Jurisprudence
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Dear Chairman Leach,

I am writing on behalf of the Texas Municipal League to express our opposition to **H.B. 2266**. While the League can understand your interest in streamlining certain licensing procedures, the bill's broad application and reduced standing threshold will unintentionally result in a flood of litigation to prevent enforcement of city ordinances and regulations, such as local health, building, and fire code amendments, designed to protect the health, safety, and welfare of city residents.

As currently drafted, H.B. 2266 would authorize a person who, or entity that, holds a state license in order to practice the individual's occupation or conduct the entity's business to bring legal action against a city to enjoin the enforcement of a local law that: (1) establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of the license holder in a manner that is more stringent than the requirements, restrictions, and regulations imposed on the license holder under state law; or (2) results in an adverse economic impact on the license holder.

The Texas Department of Licensing and Regulation alone licenses over 25 individual occupations. Several other state agencies (such as the Texas Commission on Environmental Quality) also require licenses to operate in Texas. Under H.B. 2266, almost any of these state-licensed individuals (e.g., realtors) or businesses (e.g., pest control) can bring suit against a city by simply claiming that a city regulation (e.g., parking) has an adverse impact on their business or is somehow more stringent than state law requirements.

For example, under H.B. 2266, a Texas Alcoholic Beverage Commission-licensed restaurant could file suit seeking to prevent a city from enforcing local health code regulations solely because they cost more to comply with. A state-licensed daycare could seek to prevent a city from enforcing local building and fire codes than provided under state law.

Even if the bill were narrowed to focus on so-called "dual licensing requirements," it would still present serious public health and safety concerns. For example:

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512-231-7400 • www.tml.org

1. Sexually oriented businesses could seek to prevent enforcement of “no touch” ordinances, if the business also obtains a license from the Texas Alcoholic Beverage Commission.
2. State-licensed contractors could seek to prevent enforcement of city contractor registration programs that protect elderly residents from unscrupulous contractors that sometimes descend upon a city after a disaster.
3. Businesses that obtain a license from the Texas Alcoholic Beverage Commission to sell alcohol could seek to prevent enforcement of a city ordinance prohibiting alcohol sales near churches and schools that are designed to protect youth.

For these reasons, the League respectfully opposes H.B. 2266.

Sincerely,

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

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

By: Guillen, Cain

H.B. No. 2970

A BILL TO BE ENTITLED

AN ACT

relating to the municipal regulation of HUD-code manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.008, Occupations Code, is amended by adding Subsections (g), (h), (i), (j), and (k) to read as follows:

(g) Notwithstanding any other law, other than Subsections (h), (i), and (k), a municipality shall allow the placement of a new HUD-code manufactured home as a permitted use in all zoning classifications that allow detached residential single-family or duplex dwellings, if the owner of the HUD-code manufactured home elects to treat the manufactured home as real property under Section 1201.2055.

(h) A municipality may adopt an ordinance, regulation, or other measure that requires a new HUD-code manufactured home elected to be treated as real property and used as a single-family or duplex dwelling to:

(1) have a value equal to or greater than the median taxable value of each single-family dwelling located within 500 feet of the lot on which the new HUD-code manufactured home is proposed to be placed, as determined by the most recent certified tax appraisal roll for the properties;

(2) have exterior siding, roofing, foundation fascia,

1 and fenestration compatible with each single-family dwelling
2 located within 500 feet of the lot on which the new HUD-code
3 manufactured home is proposed to be placed;

4 (3) comply with the municipality's aesthetic, building
5 setback, side and rear yard offset, subdivision control,
6 architectural landscaping, square footage, and other site
7 requirements that would apply to a single-family dwelling
8 constructed on the site; or

9 (4) be securely placed on a permanent foundation
10 system.

11 (i) For purposes of Subsection (h), the value of a HUD-code
12 manufactured home is the taxable or initial sales value of the
13 HUD-code manufactured home and the value of the lot after the
14 placement of the HUD-code manufactured home on the lot.

15 (j) A municipality may not adopt or enforce an ordinance,
16 regulation, or other measure that imposes a requirement on a new
17 HUD-code manufactured home elected to be treated as real property
18 under Section [1201.2055](#) that is more stringent than the regulations
19 that would apply to a new single-family or duplex dwelling
20 constructed on the site.

21 (k) This section does not:

22 (1) limit the authority of a municipality to adopt an
23 ordinance, regulation, or other measure to protect historic
24 properties or historic districts; or

25 (2) affect deed restrictions.

26 SECTION 2. This Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

March 22, 2023

The Honorable DeWayne Burns
Chairman, House Land and Natural Resources Committee
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Dear Chairman Burns,

I am writing on behalf of the Texas Municipal League to oppose **H.B. 2970** by **Representative Guillen** as currently drafted. The bill would, among other things, permit the placement of a new HUD-code manufactured home by right in all zoning classifications that allow detached single-family or duplexes. We appreciate the author's intent to expand housing options for Texas homebuyers. However, as currently drafted, H.B. 2970 will unreasonably restrict a city's ability to categorize residential land uses to reflect community needs and concerns.

City governments are uniquely positioned to make informed decisions about local land use. Zoning classifications are essential to preserve neighborhood character, encourage and plan for growth, and protect public health and safety. Because of this, cities often establish different types of residential zoning classifications based on the nature and intensity of the use. Some smaller cities may only have one or two residential zoning classifications, while other communities have several.

Local leaders, in collaboration with property owners, neighborhood groups, and other interested citizens determine the appropriate uses and regulations for each district. This on-the-ground decision-making process helps promote and balance cohesive and compatible land use and development for each community. State law requires zoning decisions to be made with extensive public input. Further, many cities base their zoning classifications on a comprehensive plan that is also legally required to receive significant public scrutiny.

Under existing law, HUD-manufactured homes are already allowed in areas determined to be appropriate by the city, including a subdivision, planned unit development, single lot, and rental community or park. If the committee feels existing law is inadequate to promote affordable housing in some areas, the committee might consider a modification to the language to allow HUD-Code manufactured housing in at least one residential zoning classification within the city. Alternatively, the committee might consider expanding the 500-foot comparison zone and clarifying external feature requirements. Changes along these lines would help to address city

concerns about permitting the placement of these homes in all residential zoning classifications that allow single-family housing or duplexes.

We welcome the ability to work with the committee and bill author to make changes that would retain the legislation's overall goal while supporting local decision-making.

Sincerely,

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

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

By: Goldman

H.B. No. 3921

A BILL TO BE ENTITLED

AN ACT

relating to size and density requirements for residential lots in certain municipalities; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 211, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. RESIDENTIAL ZONING LIMITATIONS IN MUNICIPALITIES
LOCATED IN COUNTIES OF 300,000 OR MORE

Sec. 211.051. DEFINITION. In this subchapter, "small lot" means a residential lot that is 4,000 square feet or less.

Sec. 211.052. APPLICABILITY. This subchapter applies only to a municipality that is wholly or partly located in a county with a population of 300,000 or more.

Sec. 211.053. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to affect sewer or water requirements or the rules or deed restrictions imposed by a homeowners' association.

Sec. 211.054. CERTAIN DWELLING UNIT LOT SIZE REQUIREMENTS PROHIBITED. A municipality may not adopt or enforce an ordinance, rule, or other measure that requires:

(1) a residential lot to be:

(A) larger than 1,400 square feet;

(B) wider than 20 feet; or

(C) deeper than 60 feet; or

(2) if regulating the density of dwelling units on a

residential lot, a ratio of dwelling units per acre that results in fewer than 31.1 units per acre.

Sec. 211.055. SMALL LOTS. (a) A municipality may not adopt or enforce an ordinance, rule, or other measure that requires a small lot to have:

(1) a building setback greater than:

(A) ten feet from the front or back of the property; or

(B) five feet from the side of the property;

(2) covered parking;

(3) more than one parking space per unit;

(4) off-site parking;

(5) more than 30 percent open space or permeable surface; or

(6) fewer than three full stories.

(b) A municipality may require with respect to a small lot:

(1) the sharing of a driveway with another lot; or

(2) permitting fees equivalent to the permitting fees charged for the development of a lot the use of which is restricted to a single-family residence.

Sec. 211.056. NO EFFECT ON OTHER ZONING AUTHORITY. This subchapter does not prohibit a municipality from imposing restrictions that are applicable to all similarly situated lots or subdivisions, including requiring all subdivisions or all small lots to fully mitigate stormwater runoff.

SECTION 2. This Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

April 5, 2023

Honorable DeWayne Burns
Chairman, House Land and Resource Management Committee
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Dear Chairman Burns:

I am writing on behalf of the Texas Municipal League to express our opposition to **H.B. 3921** by **Representative Goldman**, which seeks to impose statewide restrictions on local regulations governing residential lot sizes and densities in cities in the 18 largest counties in Texas. This legislation undermines local decision-making authority and disregards the unique needs and circumstances of individual communities.

Firstly, it should be emphasized that cities across Texas are already moving towards greater residential density, recognizing the need for more affordable housing and sustainable urban development. By allowing local residents and community groups to participate in the decision-making process, cities are better able to tailor their policies to the specific needs and preferences of their communities. H.B. 3921 would override this local authority and impose a one-size-fits-all approach that may not be appropriate or desirable for all neighborhoods.

Moreover, the bill's provisions could lead to a decrease in community input on land use and development issues. By setting minimum density requirements and restricting the ability of cities to regulate setbacks, parking, and impervious cover, H.B. 3921 undermines the role of local government in shaping the character and quality of their neighborhoods. A more balanced approach would be to empower cities to pursue greater density while preserving their ability to engage with residents and community groups in determining the most appropriate policies for their neighborhoods.

In conclusion, we strongly urge the Land and Resource Management Committee to reject H.B. 3921 and instead prioritize legislation that preserves local decision-making authority and supports community-driven solutions to housing and urban development challenges. By allowing cities to chart their own course towards greater density, we can ensure that the unique character and needs of each community are respected and preserved.

Sincerely,

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

By: Bettencourt

S.B. No. 1787

A BILL TO BE ENTITLED

AN ACT

relating to size and density requirements for residential lots in certain municipalities; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 211, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. RESIDENTIAL ZONING LIMITATIONS IN MUNICIPALITIES
LOCATED IN COUNTIES OF 300,000 OR MORE

Sec. 211.051. DEFINITION. In this subchapter, "small lot" means a residential lot that is 4,000 square feet or less.

Sec. 211.052. APPLICABILITY. This subchapter applies only to a municipality that is wholly or partly located in a county with a population of 300,000 or more.

Sec. 211.053. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to affect sewer or water requirements or the rules or deed restrictions imposed by a homeowners' association.

Sec. 211.054. CERTAIN DWELLING UNIT LOT SIZE REQUIREMENTS PROHIBITED. A municipality may not adopt or enforce an ordinance, rule, or other measure that requires:

(1) a residential lot to be:

(A) larger than 1,400 square feet;

(B) wider than 20 feet; or

(C) deeper than 60 feet; or

(2) if regulating the density of dwelling units on a

residential lot, a ratio of dwelling units per acre that results in fewer than 31.1 units per acre.

Sec. 211.055. SMALL LOTS. (a) A municipality may not adopt or enforce an ordinance, rule, or other measure that requires a small lot to have:

(1) a building setback greater than:

(A) ten feet from the front or back of the property; or

(B) five feet from the side of the property;

(2) covered parking;

(3) more than one parking space per unit;

(4) off-site parking;

(5) more than 30 percent open space or permeable surface; or

(6) fewer than three full stories.

(b) A municipality may require with respect to a small lot:

(1) the sharing of a driveway with another lot; or

(2) permitting fees equivalent to the permitting fees charged for the development of a lot the use of which is restricted to a single-family residence.

Sec. 211.056. NO EFFECT ON OTHER ZONING AUTHORITY. This subchapter does not prohibit a municipality from imposing restrictions that are applicable to all similarly situated lots or subdivisions, including requiring all subdivisions or all small lots to fully mitigate stormwater runoff.

SECTION 2. This Act takes effect September 1, 2023.

By: Middleton, et al.

S.B. No. 175

A BILL TO BE ENTITLED

AN ACT

relating to the use by a political subdivision of public funds for lobbying and certain other activities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 556, Government Code, is amended by adding Section 556.0056 to read as follows:

Sec. 556.0056. RESTRICTION ON USE OF PUBLIC FUNDS BY POLITICAL SUBDIVISIONS FOR LOBBYING ACTIVITIES. (a) A political subdivision may not spend public funds:

(1) to hire an individual required to register as a lobbyist under Chapter 305 for the purpose of lobbying a member of the legislature; or

(2) to pay a nonprofit state association or organization that:

(A) primarily represents political subdivisions;
and

(B) hires or contracts with an individual required to register as a lobbyist under Chapter 305.

(b) If a political subdivision engages in an activity prohibited by Subsection (a), a taxpayer or resident of the political subdivision is entitled to appropriate injunctive relief to prevent further activity prohibited by that subsection and further payment of public funds related to that activity.

(c) A taxpayer or resident who prevails in an action under

1 Subsection (b) is entitled to recover from the political
2 subdivision the taxpayer's or resident's reasonable attorney's fees
3 and costs incurred in bringing the action.

4 (d) This section does not apply to a municipality or county
5 using public funds to compensate or contract with an individual
6 required to register as a lobbyist under Chapter 305 for the purpose
7 of influencing or attempting to influence the outcome of
8 legislation related to the military, military service members, or
9 military veterans.

10 (e) This section does not prohibit a full-time employee of a
11 nonprofit state association or organization that primarily
12 represents political subdivisions of this state from:

13 (1) providing legislative services, including
14 services related to bill tracking, bill analysis, and legislative
15 alerts;

16 (2) communicating directly with a member of the
17 legislature to provide information; or

18 (3) testifying for or against legislation before a
19 legislative committee.

20 SECTION 2. Section 89.002, Local Government Code, is
21 amended to read as follows:

22 Sec. 89.002. STATE ASSOCIATION OF COUNTIES. (a) Except as
23 provided by Section 556.0056, Government Code, the [The]
24 commissioners court may spend, in the name of the county, money from
25 the county's general fund for membership fees and dues of a
26 nonprofit state association of counties if:

27 (1) a majority of the court votes to approve

1 membership in the association;

2 (2) the association exists for the betterment of
3 county government and the benefit of all county officials;

4 (3) the association is not affiliated with a labor
5 organization; and

6 (4) ~~[neither the association nor an employee of the
7 association directly or indirectly influences or attempts to
8 influence the outcome of any legislation pending before the
9 legislature, except that this subdivision does not prevent a person
10 from providing information for a member of the legislature or
11 appearing before a legislative committee at the request of the
12 committee or the member of the legislature; and~~

13 ~~[(5)]~~ neither the association nor an employee of the
14 association directly or indirectly contributes any money,
15 services, or other valuable thing to a political campaign or
16 endorses a candidate or group of candidates for public office.

17 (b) If any association or organization supported wholly or
18 partly by payments of tax receipts from political subdivisions
19 engages in an activity described by Subsection (a)(4) ~~[or (5)]~~, a
20 taxpayer of a political subdivision that pays fees or dues to the
21 association or organization is entitled to appropriate injunctive
22 relief to prevent any further activity described by Subsection
23 (a)(4) ~~[or (5)]~~ or any further payments of fees or dues.

24 SECTION 3. Section 556.0056, Government Code, as added by
25 this Act, applies only to an expenditure or payment of public funds
26 by a political subdivision that is made on or after the effective
27 date of this Act, including an expenditure or payment of public

1 funds by a political subdivision that is made under a contract
2 entered into before, on, or after the effective date of this Act. A
3 contract term providing for an expenditure or payment prohibited by
4 Section 556.0056, Government Code, as added by this Act, is void on
5 the effective date of this Act.

6 SECTION 4. Section 89.002, Local Government Code, as
7 amended by this Act, applies only to the spending of money by a
8 county from the county's general fund that occurs on or after the
9 effective date of this Act. The spending of money by a county from
10 the county's general fund that occurs before the effective date of
11 this Act is governed by the law as it existed immediately before the
12 effective date of this Act, and that law is continued in effect for
13 that purpose.

14 SECTION 5. This Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

March 13, 2023

The Honorable Bryan Hughes
Chairman, State Affairs Committee
Texas State Senate
PO Box 12068
Austin, Texas 78711-2068

Dear Chairman Hughes:

I am writing on behalf of the Texas Municipal League to express our opposition to **Senate Bill 175** by **Senator Middleton**. As filed, S.B. 175 would expressly prohibit a political subdivision from spending public funds to hire a lobbyist. It also would prohibit a political subdivision from paying a nonprofit state association or organization that primarily represents political subdivisions and employs or contracts with a person required to register as a lobbyist. In our view, the goal of S.B. 175 is to silence local officials by preventing them from effectively participating in the state policymaking process.

The City of Bridge City is one of the 1,178 Texas cities that are members of the Texas Municipal League. Membership in the League provides many benefits for my city, such as training for city officials and employees, legal assistance on matters of municipal law, and access to a wide array of experts and information – all of which helps us to better serve the citizens of our city. The TML Constitution states that the purpose of the League is “to render services which individual cities have neither time, money nor strength to do alone.”

It is in this spirit that the League provides legislative services to its diverse group of member cities all across the state of Texas. The League employs a legislative staff and attorneys to advocate for policy positions that have been adopted by the member cities. They provide us with legal analysis of thousands of bills each session that have a potential impact on cities, and they keep us informed of the status of those bills. City officials depend upon lobbyists who are experts in municipal law just like we depend upon engineers and contractors who are experts in designing and building water systems and roads. We don’t have the time, the knowledge and training to do it ourselves.

During the course of a legislative session, the League’s staff receives hundreds of requests from legislative offices to provide information, as well feedback and advice on bills and amendments. Because such communication requires League staff to register as lobbyists under Texas law, the

bill would prevent the League engaging in this type of communication with legislators and their staffs.

Nearly 85 percent of TML's membership have a population under 10,000 people. Those small cities and towns, individually, cannot afford to hire the legal and legislative expertise needed to analyze, track, and provide input on thousands of bills during a legislative session. They depend upon the League's staff to do that. Those small towns are the ones who would be hurt the most by S.B. 175, though all cities would be harmed.

The monumental issues the Texas Legislature will address this session—hardening of utility systems, economic development, closing the digital divide, public safety, and critical infrastructure needs, among others—are not uniquely state-level issues. They're also local issues. And local leaders have a valuable perspective on these vital topics that needs to be heard.

The prohibitions in S.B. 175 would deprive the legislature of valuable information from local governments on the most pressing issues impacting our state. Local elected officials, meanwhile, would lose the ability to meaningfully participate in the statewide discussions that keenly affect local governments and the diverse group of Texans they represent. In fact, it is the hardworking citizens of our state who lose should this proposal move forward. Please vote against S.B. 175.

I hope this information is helpful to you. Please contact me with questions or concerns.

Sincerely,

A handwritten signature in cursive script, reading "David Rutledge".

David Rutledge
President, Texas Municipal League
Mayor, City of Bridge City

By: Hughes

S.B. No. 1412

A BILL TO BE ENTITLED

AN ACT

relating to regulation of accessory dwelling units by political subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. REGULATION OF ACCESSORY DWELLING UNITS BY POLITICAL SUBDIVISIONS

Sec. 247.001. DEFINITION. In this chapter, "accessory dwelling unit" means a residential housing unit that is:

(1) located on any lot that is not zoned or is zoned for a single-family home or duplex;

(2) independent of the attached or detached primary dwelling unit; and

(3) a complete and independent living facility for at least one individual.

Sec. 247.002. CERTAIN REGULATIONS PROHIBITED. (a) A political subdivision may not adopt or enforce an order, ordinance, or other measure that:

(1) prohibits an owner of a lot described by Section 247.001(1) from building an accessory dwelling unit before, after, or concurrently with the building of the primary dwelling unit on the lot;

(2) prohibits the owner from selling or renting an

accessory dwelling unit;

(3) requires any owner occupancy of the primary dwelling unit;

(4) requires parking for an accessory dwelling unit;

(5) requires a minimum lot size for an accessory dwelling unit that is larger than the minimum lot size required by the political subdivision for a single-family home or duplex, as applicable, in a lot zoned for that purpose;

(6) requires side or rear building, waterway, plane, or other setbacks larger than five feet for an accessory dwelling unit;

(7) prevents an owner of a lot zoned for a single-family home or duplex from converting an existing structure to an accessory dwelling unit by requiring setbacks larger than the current structure's setbacks;

(8) applies the political subdivision's local growth restrictions or density or bulk limitations to an accessory dwelling unit;

(9) provides limitations on the square footage of an accessory dwelling unit, except that the political subdivision may prohibit the accessory dwelling unit from being larger than the primary dwelling unit if the limitation does not require the accessory dwelling unit to be smaller than 1,100 square feet;

(10) regulates the design of an accessory dwelling unit, including the shape, size, massing, or distribution of square footage between floors;

(11) charges an impact fee;

1 (A) in any amount for an accessory dwelling unit
2 that is less than 750 square feet; or

3 (B) that conflicts with Chapter 395;

4 (12) charges any additional fee or any exaction,
5 including a parkland or right-of-way dedication, specific to
6 accessory dwelling units;

7 (13) imposes any restriction of accessory dwelling
8 unit occupancy on the basis of age or employment relationship with
9 the primary dwelling unit owner;

10 (14) prohibits an owner of a lot that is at least
11 10,000 square feet that is described by Section 247.001(1) from
12 building two accessory dwelling units before, after, or
13 concurrently with the primary dwelling unit; or

14 (15) prohibits the construction of accessory dwelling
15 units consistent with this chapter under otherwise applicable open
16 space or permeable surface restrictions.

17 (b) Subsection (a)(4) does not limit a political
18 subdivision's authority to require the replacement of parking
19 required for the primary dwelling unit if the accessory dwelling
20 unit construction eliminates the primary dwelling unit's existing
21 parking.

22 Sec. 247.003. AUTHORIZED REGULATION. (a) Except as
23 provided by this chapter, a political subdivision's height
24 limitations, front setback limitations, site plan review, and other
25 zoning requirements that are generally applicable to residential
26 construction for the area in which an accessory dwelling unit is
27 built apply to the accessory dwelling unit.

1 (b) A political subdivision may publish accessory dwelling
2 unit plans, building codes, and design standards that are permitted
3 in the political subdivision. Subject to Section 247.002, standards
4 may include height, setback, landscape, aesthetics standards, and
5 maximum size of an accessory dwelling unit.

6 (c) A political subdivision may authorize an accessory
7 dwelling unit on a lot that:

8 (1) contains a structure subject to a historic
9 preservation law, subject to a political subdivision's authority to
10 regulate under other law, including Section 211.003;

11 (2) is located in an area used to implement a water
12 conservation plan described by Section 11.1271 or 13.146, Water
13 Code; or

14 (3) is located in an area subject to a standard imposed
15 by the Texas Water Development Board as described by Section
16 3000.002(c), Government Code.

17 Sec. 247.004. PERMIT APPROVAL REQUIREMENTS. (a) A
18 political subdivision that requires a permit to construct an
19 accessory dwelling unit shall:

20 (1) process the application for the permit
21 ministerially without discretionary review or a hearing;

22 (2) consider only whether the application satisfies
23 the applicable building codes, design standards, and fire codes;
24 and

25 (3) approve or deny the application not later than the
26 60th day after the date the political subdivision receives the
27 completed application.

1 (b) A permit application described by Subsection (a) is
2 considered approved if the political subdivision to which the
3 application is submitted does not approve or deny the application
4 on or before the 60th day after the date the political subdivision
5 receives the application.

6 Sec. 247.005. APPLICABILITY TO OTHER RESTRICTIONS AND
7 RULES. This chapter does not limit the applicability of a historic
8 preservation rule, deed restriction, or homeowners association
9 rule that limits or prohibits the construction of an accessory
10 dwelling unit.

11 Sec. 247.006. ENFORCEMENT. (a) A person may submit a
12 complaint to the attorney general of a suspected violation of this
13 chapter.

14 (b) Notwithstanding any other law, if the attorney general
15 determines that a political subdivision has violated this chapter,
16 the political subdivision may not adopt an ad valorem tax rate for
17 the following ad valorem tax year that exceeds the political
18 subdivision's no-new-revenue tax rate for that following tax year.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

April 3, 2023

The Honorable Paul Bettencourt
Chairman, Senate Local Government Committee
Texas Senate
P.O. Box 12068
Austin, TX 78768-2068

Dear Chairman Bettencourt:

I am writing on behalf of the Texas Municipal League to express our opposition to **S.B. 1412** by **Senator Hughes**. As filed, S.B. 1412 would, among other things, generally restrict a city from adopting or enforcing regulations that prohibit an owner from building, selling, or renting an accessory dwelling unit (ADU), or require owner occupancy of the primary dwelling unit of a lot with an ADU for any lot zoned for single-family or duplex uses. In other words, the bill would authorize ADUs by right in most city neighborhoods with only minimal oversight by the city.

S.B. 1412 capitalizes on a growing trend at all levels of government supporting the development of affordable housing through the building of ADUs. In May 2022, the Biden Administration announced a Housing Supply Action Plan that promotes the construction and renovation of ADUs in cities across the country. In recent years Oregon, California, and Vermont have enacted similar state-level legislation limiting local involvement in ADU development. S.B. 1412, just like legislation in these states, would bypass the city-level dialogue on land use matters in favor of uniform regulation at the state level that lacks malleability based on community considerations. City government is best positioned to promote local goals on housing affordability while balancing those with neighborhood-level concerns.

Texas cities are not immune from the trend towards more ADUs. Many have reformed their land use regulations in recent years to promote ADU development after significant public buy-in. These local ADU reforms would generally expand development of ADUs, but still allow for some oversight to ensure neighborhood compatibility on things like parking, sale or rental of ADUs, setbacks and proximity to other homes, owner occupancy of the primary dwelling unit, and size limitations. S.B. 1412 would eliminate local flexibility on these topics in every city across the state. Further, the bill as drafted would preempt local ordinances on short term rentals as those ordinances apply to ADUs. This would have the ironic impact of limiting the use of ADUs as permanent housing options, since investors would purchase ADUs for use as short term rentals to be occupied by tourists instead of city residents.

S.B. 1412 would also authorize the attorney general to investigate a suspected violation of the bill by a city and impose a strict revenue cap on any city determined to have run afoul of the bill's requirements. The League strongly opposes the ability of one state official to unilaterally restrict city revenue. In this case, doing so would limit a city's ability to provide the services and infrastructure to support the increased residential density promoted by the bill.

Instead of invalidating local land use policies at the state level and imposing a strict revenue cap on cities who fail to comply with the new state statutory scheme, Texas cities and the state should work together to promote ADU development in a way that accounts for unique neighborhood considerations. The League is willing to work with Chairman Hughes and the committee on legislation that would preserve local input on local development issues.

For the reasons stated above, the League opposes S.B. 1412.

Sincerely,

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

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

By: Perry, et al.

S.B. No. 1421

A BILL TO BE ENTITLED

AN ACT

relating to the effect of nuisance actions, other actions, and governmental requirements on certain agricultural operations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 251, Agriculture Code, is amended to read as follows:

CHAPTER 251. EFFECT OF NUISANCE ACTIONS, OTHER ACTIONS, AND GOVERNMENTAL REQUIREMENTS ON CERTAIN [~~PREEXISTING~~] AGRICULTURAL OPERATIONS

SECTION 2. Section 251.001, Agriculture Code, is amended to read as follows:

Sec. 251.001. POLICY. Food security being essential, it [~~It~~] is the policy of this state to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. It is the purpose of this chapter to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be legally threatened, subject to suit, regulated, or otherwise declared [~~considered~~] to be a nuisance.

SECTION 3. Sections 251.002(1) and (2), Agriculture Code, are amended to read as follows:

(1) "Agricultural operation" includes the following activities:

(A) cultivating the soil;

(B) producing crops or growing vegetation for human food, animal feed, including hay and other forages, planting seed, or fiber;

(C) floriculture;

(D) viticulture;

(E) horticulture;

(F) silviculture;

(G) wildlife management;

(H) raising or keeping livestock or poultry, including veterinary services; and

(I) planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(2) "Governmental requirement" includes any rule, regulation, ordinance, zoning, license or permit requirement, or other requirement or restriction enacted or promulgated by a county, city, or other municipal corporation that has the power to enact or promulgate the requirement or restriction.

SECTION 4. Sections 251.003 and 251.004, Agriculture Code, are amended to read as follows:

Sec. 251.003. ESTABLISHED DATE OF OPERATION. For purposes of this chapter, the established date of operation is the date on which an agricultural operation commenced agricultural operations ~~[operation. If the physical facilities of the agricultural operation are subsequently expanded, the established date of operation for each expansion is a separate and independent established date of operation established as of the date of~~

~~commencement of the expanded operation, and the commencement of expanded operation does not divest the agricultural operation of a previously established date of operation].~~

Sec. 251.004. NUISANCE OR OTHER ACTIONS. (a) No nuisance action or other action to restrain an agricultural operation may be brought against an agricultural operation that has lawfully been in operation and substantially unchanged for one year or more prior to the date on which the action is brought. A person who brings a nuisance action or other action to restrain an agricultural operation that is not prohibited by this section must establish each element of the action by clear and convincing evidence~~[, if the conditions or circumstances complained of as constituting the basis for the nuisance action have existed substantially unchanged since the established date of operation]~~. This subsection does not restrict or impede the authority of this state to protect the public health, safety, and welfare or ~~[the authority of a municipality]~~ to enforce state law. For the purposes of this subsection, a substantial change to an agricultural operation means a material alteration to the operation of or type of production at an agricultural operation that is substantially inconsistent with the operational practices since the established date of operation.

(b) A person who brings a nuisance action or other action to restrain an agricultural operation and seeks ~~[for]~~ damages or injunctive relief against an agricultural operation that has existed for one year or more prior to the date that the action is instituted or who violates the provisions of Subsection (a) ~~[of this section]~~ is liable to the agricultural operator for:

1 (1) all costs and expenses incurred in defense of the
2 action, including ~~[but not limited to]~~ attorney's fees, court
3 costs, travel, and other related incidental expenses incurred in
4 the defense; and

5 (2) any other damages found by the trier of fact.

6 (c) This section does not affect or defeat the right of any
7 person to recover for injuries or damages sustained because of an
8 agricultural operation or portion of an agricultural operation that
9 is conducted in violation of a federal, state, or local statute or
10 governmental requirement that applies to the agricultural
11 operation or portion of an agricultural operation.

12 SECTION 5. Section 251.005(c), Agriculture Code, is amended
13 to read as follows:

14 (c) A governmental requirement of a city:

15 (1) does not apply to any agricultural operation
16 located ~~[situated]~~ outside the corporate boundaries of the city;
17 and

18 (2) applies to an agricultural operation located in
19 the corporate boundaries of the city only if the governmental
20 requirement complies with Section 251.0055 ~~[on the effective date~~
21 ~~of this chapter. If an agricultural operation so situated is~~
22 ~~subsequently annexed or otherwise brought within the corporate~~
23 ~~boundaries of the city, the governmental requirements of the city~~
24 ~~do not apply to the agricultural operation unless the requirement~~
25 ~~is reasonably necessary to protect persons who reside in the~~
26 ~~immediate vicinity or persons on public property in the immediate~~
27 ~~vicinity of the agricultural operation from the danger of.~~

1 ~~[(1) explosion, flooding, vermin, insects, physical~~
2 ~~injury, contagious disease, removal of lateral or subjacent~~
3 ~~support, contamination of water supplies, radiation, storage of~~
4 ~~toxic materials, or traffic hazards, or~~

5 ~~[(2) discharge of firearms or other weapons, subject~~
6 ~~to the restrictions in Section 229.002, Local Government Code].~~

7 SECTION 6. Chapter 251, Agriculture Code, is amended by
8 adding Section 251.0055 to read as follows:

9 Sec. 251.0055. LIMITATIONS ON CITY GOVERNMENTAL
10 REQUIREMENTS APPLICABLE WITHIN CORPORATE BOUNDARIES. (a) A city
11 may not impose a governmental requirement that applies to
12 agricultural operations located in the corporate boundaries of the
13 city unless:

14 (1) there is evidence that the purposes of the
15 requirement cannot be addressed through less restrictive means and
16 the requirement is reasonably necessary to protect persons who
17 reside in the immediate vicinity or persons on public property in
18 the immediate vicinity of the agricultural operation from the
19 imminent danger of:

- 20 (A) explosion;
21 (B) flooding;
22 (C) an infestation of vermin or insects;
23 (D) physical injury;
24 (E) the significant spread of an identified
25 contagious disease that is directly attributable to the
26 agricultural operation;
27 (F) the removal of lateral or subjacent support;

1 (G) an identified source of contamination of
2 water supplies;

3 (H) radiation;

4 (I) improper storage of toxic materials;

5 (J) crops planted or vegetation grown in a manner
6 that will cause traffic hazards; or

7 (K) discharge of firearms or other weapons,
8 subject to the restrictions in Section 229.002, Local Government
9 Code;

10 (2) the governing body of the city makes a finding by
11 resolution, based on a report described by Subsection (b), that the
12 requirement is necessary to protect public health; and

13 (3) the requirement is not otherwise prohibited by
14 this section.

15 (b) Before making a finding described by Subsection (a)(2),
16 the governing body of the city must obtain and review a report
17 prepared by the city health officer or a consultant that:

18 (1) identifies evidence of the health hazards related
19 to agricultural operations;

20 (2) determines the necessity of regulation and the
21 manner in which agricultural operation should be regulated;

22 (3) states whether each manner of regulation under
23 Subdivision (2) will restrict or prohibit a generally accepted
24 agricultural practice listed in the manual prepared under Section
25 251.007; and

26 (4) if applicable, includes an explanation why the
27 report recommends a manner of regulation that will restrict or

prohibit the use of a generally accepted agricultural practice that the manual indicates does not pose a threat to public health.

(c) A city may not impose a governmental requirement that directly or indirectly:

(1) prohibits the use of a generally accepted agricultural practice listed in the manual prepared under Section 251.007, except as provided by Subsections (a) and (b);

(2) prohibits or restricts the growing or harvesting of vegetation for animal feed or forage, except as provided by Subsection (d);

(3) prohibits the use of pesticides or other measures to control vermin or disease-bearing insects to the extent necessary to prevent an infestation; or

(4) requires an agricultural operation be designated for:

(A) agricultural use under Section 1-d, Article VIII, Texas Constitution; or

(B) farm, ranch, wildlife management, or timber production use under Section 1-d-1, Article VIII, Texas Constitution.

(d) A city may impose a maximum height for vegetation that applies to agricultural operations only if:

(1) the maximum vegetation height is at least 12 inches; and

(2) the requirement applies only to portions of an agricultural operation located no more than 10 feet from a property boundary that is adjacent to a public sidewalk, street, or highway.

1 (e) A governmental requirement of a city relating to the
2 restraint of a dog that would apply to an agricultural operation
3 does not apply to a dog used to protect livestock on property
4 controlled by the property owner while the dog is being used on such
5 property for that purpose.

6 SECTION 7. Section 251.006, Agriculture Code, is amended to
7 read as follows:

8 Sec. 251.006. AGRICULTURAL IMPROVEMENTS. (a) An owner,
9 lessee, or occupant of agricultural land is not liable to the state,
10 a governmental unit, or the owner, lessee, or occupant of other
11 agricultural land for the construction or maintenance on the land
12 of an agricultural improvement if the construction is not expressly
13 prohibited by statute [~~or a governmental requirement~~] in effect at
14 the time the improvement is constructed. Such an improvement does
15 not constitute a nuisance and is not otherwise subject to suit or
16 injunction.

17 (b) [~~This section does not apply to an improvement that~~
18 ~~obstructs the flow of water, light, or air to other land.~~] This
19 section does not prevent the enforcement of a state or federal
20 statute [~~or governmental requirement to protect public health or~~
21 ~~safety~~].

22 (c) In this section:

23 (1) "Agricultural land" includes:

24 (A) any land the use of which qualifies the land
25 for appraisal based on agricultural use as defined under Subchapter
26 D, Chapter 23, Tax Code; and

27 (B) any other land on which agricultural

1 operations exist or may take place.

2 (2) "Agricultural improvement" includes pens, barns,
3 fences, arenas, and other improvements designed for:

4 (A) the sheltering, restriction, or feeding of
5 animal or aquatic life;

6 (B) [~~for~~] storage of produce or feed; [~~or~~]

7 (C) [~~for~~] storage or maintenance of:

8 (i) implements used for management
9 functions; or

10 (ii) equipment necessary to carry out
11 agricultural operations.

12 SECTION 8. Chapter 251, Agriculture Code, is amended by
13 adding Sections 251.007 and 251.008 to read as follows:

14 Sec. 251.007. GENERALLY ACCEPTED AGRICULTURAL PRACTICES.
15 The Texas A&M AgriLife Extension Service shall develop a manual
16 that identifies generally accepted agricultural practices and
17 indicates which of those practices do not pose a threat to public
18 health, including a threat to public health posed by a danger listed
19 in Section 251.0055(a)(1).

20 Sec. 251.008. CONFLICT WITH OTHER LAW. If there is a
21 conflict between this chapter and other law, this chapter prevails.

22 SECTION 9. Sections 251.005(c-1) and (c-2), Agriculture
23 Code, are repealed.

24 SECTION 10. As soon as practicable after the effective date
25 of this Act, the Texas A&M AgriLife Extension Service shall develop
26 the manual described by Section 251.007, Agriculture Code, as added
27 by this Act.

1 SECTION 11. Sections 251.002 and 251.005, Agriculture Code,
2 as amended by this Act, and Section 251.0055, Agriculture Code, as
3 added by this Act, apply to a governmental requirement adopted
4 before, on, or after the effective date of this Act.

5 SECTION 12. The changes in law made by this Act apply only
6 to a cause of action that accrues on or after the effective date of
7 this Act. A cause of action that accrued before the effective date
8 of this Act is governed by the law applicable to the cause of action
9 immediately before the effective date of this Act, and that law is
10 continued in effect for that purpose.

11 SECTION 13. This Act takes effect September 1, 2023.



TEXAS MUNICIPAL LEAGUE

Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

March 27, 2023

The Honorable Charles Perry
Chairman, Senate Water, Agriculture, and Rural Affairs Committee
Texas State Senate
P.O. Box 12068
Austin, TX 78768-2068

Dear Chairman Perry,

I am writing on behalf of the Texas Municipal League to provide comments on **S.B. 1421**. We appreciate the author's intent to highlight the unique nature of agricultural operations and distinguish the applicability of certain city codes and ordinances to such operations. However, as currently drafted, the bill does not differentiate between agricultural operations and agricultural-like activity on residential lots. We are concerned that the lack of such a distinction will inadvertently prevent a city from quickly and effectively addressing real public health and safety concerns in densely populated residential areas.

S.B. 1421 would, among other things, prohibit a city from imposing a governmental regulation on agricultural operations located anywhere within city limits until:

- (1) a city prepares a report by the city health officer that: (a) identifies a specified health or safety hazard posed by the agricultural operation; (b) states whether enforcement would restrict or prohibit a generally accepted agricultural practice; and (c) provides clear and convincing evidence that enforcing an applicable regulation is necessary to protect nearby persons and property and that enforcement is the least restrictive means to address the hazard;
- (2) a city presents the health officer's report to the city council; and
- (3) the city council adopts a resolution authorizing the city to enforce the regulation.

Section 251.005 of the Agriculture Code establishes heightened code enforcement thresholds and standards for pre-existing annexed agricultural operations. The rationale behind these heightened standards is that such operations require substantial financial investment and effort, are vital to the state's food security, and are generally located far from denser residential developments.

S.B. 1421 would expand these heightened standards to any agricultural operation within city limits. Specifically, it would limit the scope of health and safety hazards that a city can address and delay its ability to protect nearby persons and property by requiring the city council to adopt a formal resolution before the city can act.

S.B. 1421 would also eliminate a city's ability to impose zoning regulations on any agricultural operation within city limits. As drafted, a governmental regulation under S.B. 1421 includes a zoning regulation. Zoning is often key to preserving neighborhood character, promoting and planning for growth, and protecting the public. S.B. 1421 would prevent a city from enforcing its zoning regulations unless the city meets the heightened standards described above.

For these reasons, we respectfully request that the committee consider the three following revisions to S.B. 1421 to properly balance preserving agricultural operations and protecting public health, safety, and welfare: (1) limit the heightened code enforcement standards in Section 251.0055 to pre-existing annexed agricultural operations under Section 251.005, and agricultural operations located on a tract of land over one acre in area within city limits; (2) limiting the prohibition against governmental regulations regarding vegetation height for agricultural operations to such operations located on a tract of land over one acre in area within city limits; and (3) remove zoning regulations from the definition of governmental regulation to protect a city's authority to enforce its zoning regulations within city limits.

City governments are uniquely positioned to make informed decisions about local land uses and local health and safety concerns. In its current form, we believe that S.B. 1421 would undermine a city's ability to honor its obligation to protect its residents. We welcome the ability to work with you and the committee to make changes that would retain the legislation's overall goal while supporting local decision-making.

Sincerely,

A handwritten signature in black ink, appearing to read 'Monty Wynn', with a stylized flourish at the end.

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

By: Bettencourt

S.B. No. 1786

A BILL TO BE ENTITLED

AN ACT

relating to approval procedures for property development review by a municipality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.0065(c), Local Government Code, is amended to read as follows:

(c) The person or persons shall not disapprove the plat and shall be required to refer any plat which the person or persons refuse to approve to the municipal authority responsible for approving plats within the time period specified in Section 212.023 [212.009].

SECTION 2. Chapter 212, Local Government Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. APPROVAL PROCEDURES FOR PROPERTY DEVELOPMENT

REVIEW

Sec. 212.021. DEFINITIONS. In this subchapter:

(1) "Development application" means an application made to a municipal authority for property development review.

(2) "Development inspection" means the inspection of an improvement to land required to be conducted as part of a project to develop the land or construct or improve an improvement to the land.

(3) "Development permit" means a permit required to be obtained to develop land or construct or improve an improvement to

1 land.

2 (4) "Municipal authority" means the municipal
3 authority responsible for conducting a property development review
4 under law.

5 (5) "Plan" and "plat" have the meanings assigned by
6 Section 212.001.

7 (6) "Property development review" means the process of
8 granting municipal approval to subdivide land, develop land, or
9 construct or improve an improvement to land. The term includes the
10 review of a development application.

11 Sec. 212.028. DELEGATION OF APPROVAL RESPONSIBILITY TO
12 THIRD-PARTY REVIEWER. (a) Except as provided by Subsection (b),
13 the appropriate municipal authority may delegate to a third-party
14 reviewer the ability to approve a development application or
15 conduct a development inspection.

16 (b) If a municipality fails to complete at least 80 percent
17 of the total number of development applications and requests for
18 development inspections the municipality receives in a calendar
19 year in accordance with the deadlines prescribed by this subchapter
20 for two consecutive years, the governing body of the municipality
21 must delegate to third-party reviewers the ability to approve all
22 development applications and conduct all development inspections
23 for the five calendar years following that second consecutive year.

24 (c) A third-party reviewer shall process a development
25 application or complete a development inspection in accordance with
26 the deadlines and other approval procedures prescribed by this
27 subchapter as if the reviewer is the municipal authority.

(d) A municipality may audit the work of a third-party reviewer with a third-party auditor. The auditor must be an architect, engineer, or other appropriate professional who is licensed, certified, or regulated by this state.

(e) A development application or development inspection that is begun by a third-party reviewer must be completed by the reviewer regardless of whether the governing body of the municipality elects to discontinue delegation authorized by Subsection (a) or the mandatory period of delegation prescribed by Subsection (b) expires.

Sec. 212.029. THIRD-PARTY AUDITOR TRAINING. (a) The Texas Department of Housing and Community Affairs, in coordination with the Texas Department of Licensing and Regulation and other appropriate state agencies, shall:

(1) develop requirements for certifying, insuring, and auditing third-party reviewers; and

(2) develop and offer training programs for third-party reviewers that establish best practices.

(b) The Texas Department of Housing and Community Affairs may adopt rules necessary to implement this section.

SECTION 3. Sections 212.0085, 212.009, 212.0091, 212.0093, 212.0095, 212.0096, 212.0097, and 212.0099, Local Government Code, are transferred to Subchapter A-1, Chapter 212, Local Government Code, as added by this Act, redesignated as Sections 212.022, 212.023, 212.024, 212.025, 212.026, 212.027, 212.030, and 212.031, respectively, and amended to read as follows:

Sec. 212.022 [~~212.0085~~]. [~~APPROVAL~~ ~~PROCEDURE~~]

1 APPLICABILITY OF SUBCHAPTER. The approval procedures under this
 2 subchapter apply to a municipality regardless of whether the
 3 municipality has entered into an interlocal agreement, including an
 4 interlocal agreement between a municipality and county under
 5 Section 242.001(d).

6 Sec. 212.023 [~~212.009~~]. [~~APPROVAL PROCEDURE~~] INITIAL
 7 APPROVAL. (a) A [~~The~~] municipal authority [~~responsible for~~
 8 ~~approving plats~~] shall approve, approve with conditions, or
 9 disapprove a plan or plat, approve or disapprove a development
 10 permit, or complete a development inspection not later than the
 11 30th day [~~within 30 days~~] after the date the plan, [~~or~~] plat, or
 12 permit application is filed or the inspection is requested. A plan,
 13 [~~or~~] plat, or development permit is approved by the municipal
 14 authority unless it is disapproved within that period and in
 15 accordance with this subchapter [~~Section 212.0091~~]. A development
 16 inspection requirement is waived unless the inspection is completed
 17 within that period and in accordance with this subchapter.

18 (b) If an ordinance requires that a plan, [~~or~~] plat, or
 19 development permit be approved by the governing body of the
 20 municipality in addition to any other municipal authority [~~the~~
 21 ~~planning commission~~], the governing body shall approve, approve
 22 with conditions, or disapprove the plan or plat, or approve or
 23 disapprove the permit, as applicable, not later than the 30th day
 24 [~~within 30 days~~] after the date the plan, [~~or~~] plat, or permit is
 25 approved by the other authority [~~planning commission~~] or is
 26 approved by the inaction of that authority [~~the commission~~]. A
 27 plan, [~~or~~] plat, or development permit is approved by the governing

body unless it is disapproved within that period and in accordance with this subchapter [~~Section 212.0091~~].

(c) [~~(b-1)~~] Notwithstanding Subsection (a) or (b), if a groundwater availability certification is required under Section 212.0101, the 30-day period described by those subsections to approve, approve with conditions, or disapprove a plat begins on the date the applicant submits the groundwater availability certification to the applicable municipal authority [~~responsible for approving plats or the governing body of the municipality, as applicable~~].

(d) [~~(b-2)~~] Notwithstanding Subsection (a) or (b), the parties may extend the 30-day period described by those subsections for a period not to exceed 30 days if:

(1) the applicant requests the extension in writing to the applicable municipal authority [~~responsible for approving plats or the governing body of the municipality, as applicable~~]; and

(2) the [~~municipal~~] authority [~~or governing body, as applicable~~] approves the extension request.

(e) [~~(c)~~] If a plan or plat is approved, the municipal authority giving the approval shall endorse the plan or plat with a certificate indicating the approval. The certificate must be signed by:

(1) the authority's presiding officer and attested by the authority's secretary; or

(2) a majority of the members of the authority.

(f) [~~(d)~~] If the municipal authority [~~responsible for~~

~~approving plats~~] fails to approve, approve with conditions, or disapprove a plan or plat within the prescribed period, the authority on the applicant's request shall issue a certificate stating the date the plan or plat was filed and that the authority failed to act on the plan or plat within the period. The certificate is effective in place of the endorsement required by Subsection (e) ~~[(e)]~~.

(g) ~~[(e)]~~ The municipal authority ~~[responsible for approving plats]~~ shall maintain a record of each development application and request for a development inspection made to the authority and the authority's action taken on it. On request of an owner of an affected tract, the authority shall certify the reasons for the action taken on an application.

Sec. 212.024 ~~[212.0091]~~. ~~[APPROVAL PROCEDURE.]~~

CONDITIONAL APPROVAL OR DISAPPROVAL REQUIREMENTS. (a) A municipal authority ~~[or governing body]~~ that conditionally approves or disapproves a plan or plat, or disapproves a development permit, under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval, as applicable, that clearly articulates each specific condition for the conditional approval or reason for disapproval.

(b) Each condition or reason specified in the written statement:

(1) must:

(A) be directly related to the requirements prescribed by law for the applicable development project ~~[under~~

~~this subchapter~~]; and

(B) include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval, if applicable; and

(2) may not be arbitrary.

Sec. 212.025 [212.0093]. [~~APPROVAL PROCEDURE.~~] APPLICANT RESPONSE TO CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional approval or disapproval of a plan or plat, or disapproval of a development permit, under Section 212.024 [212.0091], the applicant may submit to the municipal authority [~~or governing body~~] that conditionally approved or disapproved the plan, [~~or~~] plat, or permit a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The municipal authority [~~or governing body~~] may not establish a deadline for an applicant to submit the response.

Sec. 212.026 [212.0095]. [~~APPROVAL PROCEDURE.~~] APPROVAL OR DISAPPROVAL OF RESPONSE. (a) A municipal authority [~~or governing body~~] that receives a response under Section 212.025 [212.0093] shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plan or plat, or disapproved development permit, not later than the 15th day after the date the response was submitted.

(b) A municipal authority [~~or governing body~~] that conditionally approves or disapproves a plan or plat, or disapproves a development permit, following the submission of a response under Section 212.025 [212.0093]:

(1) must comply with Section 212.024 [212.0091]; and

(2) may disapprove the plan, ~~[or]~~ plat, or permit only for a specific condition or reason provided to the applicant under Section 212.024 [212.0091].

(c) A municipal authority ~~[or governing body]~~ that receives a response under Section 212.025 [212.0093] shall approve a previously conditionally approved or disapproved plan or plat, or disapproved development permit, if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(d) A previously conditionally approved or disapproved plan or plat, or disapproved development permit, is approved if:

(1) the applicant filed a response that meets the requirements of Subsection (c); and

(2) the municipal authority ~~[or governing body]~~ that received the response does not disapprove the plan, ~~[or]~~ plat, or permit on or before the date required by Subsection (a) and in accordance with Section 212.024 [212.0091].

Sec. 212.027 [212.0096]. ~~[APPROVAL PROCEDURE.]~~

ALTERNATIVE APPROVAL PROCESS. (a) Notwithstanding Sections 212.023 [212.009], 212.024 [212.0091], 212.025 [212.0093], and 212.026 [212.0095], an applicant may elect at any time to seek approval for a plan, ~~[or]~~ plat, or development permit under an alternative approval process adopted by a municipality if the process allows for a shorter approval period than the approval process described by Sections 212.023 [212.009], 212.024 [212.0091], 212.025 [212.0093], and 212.026 [212.0095].

(b) An applicant that elects to seek approval under the alternative approval process described by Subsection (a) is not:

(1) required to satisfy the requirements of Sections 212.023 [~~212.009~~], 212.024 [~~212.0091~~], 212.025 [~~212.0093~~], and 212.026 [~~212.0095~~] before bringing an action challenging a disapproval of a plan, ~~or~~ plat, or development permit under this subchapter; and

(2) prejudiced in any manner in bringing the action described by Subdivision (1), including satisfying a requirement to exhaust any and all remedies.

Sec. 212.030 [~~212.0097~~]. ~~[APPROVAL PROCEDURE.]~~ WAIVER PROHIBITED. A municipal authority ~~[responsible for approving plats or the governing body of a municipality]~~ may not request or require an applicant to waive a deadline or other approval procedure under this subchapter.

Sec. 212.031 [~~212.0099~~]. JUDICIAL REVIEW OF DISAPPROVAL. In a legal action challenging a disapproval of a plan, ~~or~~ plat, or development permit under this subchapter, the municipality has the burden of proving by clear and convincing evidence that the disapproval meets the requirements of this subchapter or any applicable case law. The court may not use a deferential standard.

SECTION 4. Section 212.0155(e), Local Government Code, is amended to read as follows:

(e) The municipal authority may not approve the new plat without adequate consideration of testimony and the record from the public hearings and making the findings required by Subsection (k). Not later than the 30th day after the date on which all proceedings

1 necessary for the public hearings have concluded, the municipal
2 authority shall take action on the application for the new plat.
3 Sections 212.023(a) [~~212.009(a)~~] and (b) do not apply to the
4 approval of plats under this section.

5 SECTION 5. Section 242.001(c), Local Government Code, is
6 amended to read as follows:

7 (c) Except as provided by Subsections (d)(3) and (4), a
8 municipality and a county may not both regulate subdivisions and
9 approve related permits in the extraterritorial jurisdiction of a
10 municipality after an agreement under Subsection (d) is executed.
11 The municipality and the county shall enter into a written
12 agreement that identifies the governmental entity authorized to
13 regulate subdivision plats and approve related permits in the
14 extraterritorial jurisdiction. For a municipality in existence on
15 September 1, 2001, the municipality and county shall enter into a
16 written agreement under this subsection on or before April 1, 2002.
17 For a municipality incorporated after September 1, 2001, the
18 municipality and county shall enter into a written agreement under
19 this subsection not later than the 120th day after the date the
20 municipality incorporates. On reaching an agreement, the
21 municipality and county shall certify that the agreement complies
22 with the requirements of this chapter. The municipality and the
23 county shall adopt the agreement by order, ordinance, or
24 resolution. The agreement must be amended by the municipality and
25 the county if necessary to take into account an expansion or
26 reduction in the extraterritorial jurisdiction of the
27 municipality. The municipality shall notify the county of any

1 expansion or reduction in the municipality's extraterritorial
 2 jurisdiction. Any expansion or reduction in the municipality's
 3 extraterritorial jurisdiction that affects property that is
 4 subject to a preliminary or final plat, a plat application, or an
 5 application for a related permit filed with the municipality or the
 6 county or that was previously approved under Section 212.023
 7 [~~212.009~~] or Chapter 232 does not affect any rights accrued under
 8 Chapter 245. The approval of the plat, any permit, a plat
 9 application, or an application for a related permit remains
 10 effective as provided by Chapter 245 regardless of the change in
 11 designation as extraterritorial jurisdiction of the municipality.

12 SECTION 6. Section 242.003(c), Local Government Code, is
 13 amended to read as follows:

14 (c) The agreement must be amended by the county and the
 15 municipality if necessary to take into account an expansion or
 16 reduction in the extraterritorial jurisdiction of the
 17 municipality. The municipality shall notify the county of any
 18 expansion or reduction in the municipality's extraterritorial
 19 jurisdiction. Any expansion or reduction in the municipality's
 20 extraterritorial jurisdiction that affects property that is
 21 subject to a preliminary or final plat, a plat application, or an
 22 application for a related permit filed with the municipality or the
 23 county or that was previously approved under Section 212.023
 24 [~~212.009~~] or Chapter 232 does not affect any rights accrued under
 25 Chapter 245. The approval of the plat, any permit, a plat
 26 application, or an application for a related permit remains
 27 effective as provided by Chapter 245 regardless of the change in

1 designation as extraterritorial jurisdiction of the municipality.

2 SECTION 7. Section 214.904, Local Government Code, is
3 repealed.

4 SECTION 8. The requirement that a municipality process a
5 certain percentage of development applications and development
6 inspections in a calendar year as prescribed by Section 212.028(b),
7 Local Government Code, as added by this Act, applies only to a
8 calendar year that begins on or after the effective date of this
9 Act.

10 SECTION 9. Not later than the effective date of this Act,
11 the Texas Department of Housing and Community Affairs shall comply
12 with the requirements of Section 212.029, Local Government Code, as
13 added by this Act.

14 SECTION 10. The changes in law made by this Act apply only
15 to a development application or request for a development
16 inspection, as those terms are defined by Section 212.021, Local
17 Government Code, as added by this Act, submitted on or after the
18 effective date of this Act.

19 SECTION 11. This Act takes effect January 1, 2024.



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	April 20, 2023
SUBMITTED BY:	Taylor Whichard, Public Works
SUBJECT:	Discussion, consideration, and possible action authorizing the City Manager to enter into an agreement with LCRA for the purchase of raw or untreated water.
BACKGROUND:	The City's current contract with LCRA to purchase water expires in May of this year. Under the current contract, we have 6,500 acre-feet reserved with LCRA. The deadline to submit the application is April 27.
FINDINGS:	<p>This contract renewal will be set up for a period of 20 years (as per LCRA's recommendation). This will allow the City to increase the reserved capacity, if available, for development at that time. Also, there is a change in the "Standard Terms & Conditions" on page 7. LCRA is now charging a Reservation Fee. This reservation fee is \$77.50 per acre-foot. This means for 6,500 acre-feet of reserved water, it would cost the City \$503,750 in reservation fees annually, plus \$77.50 per acre-foot for water consumed. The total reservation rate is divided by 12 then added to the monthly usage charge.</p> <p>After doing projections, which can be found in the attached report, the minimum the City needs at a 3% growth rate over a period of 20 years is 3,300 acre-feet which equates to a \$255,750 reservation charge. At a 5% growth rate, the absolute minimum the City needs is 5,000 acre-feet of water reserved which equals \$387,500 in reservation fees.</p> <p>It is recommended that Council approve the reservation of 5,500 acre-feet of water to provide the City flexibility at a cost of \$426,250, in the event growth rates beyond 5% are experienced.</p>
FINANCIAL IMPACT:	A reservation rate will now be included in the monthly billing by LCRA. This is \$77.50 per acre-foot multiplied by the Council approved reservation volume.
RECOMMENDATION:	Approval

ATTACHMENTS:

[Report on Projections](#)

[Contract Standard Terms and Conditions](#)

[LCRA Water Contract Rules](#)

Mayor
Ed Tidwell



Council Members

Gage Hunt
Kevin Sullivan
Rob Durbin
Chelaine Marion
Paul Roberts

Mayor Pro-Tem
Paul Prince

April 12, 2023

Mayor and Council,

During the April 6th Council Meeting, you tasked Public Works with further investigating the resale, number of reserved acre-ft that staff is comfortable with, and the reallocation of acre-ft at the end of the City's contract with LCRA.

After speaking with LCRA, they stated that resale contracts are fairly complicated, and would require their involvement, review and approval of resale contracts. It is staff's recommendation that we do not pursue this option. Also, LCRA recommended contract durations be longer than 10 years. In addition to that, consumers need to logically show LCRA how they grow into the amount of reserved water.

The table attached, shows the 2022 figures projected out over a period of 20 years at both a 3% and 5% growth rate. At a 3% growth rate, the projected Acre-ft of water needed at the end of contract is 3,300. With a 5% growth rate, which Lago Vista has seen the past couple of years, the projected Acre-ft of water needed at the end of the contract is 5,000 acre-ft.

It is staff's recommendation that Council approves the reservation of 5,500 acre-ft to accommodate for unanticipated growth during that 20-year period. The cost to reserve 5,500 acre-ft of water will be \$426,250 yearly.

Also, to satisfy Council's curiosity, there is a total of 35,000 acre-ft of water available for purchase from LCRA.

Sincerely,

Taylor M. Whichard
Director of Public Works
City of Lago Vista

	2022 Numbers
Connections	5400
Acre-ft Consumed	1700
Acre-ft per connection	0.31
Total Gal Per Conn	102,583
Avg GPD/Conn	281
Avg Person per Conn	2.5

	3% Growth Year over Year			5% Growth Year Over Year		
Year	# of Connections	Population	Acre-Ft	# of Conn	Population	Acre-Ft
2022	5,400	13,500	1,700	5,400	13,500	1,700
2023	5,562	13,905	1,751	5,670	14,175	1,785
2024	5,729	14,322	1,804	5,954	14,884	1,874
2025	5,901	14,752	1,858	6,251	15,628	1,968
2026	6,078	15,194	1,913	6,564	16,409	2,066
2027	6,260	15,650	1,971	6,892	17,230	2,170
2028	6,448	16,120	2,030	7,237	18,091	2,278
2029	6,641	16,603	2,091	7,598	18,996	2,392
2030	6,841	17,101	2,154	7,978	19,946	2,512
2031	7,046	17,614	2,218	8,377	20,943	2,637
2032	7,257	18,143	2,285	8,796	21,990	2,769
2033	7,475	18,687	2,353	9,236	23,090	2,908
2034	7,699	19,248	2,424	9,698	24,244	3,053
2035	7,930	19,825	2,497	10,183	25,456	3,206
2036	8,168	20,420	2,571	10,692	26,729	3,366
2037	8,413	21,033	2,649	11,226	28,066	3,534
2038	8,665	21,664	2,728	11,788	29,469	3,711
2039	8,925	22,313	2,810	12,377	30,942	3,896
2040	9,193	22,983	2,894	12,996	32,489	4,091
2041	9,469	23,672	2,981	13,646	34,114	4,296
2042	9,753	24,383	3,070	14,328	35,820	4,511
2043	10,046	25,114	3,163	15,044	37,610	4,736
2044	10,347	25,867	3,257	15,796	39,491	4,973

Exhibit A

STANDARD CONTRACT TERMS AND CONDITIONS

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I. WATER SUPPLY

A. PERMIT(S) MAY BE REQUIRED.

PURCHASER may not impound, divert, or use water under this Contract unless PURCHASER, in accordance with the substantive rules of the Texas Commission on Environmental Quality (TCEQ), Army Corps of Engineers (USACE), or any other local, state, or federal regulatory authority, obtains and maintains any water rights permit, wastewater discharge permit, dredge and fill permits, or any other similar permit, that is necessary to authorize PURCHASER'S impoundment, diversion and/or consumptive use, and subsequent discharge, of water consistent with this Contract.

B. MAXIMUM ANNUAL QUANTITY.

From and after the Effective Date hereof, PURCHASER shall have the right to a Maximum Annual Quantity (MAQ) of raw or untreated water per annum made available by LCRA as set forth in the terms of the Contract. For purposes of this Contract, the term "made available" refers to the greatest of: (i) the amount of water released or supplied from LCRA firm supplies to allow for diversions by PURCHASER; or (ii) the amount of water diverted by or for PURCHASER at the Point(s) of Availability plus the Loss Factor (defined below) times such amount. PURCHASER shall designate a point or points of availability for such water as described and depicted in Exhibit "B" attached hereto (the "Point(s) of Availability"), said Exhibit depicting the location by reference to a corner of an original land survey and/or other survey point, giving course and distance and providing the latitude and longitude. In the event that the Point(s) of Availability are located on a LCRA operated-canal, PURCHASER shall also identify a point or points of diversion for such water on the Colorado River ("Point(s) of Diversion"). Such Point(s) of Diversion, if any, shall be described and depicted in Exhibit "B" in the same manner described for Point(s) of Availability.

In the event that PURCHASER'S Point(s) of Availability are located downstream of Lake Travis, the Contract will specify a Loss Factor. The Loss Factor represents LCRA's best available estimate of the conveyance, delivery, or system loss incurred to provide water under this Contract. LCRA hereby reserves the right to modify the Loss Factor and make any associated changes to the MAQ, at any time, based on

any revised estimates of conveyance, delivery, or system loss associated with the delivery of water to PURCHASER, including but not limited to changes in the source of supply LCRA uses to make water available to PURCHASER or updated and substantiated information related to river or canal losses.

PURCHASER may, at its option, conduct its own investigation of conveyance, delivery, or system losses, associated with the delivery of water by LCRA under this Contract. If PURCHASER conducts such study in accordance with LCRA's then-current Water Contract Rules, it shall provide to LCRA in a written report the results of any such investigation within sixty (60) calendar days of completion and LCRA agrees to consider whether any adjustment to the Loss Factor is appropriate under this Contract. If LCRA determines that an adjustment to the Loss Factor is appropriate, it shall provide PURCHASER written notice, by certified mail, of any change to the Loss Factor and resulting change to the Contract MAQ, within fifteen (15) business days of adopting such change. A change to the Loss Factor that results in an increase in the MAQ of 500 acre-feet per year or more shall not take effect until approved by the LCRA Board as an amendment to this Contract. Notwithstanding the foregoing or any provision in LCRA's raw water contract rules, LCRA will not require PURCHASER to obtain a new contract on the most current standard form water contract where the change to the MAQ is based solely on a change to the Loss Factor.

C. EXCEEDANCE OF MAXIMUM ANNUAL QUANTITY.

If the amount of water made available to PURCHASER for any reason exceeds the Maximum Annual Quantity stated in PURCHASER's Contract during two (2) consecutive years, or two (2) out of any four (4) consecutive years, PURCHASER shall submit an application (including the application fee) for a new standard form water contract for an adjusted MAQ, the reasonableness of which shall be determined consistent with LCRA's then effective Water Contract Rules, to the extent LCRA has water supplies available. If PURCHASER has not obtained a contract for an increased MAQ and has a subsequent exceedance within the immediately following five (5) years PURCHASER shall pay to LCRA the Recurrent Excess Use Charge described in Section II.B.5. To the extent provided by the LCRA Water Contract Rules, LCRA may allow PURCHASER to take alternate actions in lieu of submitting an application for a new standard form contract. In such event, PURCHASER shall not be subject to the Recurrent Excess Use Charge in the immediately following year, and will only be subject to such fee in the event of subsequent exceedances in two (2) out of any four (4) consecutive years.

D. MAXIMUM DIVERSION RATE.

PURCHASER may not divert water made available by LCRA under this Contract at a rate greater than as set forth in this Contract ("Maximum Diversion Rate").

E. SOURCE OF WATER SUPPLY.

1. The water made available for impoundment, diversion and/or use under this Contract will be water provided from any source available to LCRA at the time PURCHASER uses water under this Contract.
2. LCRA may make water available under this Contract in accordance with LCRA's Water Management Plan, as may be amended in accordance with state law from time to time, from storage in lakes Buchanan and/or Travis in accordance with water rights held by LCRA as set forth in Certificates of Adjudication No. 14-5478, as amended, and 14-5482, as amended.
3. LCRA may make water available under this Contract from water rights owned by LCRA based on that certain water right previously owned by the Garwood Irrigation Company and identified as Certificate of Adjudication No. 14-5434 issued by the Texas Water Commission on June 28, 1989, as amended (herein, "Garwood's Right"). That portion of Garwood's Right that is owned by LCRA (and for which reference is made to Certificate of Adjudication No. 14-5434C issued by the Texas Natural Resource Conservation

Commission) is referred to herein as “Garwood’s Remaining Right.”

- a) PURCHASER acknowledges and agrees that LCRA may make water available for impoundment, diversion and/or use under this Contract from Garwood’s Remaining Right only following approval by TCEQ, of amendments to allow use of Garwood’s Remaining Right for the type of use authorized by this Contract at the Point of Diversion and/or Point of Availability.
- b) In this event, this Contract is subject to the commitments and conditions set forth in Section 7.08 of that certain Purchase Agreement, dated July 20, 1998, between Garwood Irrigation Company, as seller, and LCRA, as buyer (the “LCRA-Garwood Purchase Agreement”), and is further subject to all terms, provisions and special conditions contained within Garwood’s Remaining Right, as amended. Copies of the LCRA-Garwood Purchase Agreement and Garwood’s Remaining Right, as amended, are available from LCRA’s website, and as of the date of execution of the contract, were specifically available at the following internet web-site address:

<https://www.lcra.org/water/permits-contracts/water-supply-contracts/agricultural-irrigation-use/>

PURCHASER also may obtain copies of the LCRA Purchase Agreement and Garwood’s Remaining Right, as amended, by request to LCRA’s address for notices herein. By executing this Contract, PURCHASER hereby acknowledges receipt of copies of the LCRA Purchase Agreement and Garwood’s Remaining Right, as amended.

F. TYPE OF USE.

PURCHASER represents to LCRA and LCRA relies on such representation that all water made available under this Contract will be impounded, diverted, and/or used by PURCHASER for the type of use as described in this Contract, as such use is defined in the LCRA Water Contract Rules or by the substantive rules for water rights of TCEQ. In accordance with state law, any part of the water that PURCHASER impounds or diverts but does not use or consume for such use in accordance with this Contract shall be returned to the Colorado River or a tributary of the Colorado River.

G. SERVICE AREA.

Water made available under this Contract shall only be used within that certain area, as described in Exhibit C attached hereto and depicted in Exhibit D, attached hereto, together hereinafter called the “Service Area.” In no event shall water supplied under this Contract be available to any area outside of LCRA’s statutory water service area. Further, water supplied under this Contract shall not be available to any area outside the Colorado River basin unless such interbasin transfer is authorized by one or more water rights.

H. WATER CONSERVATION AND DROUGHT CONTINGENCY MEASURES.

1. PURCHASER agrees to implement the water conservation program contained in the water conservation plan (the “Water Conservation Plan” or “WCP”) described in Exhibit E attached hereto. PURCHASER further agrees that the water impounded and/or diverted by PURCHASER pursuant to this Contract will be used in accordance with such WCP.
2. PURCHASER agrees to implement the drought contingency program contained in the drought contingency plan (the “Drought Contingency Plan” or “DCP”) described in Exhibit F attached hereto. PURCHASER further agrees that the water impounded and/or diverted by PURCHASER pursuant to this Contract will be used in accordance with such DCP.
3. PURCHASER shall review and update its WCP and DCP as provided in the Water Contract

Rules, with such updates to be required among other things, on a periodic basis and in response to changes in the rules of LCRA or state laws or regulations.

4. If PURCHASER fails to submit an updated WCP or DCP, or fails to implement its WCP or DCP, after thirty (30) days following notice by LCRA of an ongoing failure to comply with the requirements, PURCHASER shall pay LCRA a one-hundred dollar (\$100) administrative fee each month until an updated WCP and/or DCP is submitted or the WCP and/or DCP is implemented. The Contract is further subject to termination for failure of PURCHASER to update its WCP and/or DCP as specified in Section II.D.4.

I. AVAILABILITY OF WATER.

LCRA is committing to make available to PURCHASER under this Contract a portion of LCRA's firm water supply, as defined in LCRA's Water Contract Rules; provided, however, LCRA may interrupt or curtail the water supplied under this Contract as required by state law or in accordance with LCRA's Water Management Plan or applicable Drought Contingency Plan(s), as such Plans and any amendments thereto have been approved and may be approved in the future by TCEQ.

In the event the Point(s) of Availability are upstream of Lake Buchanan and/or on a tributary to the Colorado River, water supplied under this Contract is water that otherwise would have flowed into the Colorado River and/or lakes Buchanan and Travis and is a commitment against LCRA's firm water supply, as defined in LCRA's Water Contract Rules, subject to diversion and use rights of all senior right holders upstream and downstream of the Point(s) of Availability. Diversions and/or impoundment at such upstream Point(s) of Availability require a water right permit issued by TCEQ. In addition to the interruptions or curtailments mentioned above, availability of water is further subject to factors associated with the Point(s) of Availability, including but not limited to the flow of the river or tributary, diversions of water by senior and superior water rights, and conditions in the upstream water right permit.

J. DELIVERY OF WATER.

LCRA is responsible for making water available under this Contract only up to the MAQ. LCRA makes no guarantee that the water made available under this Contract will be available at any particular time or place or that any LCRA owned/operated reservoir or the Colorado River will be maintained at any specific elevation or flow at any particular time. Furthermore, PURCHASER acknowledges and agrees that LCRA's obligations under this Contract shall not require LCRA to make additional releases of water from LCRA firm water supplies beyond the MAQ or to make releases to raise the water elevations or flows at the Point(s) of Availability at a particular time sufficient for PURCHASER's intake and/or diversion facilities to operate.

K. DEMAND SCHEDULE.

PURCHASER has provided a Demand Schedule (Exhibit G) that reflects PURCHASER's best estimate of the scheduled initiation of diversions, initial usage, annual projected water usage, and any increases of usage over time (at intervals no greater than every five (5) years and more frequent as requested by LCRA staff), of the water to be made available by LCRA under this Contract, consistent with LCRA's Water Contract Rules. The Demand Schedule shall include any plans for direct reuse of water made available under this Contract. PURCHASER shall review, update if needed, and provide to LCRA an updated Demand Schedule not less than once every five (5) years coincident with any updated Water Conservation Plans required by this Contract or LCRA's Water Contract Rules, or following written request by LCRA consistent with any other schedule that may be required by LCRA's Water Contract Rules.

L. STATE REGULATION OF LCRA WATER SUPPLIES.

PURCHASER acknowledges and agrees that the water LCRA makes available under this Contract may be regulated in whole or in part by the State of Texas or local regulatory authorities. PURCHASER further acknowledges and agrees that LCRA's water rights are subject to regulation by the State of Texas, including

but not limited to periodic review and amendment of LCRA's Water Management Plan by TCEQ. LCRA and PURCHASER acknowledge and agree that LCRA shall be obligated to exercise due diligence to manage its water supplies within such regulatory regimes to make water available to PURCHASER in accordance with the terms of this Contract. PURCHASER acknowledges and agrees, however, that LCRA's obligations under this Contract may be affected by orders of the State of Texas, its agencies or local regulatory authorities. Orders of the State of Texas, its agencies or local regulatory authorities may constitute a "force majeure" event in accordance with this Contract.

M. OPERATIONS OF DAMS AND RESERVOIRS.

The right of LCRA to maintain and operate its several dams and their appurtenances on the Colorado River and its associated tributaries and at any and all times in the future to impound and release waters thereby in any lawful manner and to any lawful extent LCRA may see fit is recognized by PURCHASER; and, except as otherwise provided herein, there shall be no obligation upon LCRA to release or not to release any impounded waters at any time or to maintain any waters at any specified elevation or flow. PURCHASER acknowledges that the elevations of said reservoirs and the Colorado River will vary as a result of hydrologic events, or lack thereof, (e.g. floods or droughts) in the watershed and LCRA's operations of its dams on the Colorado River.

N. QUALITY OF WATER.

LCRA makes no representation as to the quality of the water made available under this Contract, and PURCHASER hereby releases LCRA and agrees to hold it harmless from any and all claims that PURCHASER or PURCHASER's customers or users have or may have against LCRA for any diminution in or impairment of the quality of water made available under this Contract.

O. INTERBASIN TRANSFER.

Any surface water made available under this Contract may not be transferred or used outside of the Colorado River basin unless such transfer or use is within LCRA's water service area and authorized by a water right issued by TCEQ. In the event that PURCHASER has indicated its intent to transfer or use surface water made available under this Contract outside of the Colorado River basin in accordance with this section, PURCHASER, by executing this Contract, authorizes LCRA to apply to the TCEQ for the necessary authorization pursuant to Texas Water Code § 11.085 and 11.122 within ninety (90) days of the Effective Date of this Contract. LCRA shall diligently pursue such authorization after it is filed. PURCHASER shall pay for any costs and fees related to such application, including, but not limited to filing and notice fees, legal fees and expert fees, after LCRA bills PURCHASER for such costs and fees in accordance with this Contract.

P. REQUIRED NOTICES.

PURCHASER shall provide notice to LCRA of certain activities specified in the Water Contract Rules throughout the term of this Contract. Such notice requirements may apply to, among other things, intent to divert, plans for and implementation of reuse, activities related to a water right permit, agreement to supply a Secondary Purchaser, and change of ownership.

II. CONTRACT ADMINISTRATION

A. TERM OF CONTRACT.

This Contract shall be for the term of years as set forth in this Contract, which shall commence on the Effective Date and end on the anniversary of the Effective Date in the last year of the contract term as set forth in this Contract, unless terminated earlier by either party as provided below.

B. PAYMENT.

1. The "Water Rate" is the rate determined by the LCRA Board of Directors to then be in effect for all sales of firm water for the same use as provided in this Contract. The "Reservation Rate" is the rate determined by the LCRA Board to then be in effect for the reservation of firm water for the same use as provided in this Contract. The "Inverted Block Rate" is the rate determined by the Board to then be in effect for diversion or use of water in amounts in excess of the MAQ.
2. The Water Rate presently in effect is \$155 per acre-foot (\$0.48 per 1,000 gallons) of water. The Reservation Rate presently in effect is \$77.50 per acre-foot. The Inverted Block Rate presently in effect is \$310 per acre-foot of water. LCRA reserves all rights that it may have under law to modify the Water Rate, the Reservation Rate, or the Inverted Block Rate. PURCHASER understands and acknowledges that the Water Rate, Reservation Rate, and the Inverted Block Rate set forth in this Contract have been approved by the LCRA Board, and that the Board may change all rates, fees and charges under the Contract from time to time.
3. Reservation Charge.
 - a) PURCHASER agrees and covenants to pay – on a monthly basis – an amount of money equal to the Reservation Rate multiplied by one-twelfth (1/12) of the MAQ (the "Monthly Reservation Charge") which shall be for the preceding billing period. However, in the event the MAQ is 250 acre-feet per year or more and PURCHASER is not an existing customer in good standing nor a governmental entity exercising taxing authority, for the period until the later of the fifth full calendar year since the Effective Date or the year in which PURCHASER's water use equals at least twenty percent (20%) of the MAQ, PURCHASER shall pre-pay on a non-refundable basis for the reservation of water as follows: PURCHASER agrees to and covenants to pay LCRA – on the first billing period after the Effective Date of this Agreement – an amount equal to the Reservation Rate multiplied by the MAQ ("Prepaid Annual Reservation Charge"), which amount shall be prorated to the end of the calendar year in which this Contract becomes effective; and thereafter, PURCHASER agrees and covenants to pay LCRA the Prepaid Reservation Charge on the first billing period of each calendar year. Following the later of the fifth full calendar year since the Effective Date or the year in which PURCHASER's water use equals at least twenty percent (20%) of the MAQ, PURCHASER shall pay the Monthly Reservation Charge described above.
 - b) In the event this Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, in lieu of subparagraph a, above, PURCHASER agrees and covenants to pay – on a semi-annual basis – an amount of money equal to the Reservation Rate multiplied by one-half of the MAQ (the "Prepaid Semi-annual Reservation Charge") which shall be for the upcoming semi-annual billing period.
4. Use Charge.
 - a) PURCHASER agrees and covenants to pay LCRA – on a monthly basis – an amount of money (the "Use Charge") equal to the Water Rate less the Reservation Rate multiplied by the amount of water made available to the PURCHASER during the previous monthly billing period ("Monthly Use").
 - b) In the event this Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, in lieu of subparagraph a, above, PURCHASER agrees and covenants to pay LCRA – on a

semi-annual basis – an amount of money (the “Semi-annual Use Charge”) equal to the Water Rate less the Reservation Rate multiplied by the amount of water made available to the PURCHASER during the previous semi-annual billing period.

- c) For purposes of this section, the term “made available” refers to the greatest of: (i) the amount of water released or supplied from LCRA firm water supplies to allow for diversions by PURCHASER; or (ii) the amount of water diverted by or for PURCHASER at the Point(s) of Availability plus the Loss Factor, if any, multiplied times such amount.
- 5. PURCHASER further agrees and covenants to pay LCRA – on a calendar year basis – an amount of money (the “Excess Use Charge”) equal to the Inverted Block Rate multiplied by any amount of water made available to PURCHASER in excess of the MAQ during the previous calendar year, less any amount PURCHASER has previously paid for the same water through use and/or reservation charges. In the event the amount of water made available to PURCHASER exceeds the MAQ on a recurrent basis as described in Section I.C., PURCHASER further agrees and covenants to pay LCRA – on a calendar year basis – an amount of money (the “Recurrent Excess Use Charge”) equal to the Inverted Block Rate multiplied by any amount of water made available to PURCHASER in excess of the MAQ during the previous calendar year. Such Recurrent Excess Use Charge shall be in addition to the Excess Use Charge. In the event the amount of water made available to PURCHASER is limited because of a curtailment imposed by LCRA or state law in accordance with this Contract to an amount less than the MAQ, then PURCHASER shall pay a surcharge, in excess of any Use or Reservation Charges, to be set by the LCRA Board, multiplied by any amount of water made available to PURCHASER in excess of the amount PURCHASER is authorized to have available during the curtailment (the “Curtailment Surcharge”).
 - 6. The term “billing period,” as used for purposes of metering and billing in this Contract, shall refer to each period between readings of the meter(s), which readings typically are performed on a monthly basis or semi-annual basis, and may be taken around the middle, rather than then end, of each month. All charges under this Contract shall be pro-rated as necessary to reflect the Effective Date or date of termination of this Contract. For purposes of metering and billing, the “calendar year” may be based upon the 12-month period from the December meter reading date to the next December reading date. If this Contract specifies semi-annual billing, the initial billing period will be pro-rated to end in either mid-June or mid-December.
 - 7. Each month, LCRA will mail an invoice to PURCHASER showing the Monthly Use. Such invoice shall also show the amount of money owed by PURCHASER to LCRA in accordance with the Pre-paid Reservation Charge, Monthly Reservation Charge and/or Use Charge and any late payment charges, as specified herein. In the event this Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, in lieu of monthly invoices, invoices will occur on a semi-annual basis and shall show the Semi-annual Use, the Prepaid Semi-annual Reservation Charge, the Semi-annual Use Charge, and any late payment charges.
 - 8. The invoice mailed by LCRA to PURCHASER in the month of January each year, in addition to showing the amount of money owed by PURCHASER to LCRA in accordance with paragraph 7, shall also show any amount of water that PURCHASER had made available to it in excess of the MAQ during the previous calendar year, as well as the corresponding Excess Use Charge and the Recurrent Excess Use Charge, if applicable.
 - 9. PURCHASER shall pay LCRA for water provided under this Contract in the amount of each invoice submitted to PURCHASER by LCRA on or before thirty (30) days from the date of

the invoice. PURCHASER shall mail checks for payments to the address indicated on the invoice. PURCHASER may pay by hand-delivery of checks or cash to LCRA's headquarters in Austin, Travis County, Texas, or by bank-wire if PURCHASER obtains LCRA's approval and makes arrangements for doing so prior to the due date. Payment may also be made by other means that may be specified on the invoice. Payment must be received at the address provided on the invoice, or, if approved, at LCRA's headquarters or bank, not later than thirty (30) days from the invoice date in order not to be considered past due or late. In the event PURCHASER fails to make payment of that invoice within thirty (30) days of the invoice date, PURCHASER shall then pay a late payment charge of five percent (5%) of the unpaid amount of the invoice. For each calendar month or fraction thereof that the invoice remains unpaid, PURCHASER shall pay interest at the rate of one and one-half percent (1.5%) per month on the unpaid portion of the invoice. In the event PURCHASER attempts to pay LCRA by check, draft, credit card or any other similar instrument, and the instrument is returned or refused by the bank or other similar institution as insufficient or non-negotiable for any reason, PURCHASER shall be assessed and must pay to LCRA, per each returned instrument, the LCRA's current returned instrument fee. If the invoice has not been paid within thirty (30) days of the invoice date, PURCHASER further agrees to pay all costs of collection and reasonable attorney's fees, regardless of whether suit is filed.

C. MEASURING WATER.

1. To measure the amount of water diverted by PURCHASER hereunder, PURCHASER agrees at PURCHASER's expense to install and provide access to such measuring and recording devices or methods as specified by the Rules. PURCHASER must repair, replace or make necessary improvements to a meter that is not in compliance with this Contract or LCRA's Rules promptly after PURCHASER becomes aware of the deficiency that causes the meter to not comply with this Contract or LCRA's Water Contract Rules.
2. Meter readings shall be taken on or about the 15th day of each month. If Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, readings shall be taken on or about June 15 and Dec. 15. PURCHASER agrees to read meter and submit meter reading to LCRA via electronic mail, online portal, or other format as specified by LCRA.
3. PURCHASER agrees that the Meter shall be tested for accuracy by qualified personnel as approved by LCRA and at the expense of PURCHASER once each calendar year at intervals of approximately twelve (12) months if the MAQ is greater than 30 acre-feet per year, and at intervals of approximately twenty-four (24) months if the MAQ does not exceed 30 acre-feet per year .
 - a) PURCHASER shall furnish to LCRA a report of such test results. Readings within five percent (5%) of accuracy shall be considered correct.
 - b) In the event PURCHASER fails to timely test the Meter and report the results to LCRA, the following shall take effect:
 - (1) Following a period of fifteen (15) months from the prior test, or a period of 27 months if the MAQ does not exceed 30 acre-feet per year, for each month that such failure to test and/or report results continues, PURCHASER shall pay a \$100 administrative fee.
 - (2) Following a period of eighteen (18) months from the prior test, or a period of thirty (30) months if the MAQ does not exceed 30 acre-feet per year, for each billing period that such failure to test and/or report continues, PURCHASER's Monthly Water Use for purposes of determining the Water

Charge will be deemed to be the greater of the metered value, one-twelfth of the MAQ, or the prior year's water use for the given month. If the Contract is for semi-annual billing, PURCHASER'S Semi-annual Water Use for purposes of determining the Semi-annual Water Charge will be deemed to be the greater of the metered value, one-half of the MAQ, or the prior year's Semi-annual Water Use for the given semi-annual period.

- (3) Following a period of twenty-one (21) months from the prior test, or a period of thirty-three (33) months if the MAQ does not exceed 30 acre-feet per year, for each billing period that such failure to test and/or report continues, PURCHASER shall be subject to a twenty five percent (25%) surcharge on all reservation charges and use charges.
- c) If, at any time, LCRA provides PURCHASER a written notice that questions the accuracy of the Meter, PURCHASER promptly shall test the Meter and, in this event, the expense of such test will be paid by LCRA if the Meter is found to be correct and by PURCHASER if it is found to be incorrect.
- d) Any party that tests the Meter shall provide written notice of the test to the other party at least five (5) business days in advance of the test and shall allow the other party to observe the test.
- e) PURCHASER shall be required to take necessary steps to correct any inaccuracy in the Meter discovered during any test. LCRA may install, at its expense, check meters in or to any of PURCHASER's Meters at any time and may leave such check meters installed for such periods as is reasonably necessary to determine the accuracy of PURCHASER's Meters.
- f) If, as a result of any test, the Meter is found to be registering inaccurately (i.e., in excess of five percent (5%) of accuracy), the readings of the Meter shall be corrected at the rate of its inaccuracy for any period which is definitely known and agreed upon or, if no such period is known and agreed upon, the shorter of the following periods shall be used as the basis for correction:
 - (1) a period extended back either sixty (60) days from the date of demand for the test or, if no demand for the test was made, sixty (60) days from the date of the test; or
 - (2) a period extending back half of the time elapsed since the last previous test; and the records of reading shall be adjusted accordingly.
- 4. In the event PURCHASER is charged based on water released from LCRA firm water supplies under this Contract rather than the actual amount withdrawn from the reservoir or stream by PURCHASER, LCRA shall include the amount of such releases in the monthly invoice provided to PURCHASER. LCRA shall make available information regarding its calculation of the amount of water released attributable to PURCHASER's actual diversions under this Contract within a reasonable period following PURCHASER's written request.

D. TERMINATION OF CONTRACT OR REDUCTION IN MAXIMUM ANNUAL QUANTITY.

This Contract may be terminated or the MAQ may be reduced as follows:

- 1. PURCHASER shall provide one year's notice of its intent to terminate this Contract or reduce the MAQ, and must be current on all payments due at the time of such notice and

the time of such termination or reduction. If the MAQ is less than 500 acre-feet, PURCHASER may terminate this Contract or reduce the MAQ following the expiration of five (5) years from the Effective Date. If the MAQ is 500 acre-feet or more, beginning with the five-year anniversary of the Effective Date of the contract, Purchaser may reduce the MAQ by no more than the greater of 250 acre-feet or twenty-five percent (25%) of the original MAQ once every 12 months. PURCHASER may pre-pay outstanding reservation fees as determined by LCRA that would be due over the projected remaining duration of the contract and terminate this Contract in lieu of maintaining the Contract in effect for the period of notice and/or stepped reductions in MAQ. In the event the Rules provide alternative provisions for early termination or reduction in MAQ, PURCHASER also may terminate or reduce consistent with the Rules.

2. Upon sixty (60) days' written notice to PURCHASER, LCRA may consider reducing the MAQ under this Contract at any time after ten year(s) after the Effective Date of this Contract if PURCHASER's maximum annual use has not been at least ten percent of the MAQ on an annual basis within the first ten years. Within thirty (30) days of LCRA's written notice that it is considering reduction of the MAQ, PURCHASER shall provide LCRA with a written assurance and updated Demand Schedule that demonstrates PURCHASER's intent to increase its diversions under this Contract within the next two (2) years to an amount that will be at least ten percent (10%) of the original MAQ secured by this Contract. If PURCHASER fails to or is unable provide such written assurance, or if at least ten percent (10%) of the MAQ is not put to use on an annual basis within the two year period, LCRA may thereafter, at its sole option, terminate the contract or reduce the MAQ to any amount LCRA deems appropriate and reasonable under LCRA's raw water contract rules in effect at the time. An adjustment to the MAQ of this Contract under this section does not require PURCHASER to obtain a new contract on the most current standard form contract.
3. LCRA at its sole option, in accordance with the terms and conditions set forth in Section II.E, "Non-Payment," may terminate this Contract without recourse should PURCHASER fail to comply with the terms and conditions of this Contract for the payment of moneys owed to LCRA pursuant to Section II.B. "Payment."
4. LCRA at its sole option, may terminate this Contract if: (a) PURCHASER fails to comply with its Water Conservation Plan or its Drought Contingency Plan; or (b) PURCHASER fails to amend its Water Conservation Plan or its Drought Contingency Plan to reflect changes in LCRA's Water Conservation Plan Rules, LCRA's Drought Contingency Plan Rules, or state law or rules. LCRA shall provide notice of default prior to terminating under this section and PURCHASER shall have ninety (90) days to cure such default (or, if the nature of such default is not susceptible of being cured within such ninety (90) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days) of PURCHASER's receipt of written notice of such default.
5. If PURCHASER fails to comply with the requirements of Sections III.A, "Nonpoint Source Pollution Abatement," III.B, "Sewage Regulations," or III.C, "Documentation of Compliance; Right of Entry," LCRA may, at its sole option, terminate this Contract without recourse unless such default is cured within thirty (30) days of the date LCRA provides written notice to PURCHASER (or if the nature of such default is not susceptible of being cured within such thirty (30) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days) of PURCHASER's receipt of written notice of such default. For purposes of this section, LCRA shall not deem PURCHASER to be in default for so long as PURCHASER is in compliance with any remedial or enforcement agreement authorized by an agency of appropriate jurisdiction.
6. If PURCHASER fails to comply with other requirements of this Contract not specifically

stated above, LCRA may, at its sole option, terminate this Contract without recourse unless such default is cured within thirty (30) days (or, if the nature of such default is not susceptible of being cured within such thirty (30) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days) of PURCHASER's receipt of written notice of such default.

7. Subject to the requirements of applicable bankruptcy laws, including the rights of a trustee to assume contracts under applicable bankruptcy laws, this Contract may be terminated immediately by LCRA upon the declaration of bankruptcy by PURCHASER.
8. In the event TCEQ or any other local, state, or federal regulatory agency denies to PURCHASER, or terminates for any reason, a permit required by this Contract, PURCHASER shall notify LCRA within three (3) business days and immediately cease diversions under this Contract. LCRA, at its sole option, may terminate this Contract on or after the denial or termination of any permit required by this Contract is final and non-appealable.

PURCHASER shall remain liable for all fees and charges accruing under the Contract through the date the Contract is terminated, including but not limited to a pro-rated Reservation Charge through the date of termination. In the event LCRA terminates this Contract as provided herein, PURCHASER shall suspend immediately upon such termination all withdrawal of water from the Colorado River, or any tributaries thereof, under this Contract. LCRA may exercise any rights that it may have at law or in equity to prevent unauthorized withdrawals by PURCHASER or enforce the requirements of PURCHASER's Water Permit, if any. In the event that the contract is terminated based upon the denial or termination of a permit required by this Contract, PURCHASER shall be required to pay an early termination fee equal to the Reservation Rate times the MAQ.

LCRA shall have no obligation to continue to make water available after the expiration of the Contract term, or the early termination of the Contract.

E. NON-PAYMENT.

1. If LCRA determines that PURCHASER has not paid the full amount owed for any payment due under Section II.B, "Payment", hereof within the time provided therefore, LCRA shall give written notice to PURCHASER stating the amount LCRA has determined is due and unpaid. If LCRA gives notice as provided herein and PURCHASER fails to pay within thirty (30) days the amounts claimed in such notice to be due and unpaid, LCRA may, at its sole option: (1) upon giving ten (10) days written notice to PURCHASER terminate this Contract without recourse; and/or, (2) request injunctive relief from a court of competent jurisdiction to prevent PURCHASER from impounding and/or diverting additional water pursuant to this Contract.
2. If PURCHASER should dispute PURCHASER's obligation to pay all or any part of the amount stated in any invoice or notice, PURCHASER may, in addition to all other rights that PURCHASER may have under law, pay such amount under protest in which case such amount shall be deposited by LCRA in an interest bearing account mutually acceptable to both LCRA and PURCHASER pending final resolution of such dispute in accordance with Section IV.H, "Dispute Resolution." LCRA may not terminate this Contract, or request injunctive relief to prevent additional impoundments and/or diversions for failure to pay the amount stated in any invoice or notice if PURCHASER pays such amount under protest and until there is a final resolution of such dispute in accordance with Section IV.H, "Dispute Resolution," favorable to LCRA.

F. EQUITABLE REMEDIES.

PURCHASER agrees that diversions or impoundments of water by PURCHASER without the authorization provided by this Contract will result in damages to LCRA that cannot be adequately compensated by money alone. As a result, PURCHASER agrees that LCRA shall have available to it equitable remedies, including injunctive relief against additional diversions or impoundments by PURCHASER unless PURCHASER demonstrates that it is otherwise authorized to divert or impound water. In addition, PURCHASER agrees that the provisions of Section IV.H, "Dispute Resolution," will not apply to any legal action brought by LCRA seeking equitable remedies under this Contract except as expressly provided by Section II.E.2 regarding "Non-payment."

G. NOTICE.

Any notice to LCRA shall be provided in the manner specified in the Rules and invoices to PURCHASER shall be addressed as set forth in the General Terms of this Contract.

All payments to LCRA shall be addressed as set forth in the General Terms of this Contract.

Either party may change its address by giving written notice of such change to the other party. PURCHASER is required to provide notice of change in address or contact person within ten (10) days of such change. PURCHASER shall maintain a physical address on file with LCRA.

H. ASSIGNMENT OF CONTRACT.

PURCHASER shall have the right to assign this Contract provided that: i) there is no change to the MAQ, source, type of use or Service Area provided in this Contract; ii) prior to such assignment, this Contract is amended to be consistent with all terms of LCRA's then-current standard form contract for purchase of firm water and LCRA's then-current Water Contract Rules as determined by LCRA; iii) the Water Conservation Plan and Drought Contingency Plan are updated as may be necessary in accordance with this Contract as determined by LCRA; iv) PURCHASER provides LCRA at least sixty (60) days prior written notice of such assignment; v) PURCHASER is not in default under this Contract at the time of such assignment; and vi) PURCHASER or assignee make payment of all amounts due that have, or will have, accrued through the date of assignment. In the event the Contract is not consistent with the then-current standard form contract, LCRA, at its sole option, may authorize an assignment with a requirement for a subsequent replacement contract following procedures in the Water Contract Rules.

I. COMPLIANCE WITH FILING REQUIREMENTS.

LCRA agrees to file a copy of this Contract with the TCEQ Executive Director, P.O. Box 13087, Capitol Station, Austin, Texas 78711, it being fully recognized by PURCHASER hereunder that the effectiveness of this Contract is dependent upon compliance with the substantive rules and procedural rules for water rights of TCEQ.

III. ENVIRONMENTAL, PERMITTING AND OTHER ISSUES RELATED TO WATER SUPPLY

A. NONPOINT SOURCE WATER POLLUTION ABATEMENT.

If PURCHASER will use water under this Contract to serve areas located within the jurisdictional area of LCRA Highland Lakes Watershed Ordinance, the Highland Lakes Dredge and Fill Ordinance, or any other LCRA water quality ordinance that has been adopted by the LCRA Board, PURCHASER agrees to comply with and shall comply with the provisions of that respective ordinance, which ordinance may require a permit and compliance with other applicable local, state, and federal rules and regulations pertaining to water quality protection. If PURCHASER will use water under this Contract to serve areas wholly outside the jurisdiction of an LCRA water quality ordinance, PURCHASER agrees to comply with and shall comply with any applicable local, state, and federal rules and regulations pertaining to water quality protection.

PURCHASER further agrees to distribute to its customers in its service area water quality protection educational materials that LCRA provides to PURCHASER.

B. SEWAGE REGULATIONS.

PURCHASER agrees to obtain, or cause to be obtained, all approvals required by all applicable local, state or federal agencies for any sanitary sewage system or systems that collect sewage derived from water diverted herein or any sanitary sewage system whose effluent is discharged within the boundaries of LCRA's statutory district. Failure of PURCHASER to meet any standards imposed by such agencies for sanitary sewage systems, including on-site systems, shall subject PURCHASER under this Contract to all remedies allowed by law including, without limitation, termination or suspension of this Contract by LCRA. PURCHASER further agrees that if a sewage treatment plant is located within the Service Area, LCRA shall have reasonable access to such plant for the purpose of taking samples of sewage effluent from such plant for testing by LCRA to determine whether PURCHASER is in compliance with regulatory standards imposed by such agencies.

C. DOCUMENTATION OF COMPLIANCE; RIGHT OF ENTRY.

1. In addition to notices required by Section I.P. of this Contract, PURCHASER shall provide LCRA copies of any approvals that PURCHASER has received from federal, state, or local agencies that relate to water reserved or purchased pursuant to PURCHASER's Contract or to facilities intended to impound, divert, transport, or use water provided under PURCHASER's Contract within a reasonable amount of time, not to exceed fifteen (15) business days, following a written request by LCRA staff.
2. PURCHASER agrees that LCRA employees and agents shall be entitled to enter any property where facilities impound or deliver water to the Service Area of PURCHASER at any reasonable time following a reasonable attempt at prior notification for the purpose of inspecting and investigating conditions relating to the quality of water; the compliance by PURCHASER with any rule, regulation, permit or other order of the state, its agencies, local regulatory authorities or LCRA; compliance by PURCHASER with the requirements of this Contract; or, inspection of any of PURCHASER's facilities related to the use, diversion or impoundment of water under this Contract. LCRA employees or agents acting under this Contract who enter PURCHASER's property shall observe rules and regulations concerning safety, internal security, and fire protection, and shall notify any occupant or management of their presence and shall exhibit proper credentials.

D. ANNUAL REPORTS OF DUE DILIGENCE; AS-BUILT PLANS.

1. PURCHASER shall report to LCRA, on a yearly basis, progress made toward obtaining any and all necessary authorizations (e.g. TCEQ permits, USACE permits, etc.) as well as progress towards commencing and completing construction of facilities which will be used to divert, impound, and/or convey water under PURCHASER's Contract.
2. PURCHASER shall provide to LCRA, upon request, "as-built" drawings and plans (including GPS coordinates of any intakes or impoundments) for facilities which will be used to divert, impound, and/or convey water under PURCHASER's Contract within thirty (30) days of completion of construction.

IV. GENERAL PROVISIONS

A. EFFECTIVE DATE.

"Effective Date" means the last date of execution of this Contract by the Parties; provided all of the Parties must execute this Contract for it to be effective.

B. PREVIOUS CONTRACT.

In the event of a previous contract between the Parties related to the Service Area of this Contract prior to the Effective Date, this Contract replaces such prior contract unless specified otherwise hereunder.

C. INDEMNIFICATION.

PURCHASER will indemnify and hold LCRA harmless from any and all claims and demands whatsoever to which LCRA may be subjected by reason of any injury to any person or damage to any property resulting from any and all actions and activities (or failure to act) of PURCHASER under this Contract except to the extent caused by LCRA's gross negligence or willful misconduct. PURCHASER's pumping and related facilities shall be installed, operated and maintained by PURCHASER at PURCHASER's sole risk. Nothing in this Contract shall be construed as authorizing PURCHASER, or recognizing that PURCHASER has any right, to install any equipment or improvements on property owned by LCRA or third parties.

LCRA will hold PURCHASER harmless from any and all claims or demands whatsoever to which LCRA may be subjected by reason of any injury to any person or damage to any property resulting from or in any way connected with any and all actions and activities (or failure to act) of LCRA under this Contract that are not resulting from or in any way connected with any and all actions and activities (or failure to act) of PURCHASER under this Contract.

D. FORCE MAJEURE.

The term "Force Majeure" as used herein, shall mean those situations or conditions that are beyond the control of LCRA or PURCHASER and that, after the exercise of due diligence to remedy such situation or condition, render LCRA or PURCHASER unable, wholly or in part, to carry out the covenants contained herein. Such force majeure includes, but is not limited to acts of God, strikes, lockouts, acts of the public enemy, orders of any kind of the government or agencies of the United States or of the State of Texas, excluding LCRA, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or dams, partial or entire failure of water supply insofar as each of the foregoing are beyond the reasonable control of the party in question. LCRA shall not be held liable or responsible for any damage that may be caused by its inability, after the exercise of due diligence, to make the supply of water available to PURCHASER due to any force majeure. LCRA shall use reasonable and timely diligence to repair or recondition LCRA's machinery, canals, or dams in the event such machinery, canals or dams are damaged or made unserviceable from any force majeure.

E. NO THIRD-PARTY BENEFICIARY.

The Parties hereto are entering into this Contract solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the Parties hereto.

F. NO RIGHTS OR TITLE ACQUIRED.

PURCHASER agrees and acknowledges that it acquires by this Contract no rights or title to the water that is the subject of this Contract other than those rights explicitly set forth herein.

G. REPRESENTATIONS AND WARRANTIES.

Each of LCRA and PURCHASER represents and warrants to the other that this Contract has been duly executed by an authorized officer and constitutes a valid and binding Contract, enforceable against it in accordance with its terms (except as such enforceability may be limited by bankruptcy laws or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles).

H. DISPUTE RESOLUTION.

1. Settlement by Mutual Agreement or Mediation.

In the event any dispute, controversy or claim between or among the Parties arises under this Contract or is connected with or related in any way to this Contract or any right, duty or obligation arising hereunder or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to, a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation, or enforcement of this Contract, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with the terms of this subsection 1. In the event a Dispute or Controversy arises, any party shall have the right to notify the other party to such Dispute or Controversy that it has elected to implement the procedures set forth in this subsection 1. Within thirty (30) days after delivery of any such notice by one party to the other regarding a Dispute or Controversy, the designated representatives of the Parties shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should a mutual resolution and settlement not be obtained at the meeting of the Parties' designated representatives for such purpose or should no such meeting take place within such thirty (30) day period, then any party may by notice to the other party, as the case may be, refer the Dispute or Controversy to senior management of the Parties for resolution. Within thirty (30) days after delivery of any such notice by one party to the other referring such Dispute or Controversy to senior management of the Parties for resolution, representatives of senior management of each of the Parties shall meet at a mutually agreed upon time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should mutual resolution and settlement not be obtained at the meeting of representatives of senior management of each of the Parties for such purposes or should no such meeting take place within such thirty (30) day period (unless extended by mutual agreement), then any party may by notice to the other party, as the case may be, submit the Dispute or Controversy to non-binding mediation. The Parties shall make a good-faith effort to agree on the appointment of a mediator. If the Parties cannot agree on a mediator within thirty (30) calendar days of delivery of written notice, the Parties shall promptly select a mutually acceptable mediation provider entity, which entity shall, as soon as practicable following such entity's selection, designate a mediator, who is a licensed attorney with general knowledge of law relevant to the dispute and has no ongoing business relationship with either party.

2. Choice of Law, Venue, and Waiver of Jury Trial.

This contract shall be governed in all respects by the internal laws of the State of Texas, excluding its rules regarding conflicts of law, and the jurisdiction and venue for any proceeding arising out of or relating to this Contract shall be solely in Travis County, Texas. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS CONTRACT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

3. Emergency Relief.

Notwithstanding the Parties' agreement to arbitrate Dispute and Controversies, either party may seek injunctive relief or other form of emergency relief at any time from any state court of competent jurisdiction in Austin, Texas, the federal court for such district, or any state or federal regulatory agency of competent jurisdiction.

4. Survival.

The provisions of this Section IV.H shall survive expiration or earlier termination of this Contract.

I. ACTUAL DAMAGES.

NEITHER PARTY SHALL BE LIABLE OR HAVE ANY RESPONSIBILITY TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR DELAY-RELATED OR PERFORMANCE-RELATED DAMAGES INCLUDING, WITHOUT LIMITATION, LOST EARNINGS OR PROFITS. SUCH LIMITATION ON LIABILITY SHALL APPLY TO ANY CLAIM OR ACTION, WHETHER IT IS BASED IN WHOLE OR IN PART ON CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, STATUTE OR ANY OTHER THEORY OF LIABILITY. THE PROVISIONS OF THIS SECTION IV.I SHALL HAVE NO EFFECT ON THE PARTY'S OBLIGATIONS UNDER SECTION IV.C.

J. AMENDMENT.

This Contract may not be modified or amended except by an instrument in writing signed by authorized representatives of the Parties.

K. BINDING EFFECT.

The terms of this Contract shall be binding upon, and inure to the benefit of, the Parties and their permitted successors and assigns.

L. COMPLETE CONTRACT.

This Contract, together with all Exhibits attached hereto, constitutes the entire agreement of the Parties relating to the subject matter of this Contract and supersedes all prior contracts, agreements or understandings with respect to the subject matter hereof, both oral or written.

Each party agrees that the other party (and its agents and representatives) has not made, and has not relied upon, any representation, warranty, covenant or agreement relating to the transactions contemplated hereunder other than those expressly set forth herein.

M. COUNTERPARTS.

This Contract may be executed by the Parties in any number of separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts shall together constitute one and the same agreement. All signatures need not be on the same counterpart.

N. FURTHER ASSURANCES.

Each party agrees to do all acts and things and to execute and deliver such further written instruments, as may be from time to time reasonably required to carry out the terms and provisions of this Contract.

O. GOVERNING LAW.

This Contract and the rights and duties of the Parties arising out of this Contract shall be governed by, and construed in accordance with, the laws of the State of Texas, without reference to the conflict of laws rules thereof.

P. HEADINGS; TABLE OF CONTENTS.

The headings of the Articles and Sections of this Contract and the Table of Contents are included for convenience only and shall not be deemed to constitute a part of this Contract.

Q. INCORPORATION OF WATER CONTRACT RULES.

PURCHASER acknowledges receipt of LCRA's Water Contract Rules ("Rules"), and further acknowledges that, unless expressly stated otherwise in this Contract, such Rules, as may be amended by the LCRA Board from time to time, are incorporated herein by reference in their entirety and made a part hereof for all purposes.

R. INTERPRETATION AND RELIANCE.

No presumption will apply in favor of any party in the interpretation of this Contract or in the resolution of any ambiguity of any provisions thereof.

S. RELATIONSHIP OF PARTIES.

This Contract and the transactions contemplated hereunder are based upon the active participation of all Parties.

Neither the execution nor delivery of this Contract, nor the consummation of the transactions contemplated hereunder, shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Parties, except for the contractual arrangements specifically set forth in this Contract. Except as is expressly agreed to in writing in this Contract, no party (or any of its agents, officers or employees) shall be an agent or employee of the other party, nor shall a party (or any of its agents, officers or employees) have any power to assume or create any obligation on behalf of the other party. Nothing contained in this Contract shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement among LCRA on the one hand and the PURCHASER on the other hand, except for the contractual arrangements specifically set forth herein.

T. SEVERABILITY.

In the event that any provision of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the Parties shall negotiate an equitable adjustment to the provisions of this Contract with the view to effecting, to the extent possible, the original purpose and intent of this Contract, and the validity and enforceability of the remaining provisions shall not be affected thereby.

U. NO ADDITIONAL WAIVER IMPLIED.

No waiver or waivers of any breach or default (or any breaches or defaults) of any term, covenant, condition or liability under this Contract, or of performance by the other party of any duty or obligation under this Contract, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

V. SHORT TERM SALES OF FIRM WATER TO THIRD PARTIES.

LCRA and PURCHASER agree that LCRA may market and re-sell any portion of PURCHASER's Reserved Water to third parties on a limited term basis for a management fee and under terms mutually acceptable to LCRA and PURCHASER and in accordance with LCRA Board Policies.



WATER CONTRACT RULES
Board Approved -- November 2022
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WATER CONTRACT RULES

ARTICLE 1. PURPOSE

The Water Contract Rules provide guidance and establish procedures for the administration of the Lower Colorado River Authority's water contracts and related activities, consistent with LCRA Board Policy and state law. These rules include the Water Conservation Plan Rules, Drought Contingency Plan Rules, and Firm Water Curtailment Rules attached as Appendices A, B and C, respectively. The LCRA Board of Directors may amend these rules from time to time. These rules apply to LCRA's various water contracts, as well as resolutions passed by the LCRA Board for the supply of water under water rights and from water supplies owned or otherwise controlled by LCRA. These rules do not apply to LCRA's Agricultural Interruptible Water Service Contracts, as the LCRA Board has promulgated separate rules specifically for those contracts. Sales of water by LCRA are subject to, among other things, water availability, the policies and directives of LCRA, including the Water Management Plan, and the requirements of the Texas Water Code and Texas Commission on Environmental Quality (TCEQ) rules.

ARTICLE 2. AUTHORITY

These rules are promulgated in accordance with state law, including the LCRA enabling legislation and the Texas Water Code, LCRA's existing water rights, LCRA's Water Management Plan, and LCRA policies and rules.

As a Texas conservation and reclamation district and owner of major water rights in the lower Colorado River watershed, LCRA makes water available from its water rights to purchasers in accordance with state laws, rules and permits, and applicable LCRA policies and rules on terms that are just, reasonable and without discrimination to the extent that water is available based on LCRA's water rights.

ARTICLE 3. DEFINITIONS

The following definitions apply to terms used in these administrative rules and in LCRA's water contracts, unless such terms are otherwise defined in the water contracts.

- 3.1 **Acre-foot of water:** A quantity of water equal to 325,851 U.S. gallons. Such quantity of water would cover 1 acre of land to a depth of 1 foot.
- 3.2 **Agriculture or Agricultural:** These terms mean any of the following activities:
 - a) Cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
 - b) The practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;

- c) Raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
 - d) Raising or keeping equine animals;
 - e) Wildlife management;
 - f) Planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure, and
 - g) Aquaculture, as defined by Section 134.001 of the Texas Agriculture Code.
- 3.3 **Agricultural Interruptible Water Service Contract:** Contracts issued typically on a seasonal term for water diverted and delivered to Purchasers by LCRA's agricultural operations. These rules do not apply to Agricultural Interruptible Water Service Contracts.
- 3.4 **Agricultural Use:** Any use or activity involving Agriculture, including Irrigation.
- 3.5 **Applicant:** A person, association of persons, or other entity who has applied for a contract to purchase water from LCRA, and who has provided all information required under these rules.
- 3.6 **Beneficial Use:** Use of that amount of water that is economically necessary for the purpose authorized in the contract, when reasonable intelligence and reasonable diligence are used in applying the water to the purpose.
- 3.7 **Certificate of Adjudication:** An instrument evidencing a water right issued to each person adjudicated a water right in conformity with the provisions of the Texas Water Code.
- 3.8 **Conveyance, Delivery or System Loss:** That amount of additional water needed to transport water downstream using the bed and banks of a stream or watercourse, and/or through a canal system or other similar conveyance system to meet the requested or ordered amount of water at the point or location of delivery under the contract; or that amount of water that is reasonably expected to be lost due to evaporation, transpiration, recharge, seepage, leakage or other similar losses in the transportation of the water from the source of supply to the Point of Delivery or Point(s) of Availability under the contract
- 3.9 **Customer:** A person, association of persons, or other entity to whom a water contract has been issued (see Purchaser).
- 3.10 **Demand Schedule:** A demand or use schedule that reflects an Applicant's best estimate of the scheduled initiation of diversions, initial usage, annual projected water usage, and any increases to it over time (at intervals at least as frequent as every five years). Such schedule shall also include Applicant's anticipated diversion rate(s) over this period, including the Applicant's maximum diversion rate. Upon request by LCRA, the schedule shall also include annual projections regarding effluent arising under the contract, including the projected amounts of return flows, direct reuse or other means of disposal.
- 3.11 **Domestic Use:** Use of water by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; for watering of domestic animals; and for water recreation including aquatic and wildlife enjoyment. If the water is diverted, it may be diverted solely through the efforts of the user or may be diverted using facilities that are shared by other domestic users, so long as the water that is diverted does not receive any treatment prior to receipt by individual users or households. Domestic use does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold.
- 3.12 **Drought Contingency Plan:** A plan prepared by an Applicant or Purchaser, in accordance with LCRA's Drought Contingency Plan Rules (included in these Water Contract Rules as Appendix B), which includes a strategy or combination of strategies for temporary supply and

demand management responses to temporary and potentially recurring water supply shortages and water supply emergencies.

- 3.13 **Firm Water Supply:** A supply of water available for Beneficial Uses including domestic, municipal, agricultural, industrial, mining, aquifer storage and recovery, wildlife management, livestock use, instream flows, and bays/estuaries inflows that could be provided during a repetition of: i) the historical drought for the lower Colorado River specified in the Water Management Plan or other written determination of Highland Lakes firm water supply approved by TCEQ; or, ii) the most severe historical drought – according to TCEQ, the Texas Water Development Board or applicable groundwater conservation district permit, water management plan and/or rules and regulations for any other source of supply from which LCRA makes water available.
- 3.14 **General Manager:** The general manager of LCRA or his/her designee.
- 3.15 **Highland Lakes:** Lakes Austin, Travis, Marble Falls, LBJ, Inks, and Buchanan.
- 3.16 **Industrial Use:** The use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, and the development of power by means other than hydroelectric. This does not include agricultural use.
- 3.17 **Interruptible Water Supply:** A supply of water available for agricultural use, instream flows, bays/estuaries inflows, and other non-firm water supply uses that is subject to interruption or curtailment pursuant to published policies and procedures as established in LCRA's Water Management Plan.
- 3.18 **Irrigation Use:** The use of nonpotable water, not including reclaimed water or sewage effluent distributed through a municipal distribution system, for the irrigation of crops, trees, and pastureland including, but not limited to, golf courses and parks.
- 3.19 **Livestock Use:** The use of water for the open-range watering of livestock, exotic livestock, game animals, or fur-bearing animals. For purposes of this definition, the terms "livestock" and "exotic livestock" are to be used as defined in §142.001 of the Agriculture Code, and the terms "game animals" and "fur-bearing animals" are to be used as defined in §63.001 and §71.001, respectively, of the Parks and Wildlife Code.
- 3.20 **Maximum Annual Quantity (MAQ):** The maximum amount of water to be made available from LCRA supplies to a Purchaser in any year under a water contract.
- 3.21 **Mining Use:** The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field repressuring.
- 3.22 **Municipal Use:** The use of potable water within a community or municipality and its environs for domestic, residential (including multi-family), recreational, institutional, commercial or industrial purposes or for the watering of golf courses, parks and parkways. Such use also includes all non-revenue uses and the volume lost during the conveyance, treatment or transmission of the water. Such use further includes the use of reclaimed water in lieu of potable water for the preceding purposes or the application of municipal sewage effluent on land, under a Texas Water Code, Chapter 26, permit where: a) the application site is land owned or leased by the Chapter 26 permit holder; or b) the application site is within an area for which TCEQ has adopted a no-discharge rule.
- 3.23 **Point(s) of Delivery:** The point or points where the Secondary Purchaser's water conveyance system is connected to a Primary Purchaser's water conveyance system.
- 3.24 **Point(s) of Availability:** The point or points from which water is diverted, pumped, impounded or otherwise withdrawn, from a reservoir, watercourse, stream or other water source.
- 3.25 **Potable Water:** Water that is suitable for direct human consumption.
- 3.26 **Primary Purchaser:** A Purchaser who receives water directly from LCRA's firm water supply and delivers all or a part of that water to a Secondary Purchaser.

- 3.27 **Purchaser:** A person, association of persons, or other entity to whom a water contract has been issued (see Customer).
- 3.28 **Recreational Use:** The use of water impounded in or diverted or released from a reservoir or watercourse for fishing, swimming, water skiing, boating, hunting, and other forms of water recreation, including aquatic and wildlife enjoyment, and aesthetic land enhancement of a subdivision, golf course or similar development by addition of water features such as amenity ponds or water traps from which no water is withdrawn for other purposes.
- 3.29 **Replacement Contract:** A contract that is entered into with an existing Purchaser for a service area and purpose of use that were already under contract; upon execution of the Replacement Contract, the prior contract is terminated. A Replacement Contract can have a larger service area and/or MAQ than the contract it replaces.
- 3.30 **Return Water or Return Flow:** That portion of water diverted from a source of water supply and put to Beneficial Use, which is not consumed as a consequence of that use and is returned to the source of supply. Return flow includes sewage effluent.
- 3.31 **Reuse or Direct Reuse:** The authorized use of water obtained pursuant to a water contract, for the Beneficial Use identified in and within the service area of the water contract, which remains unconsumed after the water is used for the original purpose of use but before that water is either disposed of or discharged or otherwise allowed to flow into a stream, watercourse, lake or other body of state-owned water.
- 3.32 **Secondary Purchaser:** A Purchaser who receives firm water under contract with LCRA through delivery from a Primary Purchaser.
- 3.33 **Standard Contract:** A contract that may be issued by the General Manager without specific approval of the LCRA Board in accordance with these rules. The General Manager may, at his or her discretion, recommend that any request for a Standard Contract be considered by the Board if the General Manager determines there are extenuating circumstances.
- 3.34 **Surplus Water:** Water taken from any source in excess of the initial or continued Beneficial Use of the appropriator for the purpose or purposes authorized by law. Water that is recirculated within a reservoir for cooling purposes shall not be considered to be surplus water.
- 3.35 **Temporary Water Contract:** A contract issued for any of the various Beneficial Uses of water authorized in LCRA's Certificates of Adjudication or any other water right associated with water under LCRA's control when a small volume of water is needed for a short period of time.
- 3.36 **TCEQ:** The Texas Commission on Environmental Quality or any of its predecessor or successor agencies.
- 3.37 **Water Conservation:** Water conservation includes, but is not limited to, those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, and increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.
- 3.38 **Water Conservation Plan:** A plan prepared by an Applicant or Purchaser, in accordance with LCRA's Water Conservation Plan Rules (attached hereto as Appendix A), which is intended to, among other things, promote efficiency in a Purchaser's use of water.
- 3.39 **Water Contract Rules:** The rules promulgated by the LCRA Board which provide guidance and establish procedures for the administration of LCRA's water contracts and related activities, including LCRA's Water Conservation Plan Rules, LCRA's Drought Contingency Plan Rules and LCRA's Firm Customer Pro Rata Curtailment Rules.
- 3.40 **Water Management Plan:** A plan required in specific water rights held by LCRA and approved by TCEQ that defines LCRA's reservoir operations, water management program and policies under those water rights.

- 3.41 **Water Right:** A right acquired under the laws of the State of Texas to impound, divert, or use state water.
- 3.42 **Water Contract or Water Sale Contract or Contract:** A contractual agreement between LCRA and a Purchaser for the sale of water from the source of supply as specified in these rules.

ARTICLE 4. APPLICATION PROCEDURES

- 4.1 Application Submittal.
- (a) The Applicant shall submit to LCRA for review and approval a water contract application and associated materials as described in Article 5 of these rules. Prior to submittal of the application, the Applicant (or the Applicant's representative) may request a meeting with LCRA staff to discuss the application procedure and various requirements.
 - (b) An application for a single contract for multiple purposes of use may be submitted unless the General Manager finds that a separate application and contract for each category of use is required for accounting, reporting, or consistency with any underlying LCRA water right.
 - (c) The timelines in these rules for LCRA staff to conduct its administrative and technical review of an application are intended as guidance to be followed in good faith and are not enforceable by the Applicant or any other party against LCRA. Failure by LCRA to complete review within the timelines provided in these rules shall not constitute a waiver by LCRA of any of its rights. The timelines in these rules are not applicable to review of an application that requires a non-standard contract.
 - (d) An application is considered filed on the date the Applicant delivers the application to LCRA or deposits the Application with the U.S. Postal Service by certified mail addressed to LCRA at: Lower Colorado River Authority, c/o Firm Raw Water Sales, 3700 Lake Austin Blvd., Austin, TX 78767.
- 4.2 Administrative Review.
- (a) LCRA staff shall use reasonable efforts to conduct a review of the application for administrative completeness and provide written notice to the Applicant within 15 days after the date the application is filed that specifies the necessary documents or other information needed to consider the application administratively complete. Such notice shall also specify the date on which the application will expire if the documents or other information is not provided. To be determined administratively complete, the Applicant must submit all information required under Article 5 of these rules.
 - (b) If the application is determined to be administratively incomplete, LCRA staff shall notify the Applicant in writing of the deficiencies. After receipt of such notice from LCRA, the Applicant shall have 15 days to file additional information as requested to correct such deficiencies.
 - (c) If the information subsequently provided by the Applicant does not allow LCRA staff to determine that the application is administratively complete, or if the Applicant does not provide additional information, the application will be returned in accordance with Section 4.8.
 - (d) In the event LCRA determines that its firm water supplies are inadequate to meet the requested needs of competing contract applications for firm water, LCRA shall use the order of preferred uses contained in Texas Water Code (currently, section 11.024) in determining the preference in contracting to assign to requests that are deemed administratively complete on the same date.

4.3 Technical Review.

- (a) Once the application has been declared administratively complete, LCRA staff shall use reasonable efforts to conduct a technical review of the application material within 60 days of the declaration.
- (b) If additional information is needed to complete the technical review of the application, LCRA shall notify the Applicant in writing and the Applicant shall have 30 days from receipt of such notification to submit the additional information to LCRA. If the Applicant fails to submit the requested information within the requested timeframe, the application will be returned in accordance with Section 4.8.
- (c) The review of the Applicant's proposed water conservation plan and any applicable drought contingency plan shall be conducted as part of the technical review in accordance with the procedures published in LCRA's Water Conservation Plan Rules, attached hereto as Appendix A; LCRA's Drought Contingency Plan Rules, attached hereto as Appendix B; and TCEQ rules governing water conservation plans and drought contingency plans. Contracts will not be presented to the LCRA Board and/or approved by LCRA staff without LCRA staff accepting Applicant's water conservation and drought contingency (if applicable) plans.
- (d) If necessary, an extended technical review period shall be provided to determine: (i) the source of supply, infrastructure, water right permits or other authorizations needed to supply water under the contract; (ii) the time frames in which water may be developed under the contract; and, (iii) the appropriate share of the costs to be contributed by the Applicant, or charged to the Applicant through surcharges, in addition to the rates, fees and charges under a Standard Contract. Such extended technical review shall be necessary for: (i) any contract request for an amount of 1,500 acre-feet of water or greater; (ii) any contract request for which the water supply would be inconsistent with the most recently approved Lower Colorado Regional Water Plan; or, (iii) any contract request for which LCRA staff determines that the request seeks a supply for which water may not be immediately available from existing supplies without additional water right permits, infrastructure, or firm water supplies. Technical review of all other aspects of the application material will be conducted in accordance with the procedures herein.
- (e) After the appropriate technical review has been completed, the Applicant shall be notified of the approval or rejection of the application. In addition, LCRA staff shall provide to the Applicant proposed non-standard terms for inclusion in the contract, if any.
- (f) LCRA shall provide the Applicant a final draft of the proposed contract. If the Applicant accepts the terms of the final draft, then public notice will be provided in accordance with Section 4.4.
- (g) No reservation of water or other consideration shall be made for the requested water until execution of the contract.

4.4 Reasonableness of Requested Quantity.

LCRA shall determine the reasonableness of the MAQ requested by the Applicant by evaluating the availability of water, LCRA's current water commitments, the amount necessary for the Beneficial Use of the water without waste for the proposed use, Applicant's Water Conservation Plan, the amount of conveyance, delivery or system losses for the proposed contract, and any impact to LCRA's water rights. Agency and industry standards shall be used in LCRA's assessment under this section including, but not limited to, the Water Conservation Implementation Task Force Report to the 79th Legislative (TWDB November 2004); Texas Water Development Board Water Conservation Task Force Best Management Practices; and, other best management practices, standards and guidance commonly used by the same industries. To the extent that an Applicant proposes a MAQ that is based on

standards other than those provided in this section, the Applicant shall submit a written justification describing the reasons the standards were not employed in the calculation of the MAQ. In addition, LCRA shall use the following criteria in determining the reasonableness of the MAQ:

- (a) Temporary Uses shall not exceed 10 acre-feet per year or any lower limitations provided by these rules for specific types of temporary uses.
- (b) Municipal Uses:
 - 1) Shall not be less than the average annual quantity required by TCEQ under its requirements for public drinking water systems.
 - 2) Shall not result in an average per capita consumption greater than the lesser of: (a) the average per capita consumption of adjacent and similar water users; or, (b) the average per capita consumption recommended in the current approved and applicable Regional Water Plan.
- (c) Irrigation Uses:
 - 1) Shall be determined by consideration of crop type, soil characteristics, topography, method of irrigation, average annual precipitation, and average annual evaporation.
 - 2) Shall not result in an average per acre water demand greater than the average per acre water demand of adjacent and similar water users.
- (d) Industrial Uses:
 - 1) Shall be justified, in a written report, by a registered professional engineer's estimate of the water demands of the specific industrial process being used.
 - 2) Shall not result in an average daily consumption greater than the average daily demand of similar water users in the same region.

Notwithstanding the above, for contract purposes, the MAQ shall be no less than 0.75 acre-feet per annum.

4.5 Notice of Application.

- (a) LCRA staff shall post on the LCRA website a list of pending firm water contract applications with the exception of applications for temporary contracts, domestic use contracts, or landscape irrigation or recreation contracts for up to 30 acre-feet per year.
- (b) Upon completion of the technical review of an application for which Board approval is required and acceptance by Applicant of LCRA's proposed contract terms, including preparation of all necessary exhibits, LCRA staff shall post on the LCRA website notice of the application and proposed Board action. LCRA staff shall maintain a list of persons requesting notice of such applications and provide email updates when notice is posted.
- (c) Notice of the application and proposed Board action shall contain:
 - 1) the name and address of the Applicant;
 - 2) the date on which the application was received by LCRA;
 - 3) the proposed amount, purpose of use and location of the requested water;
 - 4) a description of the diversion works and impoundment(s) and their locations;
 - 5) the date and location where the Board will consider the application; and
 - 6) information on where a person may obtain a copy of the application from the Applicant.
- (d) The notice of the application and scheduled Board action shall be posted not less than 30 days prior to the date set for Board consideration of the application.
- (e) The Applicant also shall provide mailed notice by certified mail of the application and proposed Board action to the commissioner's court of the county or counties in which the requested water is proposed for impoundment, diversion, or use. Such notice shall contain the information as provided in subparagraph (c) of this section and shall be received by the commissioners court not less than 30 days prior to the date set for Board

consideration of the application. Receipt of delivery of certified mail shall be provided by the Applicant to the General Manager within five business days of Applicant's receipt of the delivery receipt. If action on the application is delayed to a Board meeting held within 6 months of the date for which notice was provided, the Applicant shall not be required to renotice to commissioners court.

4.6 Approval Required.

- (a) The following contracts and contract amendments are subject to approval by the LCRA Board:
 - 1) Contracts with a MAQ of 500 acre-feet per year or more that are not Replacement Contracts
 - 2) Replacement Contracts or amendments with a MAQ of 1,000 acre-feet per year or more or that reflect an increased commitment of 500 acre-feet per year or more.
 - 3) Any non-standard water contracts or amendments to non-standard water contracts that modify non-standard terms.
- (b) All other contracts and contract amendments may be approved by the General Manager in accordance with these rules.

4.7 Action on an Application by the General Manager or Board.

- (a) Upon completion of technical review, if LCRA staff determines that a contract (or contract amendment) can be approved by the General Manager as provided by these rules, LCRA staff will prepare the contract for execution and send such contract to the Applicant for signature.
- (b) If Board approval is required, following notice of application and proposed Board action in accordance with Section 4.5, LCRA staff shall schedule the proposed contract for consideration by the Board. If approved by the Board, LCRA staff will prepare the contract for execution and send such contract to the Applicant for signature.
- (c) Within 30 days of receipt, the proposed contract(s) shall be signed by the Applicant or the Applicant's duly authorized representative, and returned to LCRA. If the Applicant is a corporation, partnership, public district, county, municipality, or other corporate entity, the contract shall be signed by a duly authorized official.
- (d) Upon LCRA's receipt of the proposed contract signed by the Applicant or the Applicant's duly authorized representative and all other documentation requested as part of the application process, the proposed contracts will be delivered to the General Manager for signature.

4.8 Return of Application.

LCRA will return an application following notice by LCRA and the expiration of 30 days if the Applicant fails to:

- (a) Provide documents or other information necessary to comply with LCRA's requirements relating to the form and content of the application for either administrative or technical review (including for a non-standard application) as provided in Sections 4.2, 4.3, and 4.4 and Article 5;
- (b) Provide application fees, including any funds for a non-standard application as provided in Section 5.8; or
- (c) Sign and return a contract approved for execution by LCRA as provided in Section 4.7.

4.9 Application Following Default.

LCRA reserves the right to reject an application for a water contract or renewal of a water contract by a person or entity that has defaulted on another water contract with LCRA, or for

an entity for which the majority interest is controlled by a person or entity that has defaulted on another water contract.

4.10 Retention in Central Records and Transmittal to Purchaser.

Following execution of the water contract by the General Manager, the contract will be incorporated into LCRA's central records, where an original executed contract will be retained as a public record. Another original executed contract will be transmitted to the Purchaser for its records as soon as reasonably possible following the approval of the contract.

4.11 TCEQ Filing Requirements.

LCRA staff shall file with TCEQ a copy of any newly executed water contracts if required by TCEQ's substantive and procedural rules for water rights.

ARTICLE 5. APPLICATION CONTENT REQUIREMENTS

5.1 Elements of an Administratively Complete Application.

An application for a water contract shall be considered administratively complete upon the receipt by LCRA of the information listed below. The number of copies of each required item will be specified in the application form and/or instructions.

- (a) The full name, physical address, mailing address (if different than physical address), telephone number, and taxpayer identification number for each Applicant, as follows:
 - 1) A corporation shall be designated by the firm name followed by the words "corporation" or "Inc." Corporate applications shall include a listing of all corporate executives and titles. A partnership shall be designated by the firm name and the words "a partnership." Partnership applications shall include a listing of all partners, titles, and taxpayer identification numbers. A joint venture shall be designated by the joint venture's name followed by the words "Joint Venture." Joint venture applications shall include a listing of all ventures, titles, and taxpayer identification numbers. A trust shall be designated by the trust's name, the trustee's name, followed by the word "trustee." Trust applications shall include the taxpayer identification number;
 - 2) If someone other than the named Applicant executes the application, the name, position, mailing address and telephone number of the person executing the application shall be given as well as documentation evidencing the authority of the person to sign the contract on behalf of the named Applicant.
- (b) Documentation describing the Applicant's organizational structure (e.g., if the Applicant is a corporation, provide a certificate from the Secretary of State).
- (c) Evidence in the form of bylaws, charters, resolutions or other written documentation that specifies the authority of the official that will execute the contract. A corporation may file a corporate affidavit as evidence of the official's authority to sign.
- (d) All information necessary to establish:
 - 1) The Applicant's intended water use, including a Demand Schedule of the water to be made available by LCRA under the proposed contract;
 - 2) The amount, or Maximum Annual Quantity, of water that Applicant requests LCRA to supply, including a detailed description of how Applicant determined the amount necessary for the proposed Beneficial Use without waste, considering the implementation of Applicant's Water Conservation Plan;
 - 3) The appropriate water source and any necessary infrastructure or water rights amendments that may be required to supply the water requested (based on

- Applicant's proximity to water source, topographic, hydraulic, hydrologic and jurisdictional constraints);
- 4) The Applicant's intended method of wastewater disposal, and the estimated amount and location of Return Flow;
 - 5) Whether the Applicant intends to request a renewal or amendment of the contract upon its termination and any related future long-term water supply requests by the Applicant to LCRA; and
 - 6) The Applicant's compliance with any applicable rules of any regulatory agencies.
- (e) The application fee as provided in the amount described in Section 5.8 of these rules.
 - (f) Maps and GPS coordinates for the Point(s) of Availability, Point of Delivery (as appropriate), point of Return Flow (if any), and the legal description of the service area as further described in Section 5.2. (Applicants for domestic use contracts not to exceed 10 acre-feet per year need only supply such maps upon request by LCRA).
 - (g) A copy of any water rights or permits, or applications for water rights or permits, associated with the Point(s) of Availability or service area upon which the Applicant may rely.
 - (h) If the Applicant is a corporation, partnership or joint venture, documentation showing the Applicant's legal rights with regard to the property included in the service area (e.g., deed, lease).
 - (i) A draft or current Water Conservation Plan and Drought Contingency Plan, unless these rules, LCRA's Water Conservation Plan Rules or LCRA's Drought Contingency Plan Rules do not require such a plan for the type of contract sought by the Applicant.
 - (j) If the Applicant has an alternate source of water supply that it also will be diverting from using the same facilities used to divert water under the requested contract, the Applicant shall provide a proposed accounting plan setting forth how it intends to account for and report water used from the various sources of supply.
 - (k) An estimate of conveyance, delivery or system losses that are expected to be incurred to make the amount of water requested available at the Point(s) of Availability under the contract. Such estimate shall be prepared by a professional engineer or other qualified professional approved by LCRA. Upon approval by LCRA staff of appropriate estimates of conveyance, delivery or system losses, such amounts shall be incorporated into the requested MAQ, as appropriate.
 - (l) For a contract for water upstream of any of the Highland Lakes, or water from a tributary of the Colorado River downstream of the Highland Lakes, a technical analysis by a of the potential maximum impact of the proposed sale on LCRA's Combined Firm Yield of Lakes Buchanan and Travis or any other senior water rights that LCRA staff may designate. Such analysis shall be prepared by a professional engineer or other qualified professional approved by LCRA. Upon acceptance and approval of appropriate estimates by LCRA, such analysis shall be used to establish the MAQ of the contract. Applicant also shall include such estimates in its application for the Permit to Use State Water necessary to use the water sought in the contract request.
 - (m) Any other information required by the General Manager, these rules, the application form, or otherwise by law.
 - (n) The notarized signature of a representative authorized to sign the application on behalf of the Applicant.

5.2 Maps and Descriptions Required.

The Applicant shall submit multiple copies of the items listed below, except that an Applicant for a domestic use contract not to exceed 10 acre-feet per year shall only submit such items upon request by LCRA. All maps should be of reasonable size and scale to permit attachment

to the contract as exhibits and must be legible and readable when reduced to 8.5" x 11" size. The items below will be attached to the water contract and incorporated by reference.

- (a) Point(s) of Availability map. The Applicant shall provide a map identifying the location of all Points of Availability (points of diversion and/or impoundment) and points for discharge of Return Flow, if any. The map shall be a 7.5-minute United States Geological Survey topographic map indicating the bearing and distance from an original county survey, or from abstracts or surveys in the State of Texas Stream Adjudication Map, to the Points of Availability or its latitude and longitude. LCRA may, at its option, accept an alternate map providing necessary detail to establish the Points of Availability. The Applicant shall also provide GPS coordinates of any intakes or impoundments.
- (b) Legal description. The Applicant shall provide the legal description of the service area. A complete metes and bounds survey of the service area, or other legal documentation filed with county, state, or federal agencies (e.g., a plat filed in county public records; a Certificate of Convenience and Necessity map filed with TCEQ) will be accepted. The Applicant may submit as a service area only that area for which it has a legal right and requisite authority to serve. The service area for a city shall not extend outside of the city's extraterritorial jurisdiction absent documentation showing the city's authority to serve the area. A service area as defined in a Certificate of Convenience and Necessity (CCN) or a service area of an officially recognized political subdivision should appear exactly as it appears in the documentation of any applicable regulating authority. If an Applicant has applied for but not yet been granted a CCN or similar right to serve a particular area, the service area proposed in the contract shall be that area that is included in the filing for a certified service area. If no CCN or other right to serve is required, the service area shall be the area where the Applicant intends to provide water.
- (c) Service area map. The Applicant shall provide a map delineating the service area in relation to the surrounding landmarks, established cities, and major thoroughfares. This map should reflect the legal description provided above.

5.3 Water Conservation, Drought Contingency Plans.

- (a) The Applicant shall submit for review and acceptance multiple copies each of a water conservation plan and a drought contingency plan (where applicable) in accordance with the LCRA Water Conservation Plan Rules (attached hereto as Appendix A), LCRA Drought Contingency Plan Rules (attached hereto as Appendix B) and any applicable TCEQ regulations for drought contingency plans. The plans must address the requirements of the rules in regard to conservation and drought contingency.
- (b) LCRA staff will review each plan to determine whether it is consistent with the LCRA Water Conservation Plan Rules, LCRA Drought Contingency Plan Rules and applicable state law or rules. Any required plans accepted by LCRA staff will be attached to the proposed contract and will be incorporated into the contract by reference.

5.4 Purchasers with Multiple Contracts.

If the Applicant has a pre-existing water supply contract with LCRA for a different use or service area than the proposed contract, and the Applicant desires to designate some or all of the same Point(s) of Availability for its proposed contract, the Applicant must provide multiple copies of the following additional information:

- (a) A map of reasonable size and scale, showing the Point(s) of Availability to be shared and the Points of Delivery on the Purchaser's water conveyance system for Purchaser's existing and proposed contracts. Such map will be incorporated into the proposed contract(s) by reference.
- (b) At the Points of Delivery, Purchaser shall install appropriate water measuring devices in

order to determine the amount of water being supplied under each contract. The map submitted pursuant to subsection (a) shall show the location of such measuring devices.

5.5 Secondary Water Sales.

In the event the Applicant, as a Secondary Purchaser, desires to procure a contract for water from LCRA but have another of LCRA's water sale customers, the Primary Purchaser, divert and deliver that water from LCRA's firm supply, or the Applicant is a Primary Purchaser that will divert and deliver water to a Secondary Purchaser, the Applicant must provide multiple copies of the following additional information:

- (a) A map of reasonable size and scale, showing the point where the Secondary Purchaser's water conveyance system is connected to the Primary Purchaser's water conveyance system. Such map will be incorporated into the proposed contract by reference. At the Point of Delivery, the Secondary Purchaser shall install an appropriate water measuring device in order to determine the amount of water being supplied to the Secondary Purchaser such that the Primary Purchaser is not charged for that water.
- (b) A summary of the agreement between the Secondary Purchaser and the Primary Purchaser for the supply of water documenting the quantity of water expected to be delivered and the demand schedule.

5.6 Non-Standard Application.

Any applicant for a contract that, in the General Manager's determination, would require terms in addition to, or a variance from, the Standard Contract terms shall provide the information and fees requested in this Article and shall provide any additional technical information or data that the General Manager determines is necessary for the evaluation of the contract application, including, but not limited to, any information related to the infrastructure, water right or other authorizations, and estimated costs and schedules that may be needed for LCRA to supply the water sought by the application. The General Manager will work with the Applicant to develop a proposed schedule for having the Applicant or a third party (on which third party Applicant and the General Manager must agree) develop any additional technical or other information needed for LCRA to evaluate the contract application. If the Applicant does not provide the requested additional technical or other information within a reasonable timeframe as outlined in the proposed schedule, then said application shall be returned to the Applicant as administratively incomplete with the deficiencies noted.

5.7 Application Forms.

LCRA staff shall furnish, upon request, an application form(s) and instructions for preparing such application. The use of the application form is not mandatory; however, the Applicant must submit all the information required by these rules and requested in the application form. Should an Applicant choose not to use the form provided by LCRA, the Applicant shall provide all data requested in the application form and by these rules in such a manner that the information is separated into paragraphs numbered to correspond with those on the printed form. All applications shall be typewritten or printed legibly in ink. Illegible applications will be returned to the Applicant.

5.8 Application Fees and Deposit.

- (a) Deposit. Except as set forth in this section, any Applicant seeking a contract for 500 acre-feet per year or more shall provide a deposit equal to the Reservation Rate in effect on the date the application is submitted multiplied by the MAQ. Upon approval and execution of any proposed contract, LCRA shall use funds on deposit as a credit toward the Applicant's Reservation Fees. If no contract is issued, LCRA shall refund the deposit within 30 days of any final LCRA action regarding such contract request, less any

additional expenses incurred by LCRA in reviewing such application, if the Application Fees were insufficient to cover such expenses. A deposit is not required for applications submitted by existing customers in good standing or governmental authorities that are exercising taxing authority (including contract tax pledges in support of the raw water contract).

- (b) Application fees. A non-refundable application fee shall be charged for all applications for firm water, including contract renewals, as described below. The fee must be submitted with the application. Applicants requesting more than one water contract must submit the appropriate application fee for each application. The LCRA Board reserves the right to from time to time modify the fees associated with water contract applications.

(1) Contract for domestic use ≤10 acre-feet per year (a-f/year)	No charge
(2) Temporary contract	\$100
(3) Landscape irrigation or recreational use contract ≤30 a-f/year following standard water conservation and drought contingency plans	
(i) Contract	\$500
(ii) Amendment	\$100
(4) Standard contracts other than (1), (2) or (3), above	
(i) Application for a Standard Contract (New or Replacement) or Substantive Amendment <500 a-f/year	\$2,000
(ii) Application for a Replacement Standard Contract or Substantive Amendment ≥500 a-f/year or a New Contract ≥500 a-f/year and <5,000 a-f/year	
Base fee	\$2,000
Additional fee per acre-foot per year of additional water above 500 acre-feet/year	\$1.00 per a-f/year
(iii) Application for a New Contract ≥5,000 acre-feet/year	
Base fee	\$10,000
Additional fee per a-f per year of additional water above 5,000 a-f/year	\$1.00 per a-f/year
(iv) Application for a Nonsubstantive Amendment to a Standard Contract or a Substantive Amendment not: a) increasing the MAQ or duration; b) requiring a Replacement Contract; or c) requiring an update to the water conservation or drought contingency plan	\$500

In the event that the General Manager determines the application fee filed with an application for a non-standard contract is not sufficient to cover the costs of LCRA staff evaluating the technical information provided by the Applicant, the General Manager may, at his/her sole discretion, require the Applicant to: (1) provide additional funds to LCRA in advance of LCRA conducting further evaluation of the application, or (2) reimburse LCRA for any such costs. LCRA may also negotiate an agreement with the Applicant to allow for such evaluation to take place by a third party chosen by the General Manager at the expense of the Applicant. Applicant's refusal to provide additional funds necessary for LCRA to complete its technical evaluation within 30 days of receiving a request from LCRA for such funds shall be grounds for returning the application.

ARTICLE 6. STANDARD CONTRACT PROVISIONS

6.1 Required Standard Contract Elements Regarding Water Use.

The proposed contract must address the following elements regarding the Applicant's proposed use of the water:

- (a) Purpose. Classification of the purpose for which the water will be used shall be determined in accordance with the definitions in Article 3.
- (b) Amount. The contract shall specify the MAQ of water to be supplied by LCRA.

6.2 Source of Supply.

- (a) Unless specifically provided otherwise in the contract, LCRA may make available water under a contract from any existing or future source of firm water supply available to LCRA.
- (b) It is the Purchaser's sole responsibility to obtain access to the source of supply. A contract does not convey any express or implied easements.

6.3 Terms of Contracts.

- (a) The standard terms for firm water contracts are as follows:

	Minimum	Maximum
(i) Temporary Contracts	30 days	3 years
(ii) Domestic Use Contracts ≤ 10 acre-feet (a-f)	1 year	10 years
(iii) Landscape Irrigation and Recreational Contracts ≤ 30 a-f	3 years	10 years
(iv) Municipal or Industrial Contracts	5 years	40 years
(v) Industrial Contracts < 500 a-f	1 year	40 years
(vi) Other Firm Contracts ≥ 500 a-f	5 years	10 years
(vii) Other Firm Contracts < 500 a-f	<u>1 year</u>	10 years

- (b) The General Manager, in his/her discretion, may approve a term up to 10 years in excess of the maximum term provided in this rule if a Purchaser requests a longer term that coincides with the terms of loans, bonds, or other financial instruments, as required by governmental entity or financial institution or for other good cause. The Purchaser, to justify the longer term, must provide, in writing, a letter from that governmental entity or financial institution requesting such extension or other special circumstances or compelling reasons in support of the request for an extended term for good cause. In determining whether to grant a longer term, the General Manager shall consider the priority for firm water for municipal and domestic use provided in these rules.
- (c) Purchaser may terminate its contract or reduce the MAQ in its contract under the terms and conditions specified in Purchaser's contract. However, if the terms and conditions specified in Purchaser's contract are more restrictive than the provisions of this Rule 6.3(c), under the following circumstances, if Purchaser first provides at least 365 days' prior written notice to LCRA of its intent to terminate its contract or reduce the MAQ in its contract (the "Purchaser's Notice"), subject to the payment of all amounts due to LCRA, the contract will be deemed to have been terminated or the MAQ reduced by mutual consent (as applicable), effective when described in this Rule notwithstanding different or conflicting provisions in a Purchaser's contract:
 - 1) Temporary Contracts – Purchaser may terminate or reduce the MAQ of a temporary contract, to be effective after the completion of the minimum term defined in Section 6.3(a).

- 2) Contracts with MAQs less than 500 acre-feet per year – Purchaser may terminate or reduce the MAQ after the five-year anniversary of the Effective Date of the contract.
- 3) Contracts with MAQs of 500 acre-feet per year or more – Purchaser may terminate or reduce the MAQ of a contract with a MAQ of 500 acre-feet per year or more after the five-year anniversary of the Effective Date of the contract; provided however, the MAQ may not be reduced by more than the greater of 250 acre-feet or 25% percent of the original MAQ every 12 months.

Purchaser may request a waiver from LCRA staff of any of the prerequisites, limitations, or restrictions set forth in this Rule 6.3(c) or the contract. In considering waiver requests, in addition to any information provided by Purchaser, LCRA shall consider, among other things, LCRA's then-existing contractual commitments to its then-existing firm water customers and LCRA's ability to meet the needs of its then-existing firm water customers, as well as the factors relevant under the most current Water Management Plan.

During the period between the date of the Purchaser's Notice and the effective date of the contract termination or MAQ reduction (as applicable), the contract shall remain in full force and effect, except that when a MAQ reaches zero and all amounts payable have been received in full by LCRA, the contract shall be deemed to have been terminated by mutual agreement of the parties.

- (d) If customer has not used at least ten (10) percent of its contract quantity on an annual basis within the first ten (10) years, LCRA may require that customer demonstrate that water will be put to use within the next two years. If customer does not demonstrate such progress, or if at least 10 percent of the contract quantity is not put to use on an annual basis within the two-year period, LCRA may terminate the contract or reduce the contract quantity to an amount LCRA deems reasonable under its water contract rules in effect at the time.
- (e) No continuation of the service obligation under any contract after the expiration of the contract term shall be expressed or implied. The terms of a contract may expressly provide that the Purchaser is required to develop alternative or replacement supplies prior to the expiration of the contract and may further provide for the enforcement of such terms by penalties, fees, or other such provision. LCRA, however, in its sole discretion, may extend the term of an existing contract for a specified period of time pending issuance of a new contract to the same customer provided that the customer has submitted an application for renewal contract prior to the expiration of the existing contract.

6.4 Modifications to Standard Contract Terms.

When it is necessary to modify the Standard Contract terms to more accurately define specific circumstances related to the Applicant's particular location, intended use, etc., the General Manager may modify the standard form water contract, unless the modification is a substantive amendment requiring other actions or approval as provided herein.

ARTICLE 7. REQUIREMENTS FOR PURCHASERS

7.1 Ongoing Requirements of Purchasers.

Purchasers of water from LCRA have ongoing obligations as defined in the Contract and these rules, including, but not limited to the provisions of this Article, the Water Conservation Plan Rules, and the Drought Contingency Plan Rules.

- 7.2 Upstream or Downstream Tributary Contracts.
A Purchaser for the use of water upstream of any of the Highland Lakes or for use of water from a tributary downstream of the Highland Lakes must also obtain a term or temporary permit from TCEQ as required by TCEQ's substantive and procedural rules for water rights.
- 7.3 Surplus Water and Return Flows.
Water that a Purchaser diverts but does not use for Beneficial Use in accordance with the contract shall be returned to the Colorado River or a tributary of the Colorado River unless otherwise provided in a Board-approved non-standard contract.
- 7.4 Implementation of Water Conservation Plan and Drought Contingency Plan.
A Purchaser shall adopt and implement its Water Conservation Plan and Drought Contingency Plan for the duration of the water contract and update such plans as specified in section 7.6. In addition, the Purchaser must periodically report on progress made in implementation of its water conservation plan according to LCRA's Water Conservation Plan Rules.
- 7.5 Water Audit and Unaccounted-for Water Loss.
Purchaser shall conduct water loss audits in accordance with the TWDB rules (Texas Administrative Code, Title 31, Chapter 358).
- 7.6 Update to Demand Schedule, Water Conservation Plan and Drought Contingency Plan
At least once every five years, a Purchaser must submit an updated Demand Schedule to LCRA. The Purchaser shall review and update its Water Conservation Plan (WCP) and Drought Contingency Plan (DCP) not less than once every five years or following written request by LCRA consistent with any other schedule required by LCRA's Water Contract Rules. The Purchaser further agrees to submit any amended WCP or DCP to LCRA within 30 days after its adoption. LCRA, in accordance with applicable law, may from time to time adopt reasonable rules and regulations relating to water conservation and drought contingency measures, including LCRA's Water Management Plan. The Purchaser agrees to amend its WCP and/or DCP, as necessary, to reflect amendments in state law or regulations, or LCRA's rules and regulations. The Purchaser further agrees to do so within 180 days of the effective date of such amendments. Revisions to the Purchaser's WCP or DCP are not required under this section if the Purchaser has not initiated diversions; however, the Purchaser shall update its WCP and DCP to be consistent with LCRA's rules and regulations related to water conservation and drought contingency and provide LCRA a copy of such updated plans at least 60 days prior to initiating diversions under this Contract. In the event that the Purchaser agrees to furnish water or water services to a third party, who in turn will furnish the water or water services to an ultimate consumer, the Purchaser agrees to include in its agreement with the third party provisions that obligate the third party to: a) develop and implement water conservation and drought contingency programs consistent with the Purchaser's WCP and DCP; and b) amend its water conservation and drought contingency programs to reflect amendments in state law, regulations, or LCRA's rules, regulations, or Water Management Plan within the same timelines that apply to the Purchaser. If the Purchaser fails to amend its plans, or fails to implement its WCP or DCP, LCRA may terminate the water contract following written notice to Purchaser and opportunity to cure of 90 days.
- 7.7 Use of LCRA Property.
Purchasers are required to secure from LCRA, separate from a Purchaser's water contract, any leases, easements, or permits necessary to construct and/or operate any facility on, over, or under any LCRA-owned property, including, but not limited to, the water surface of all LCRA-owned reservoirs.

7.8 Water Intakes, Diversion Works, and Impoundments.

- (a) All intakes should be designed by a registered professional engineer using standard engineering practices and should be able to facilitate the diversion of water at various water surface elevations. Intake structures or their appurtenances must not pose a threat to public safety or navigability of the Colorado River or the Highland Lakes. Municipal use intakes should be designed in accordance with TCEQ rules for public water systems. Any and all markers, buoys, floating intake structures or appurtenances must be approved by LCRA. Information relating to the elevations and depth of the intake shall be submitted with the application if the Highland Lakes are the source of supply.
- (b) LCRA representatives shall be provided with reasonable access to any impoundment, storage facility, intake or diversion works for the purpose of inspection and monitoring for compliance with the contract. The diversion works, impoundments, or intake structures shall be equipped or designed in a manner that allows LCRA to access and lock or otherwise prevent Purchasers' continued diversion or other use of water as a result of a default under the contract and after notice to the Purchaser as provided in the contract.
- (c) It shall be the Purchaser's responsibility to have the capability to take the water at the Point(s) of Availability. No implied easement to access the source of supply is provided by the contract.
- (d) Table 1 provides reference elevations for designing intakes on the Highland Lakes. However, these elevations should not be construed as a guarantee of any minimum lake elevation.

7.9 Water Measurement.

- (a) If the water purchased under a contract is to be diverted from a source of supply, the Purchaser must measure water diverted with a measuring device approved by LCRA unless otherwise provided in the contract. The Purchaser shall measure water use and self-report such use to LCRA on a monthly basis or at such other frequency that may be specified in the Purchaser's contract. Measurement of water purchased under contract that does not solely involve the diversion of water from the source of supply (e.g., impoundment of water for recreation or livestock watering) may be accomplished through an alternative method approved by LCRA and included in the contract.
- (b) Meters and measuring devices acceptable to LCRA include the following types: displacement, venturi, multi-jet, turbine (various), propeller, proportional, compound, or other appropriate water meters as recognized by the American Water Works Association. Other measuring devices that may be proposed by a Purchaser must be approved in writing by LCRA. All acceptable meters or measuring devices must, unless otherwise approved in writing by LCRA:
 - 1) Be designed and installed by a licensed engineer, plumber or irrigator, or other qualified personnel approved by LCRA.
 - 2) Be installed on the Purchaser's system as near to the water source as practical and upstream of any connections, taps, faucets or other appurtenances where water may be withdrawn.
 - 3) Be installed in a location that provides LCRA (including its representatives) with reasonably safe access to the meter for the purpose of making meter readings, testing, and/or periodic inspections and that does not disrupt the periodic reading of LCRA's other customers' meters. The Purchaser must provide LCRA access to the Purchaser's property for inspection, testing and reading of the meter. The Purchaser must provide an all-weather road to facilitate access to meter. LCRA

shall have the right to approve both the design of the meter as well as the location of its installation.

- 4) Be accurate within plus or minus 5% of the indicated flow over the range of possible flows. In the case of a contract issued for an on-channel impoundment, an alternative measuring device or methodology with a 5% accuracy may be used with prior approval from LCRA.
 - 5) Be able to measure and register quantities of water in increments of 1,000 gallons or less.
 - 6) Be capable of measuring volumetric flow rates and registering total volumetric quantity.
 - 7) Be installed in accordance with the manufacturer's specifications and consistent with standard engineering practices.
 - 8) Be properly screened to prevent debris from causing meter malfunctions.
 - 9) Be of suitable material and of proper construction to withstand a surface water environment.
 - 10) Have serial number easily visible in its installed location.
 - 11) When installed outdoors be in a covered vault or other solid enclosure.
 - 12) Have hermetically sealed registers or other means to prevent the occurrence of condensation on register glass.
 - 13) Be installed in a manner to prevent flooding of the meter enclosure.
- (c) The Purchaser must repair, replace or make necessary improvements to a meter or other approved measuring device that is not in compliance with these rules promptly after the Purchaser becomes aware of the deficiency that causes the measuring device to not comply with these rules. Prior to or immediately following the time that a meter or other approved measuring device goes out of service, the Purchaser and LCRA shall agree on an alternative method for determining the amount of water diverted and/or used.
- (d) LCRA, in its sole discretion, may rely on measurements reported to LCRA by the Purchaser but doing so shall not relieve the Purchaser from any requirements in these rules relating to meters or measuring devices.
- (e) LCRA, in calculating fees due under a firm water contract, may base fees on a measurement of the amount of water made available from the December meter reading date to the next December meter reading date.

7.10 Testing of Measuring Device.

Periodic testing as required under the terms of a water contract must be performed in accordance with testing specifications as published by the American Water Works Association. Where and when possible, such testing is to be performed *in situ* (in place). Measuring device testing should be accomplished for those contracts that require periodic testing every 12 months for contracts with a MAQ of greater than 20 acre-feet per year or every 24 months for contracts with a MAQ up to 20 acre-feet per year. All testing should be performed by qualified personnel familiar with American Water Works Association testing procedures and with a background in such procedures.

7.11 Exceedance of MAQ.

If the amount of water made available for a Purchaser for any reason exceeds the MAQ stated in the Purchaser's contract during two consecutive years, or in two out of any four consecutive years, the Purchaser will be required to submit an application for a Replacement Contract, including applicable fees, and negotiate a new standard contract for an adjusted MAQ, the reasonableness of which shall be determined consistent with these rules, to the extent LCRA

has additional water supplies available. The General Manager may waive the requirement that an Applicant submit an application for a Replacement Contract if: (a) the Purchaser adopts and implements as part of its Water Conservation Plan additional specific water conservation measures consistent with those measures identified as recommended measures in the Water Conservation Plan Rules (in addition to all required measures); and (b) such measures are reasonably likely to result in future water use not exceeding the MAQ. The Purchaser shall remain subject to excess use charges consistent with the contract, regardless of whether the Purchaser obtains or has obtained a waiver from the requirement to submit an application for a Replacement Contract.

7.12 Pro Rata Reduction During Water Shortage.

- (a) During a water shortage, the water supply provided by LCRA under a water contract is subject to curtailment in accordance with section 11.039 of the Texas Water Code, LCRA's water rights, LCRA's Drought Contingency Plan, and any curtailment plan developed with customers as required by LCRA's Water Management Plan. LCRA has developed Firm Customer Pro Rata Curtailment Rules, which are a part of LCRA's Water Contract Rules, and attached as Appendix C.
- (b) Consistent with state law and these plans, and to effectively address the water shortage, the curtailment shall be based on the customers' reasonable water needs during the curtailment period, and not the contracted amount, after consideration of the customers' implementation of their water conservation and drought contingency plans.
- (c) In the event the supply of water provided to the Purchaser is limited because of a curtailment imposed by LCRA or state law in accordance with these rules to an amount less than the Purchaser's MAQ, then the Purchaser shall pay a surcharge, in excess of the firm water rate, to be set by the LCRA Board multiplied by any amount of water diverted by the Purchaser in excess of the amount the Purchaser is authorized to divert during the curtailment. Unless otherwise specifically provided under the contract, a curtailment of water under this provision shall not result in a reduction or suspension of the Reservation Charge for the unused portion of the full MAQ under the contract.

7.13 Returned Instrument Fee.

In the event a Purchaser attempts to pay LCRA by check, draft, credit card or any other similar instrument and the instrument is returned or refused by the bank or other similar institution as insufficient or non-negotiable for any reason, the Purchaser shall be assessed and must pay to LCRA, per each returned instrument, LCRA's current returned instrument fee. The LCRA returned instrument fee is currently \$25.00 per returned instrument.

7.14 Notices Required

A Purchaser shall notify LCRA in writing of certain activities throughout the term of the Purchaser's contract, which notice requirements shall include those listed below, unless otherwise required by law, in addition to those listed in the contract. Notice to LCRA shall be satisfied by i) certified mail with return receipt; or ii) electronic mail to firmwater@lcra.org with a reply email from LCRA staff acknowledging receipt.

- (a) Related water rights permit and annual reports. In the event a Purchaser is required by state law to obtain a water right permit or water right permit amendment – including, but not limited to, contractual, term, or temporary water right permits – from TCEQ related to water that is reserved or purchased pursuant to an LCRA water contract, the Purchaser shall provide LCRA (i) a copy of the application for the water right permit or water right permit amendment within five business days of its filing with TCEQ; (ii) a copy

of any proposed notice related to the application within five business days of receipt from TCEQ; and, (iii) a copy of the water right permit or water right permit amendment promptly following the issuance of the water right permit or water right permit amendment. The Purchaser shall incorporate LCRA's reasonable comments into the application notice provided that: (i) LCRA provides its comments to the Purchaser within 10 business days of LCRA's receipt of the draft notice, unless a shorter response period is required by TCEQ; and (ii) TCEQ accepts LCRA's comments in the final version of the notice. The Purchaser also shall provide LCRA a copy of any notice or action by TCEQ of a violation or termination of the water right permit or water right permit amendment within 10 days of the Purchaser receiving notice from TCEQ. By March 15 of each year, the Purchaser shall also provide LCRA a copy of its annual water use reports filed with TCEQ.

- (b) Provision of regulatory approvals. Except for water rights permits governed by Section 7.14 (a) of these rules, the Purchaser shall provide LCRA copies of any approvals received from federal, state or local agencies that relate to water reserved or purchased pursuant to a Purchaser's contract or to facilities intended to divert, transport or use water provided under a Purchaser's contract within a reasonable amount of time following a written request by LCRA staff.
- (c) Notice of intent to divert or impound. The Purchaser shall notify LCRA of its intentions to initiate diversions or impoundment of water under the Purchaser's contract not more than eight weeks, nor less than four weeks, prior to the Purchaser's initiation of diversions or impoundment. Such notice shall include the Purchaser's anticipated diversion rate, not to exceed the Maximum Diversion Rate. If diversions of water are being continued from a previous contract or other right to divert, and no change in diversion rate is anticipated, no notice is necessary. The Purchaser shall notify LCRA in writing not more than two weeks prior to making any change in its planned diversion rate, not to exceed the Maximum Diversion Rate specified in this Contract. If Purchaser's Point(s) of Availability are located downstream of Lake Travis or on a tributary which flows into the Colorado River downstream of Lake Travis, the Purchaser shall notify LCRA's River Operations Center (ROC) of its intent to impound and/or divert water under this Contract and shall either: (1) develop with the ROC a written process or mechanism for notifying the ROC of its intent to divert water; or (2) notify the ROC prior to making any impoundment and/or each diversion or change in diversion in accordance with any requirements set forth in the Special Conditions in the Contract.
- (d) Reuse. A Purchaser shall notify LCRA not more than eight weeks, nor less than four weeks, prior to implementing a program for Reuse for water that is reserved or purchased pursuant to an LCRA water contract. The Purchaser will make available to LCRA non-privileged documents regarding the Purchaser's reuse program within a reasonable amount of time, not to exceed 20 days, following a request by LCRA staff. For all purposes of this Contract, the term "reuse" means the authorized use of water, which water was diverted and used pursuant to this Contract, but which water remains unconsumed and has yet to be either disposed of or discharged or otherwise allowed to flow into a watercourse, lake or other body of state-owned water.
- (e) Transfer to Secondary Purchaser. A Primary Purchaser shall notify LCRA of any agreement it has made to divert or deliver water for a Secondary Purchaser. Such notice shall be provided at least 30 days prior to any diversions or deliveries from the Primary

Purchaser to the Secondary Purchaser and shall include the information required by Section 5.5 of these rules.

- (f) Termination of contract. A Purchaser shall notify LCRA pursuant to the Purchaser's contract of its desire to cancel said contract. The Purchaser shall remain liable for all fees and charges accruing under the contract through the effective date of termination of the contract. Termination of the contract does not release the Purchaser of its obligation to pay in full all fees and charges that have accrued prior to the contract being terminated. (See also Section 6.3(c).)
- (g) Change of ownership. A Purchaser shall provide LCRA prior notice of any change of ownership of Purchaser or the sale, conveyance, merger, or dissolution of the corporate entity or Service Area identified in the Purchaser's contract. Such notice does not constitute the assignment of the Purchaser's rights or duties under the Purchaser's contract.
- (h) Change of address or executive staff. A Purchaser shall notify LCRA of any change of address or change of executive staff that was provided in the Purchaser's application within 30 days of the change.
- (i) Annual reports of due diligence. A Purchaser is required to report to LCRA, on a yearly basis, progress made toward obtaining any and all necessary authorizations (e.g., TCEQ permits, Army Corps of Engineers permits, etc.) as well as progress toward commencing and completing construction of facilities which will be used to divert, impound, and/or convey water under the Purchaser's contract.
- (j) As-built plans and location of facilities. Upon request from LCRA, a Purchaser shall provide to LCRA "as-built" drawings and plans (including GPS coordinates of any intakes or impoundments) for facilities which were actually built and will be used to divert, impound, and/or convey water under the Purchaser's contract within 30 days of such request.

ARTICLE 8. AMENDMENTS AND ASSIGNMENTS

8.1 Amendments to Existing Contracts.

- (a) If a Purchaser desires to amend an existing contract, the following conditions apply:
 - 1) No amendments will be made to contracts with unpaid account balances.
 - 2) Substantive amendments (as determined by the General Manager except as otherwise provided herein) may be made to existing contracts based on the most current LCRA standard form water contract. Substantive amendments shall include, at a minimum:
 - (i) Assignment of the contract;
 - (ii) Increasing the contract's term;
 - (iii) Increasing the MAQ; and,
 - (iv) Service area amendments that (regardless of the amount of the current service area that may be removed) add additional service area not within the current service area in the amount of: a) 50 acres or more; or, b) 25% or more of the current service area.
 - 3) Substantive amendments shall require approval by either the General Manager or the LCRA Board as specified in Section 4.6 of these rules.
- (b) Only contracts based on the most current LCRA Standard Contract terms may be amended for substantive amendments. If the contract sought to be substantively amended does not contain the most current LCRA Standard Contract terms, the Purchaser will be required to submit an application for a new water contract to replace

the existing non-conforming water contract in accordance with these rules. In the event the non-conforming provisions are limited in quantity, the General Manager, in his/her sole discretion, may alternatively include updated provisions in a contract amendment.

- (c) Nonsubstantive corrections and amendments may be made by the General Manager, without LCRA Board approval. Sufficient documentation shall be supplied by the Purchaser to justify such amendments.

8.2 Contract Assignments.

- (a) Water contracts do not convey with the title of the property in the contract service area.
- (b) If a Purchaser desires to assign the rights and duties under its contract the following conditions apply:
 - 1) Water contracts may only be assigned as specified in the contract; and
 - 2) LCRA may reject any assignment not made with LCRA's consent, which consent must be obtained in advance of the sale, trade or transfer.
- (c) If a Purchaser desires to assign a contract and such assignment is permitted under the terms of that contract, the following conditions apply:
 - (1) LCRA will not authorize the assignment of any contract that has an unpaid account balance;
 - (2) LCRA will not authorize the assignment of any contract that is not based on the most current Standard Contract form. LCRA may, however, authorize the assignment of an existing contract if: (i) that assignment incorporates all the language and policies reflected in the most current Standard Contract form; or (ii) the assignee submits a non-refundable application for a Replacement Contract prior to the assignment becoming effective and the assignment requires assignee to pursue the application and execute the Replacement Contract consistent with the timeframes in these rules;
 - (3) the Purchaser must submit legal documentation validating the sale, trade, or transfer of the property covered by the contract's service area; and,
 - (4) both assignor and assignee must execute a written instrument of assignment that clearly discloses the assignee, or new Purchaser, and states that the assignee agrees to abide by all terms and conditions contained in the referenced contract.
- (d) If the property covered by the contract's service area is foreclosed upon, and the entity exercising its lien desires to continue to supply water to the property, LCRA may at its discretion allow a temporary assignment of rights and duties under the contract to the lien holder for a period not to exceed one year. Such assignment will allow the lien holder as the property owner to continue operation of the system until either: (1) it can negotiate a new water contract with LCRA on its behalf; or, (2) the property can be sold to a subsequent owner. In the event that the property is sold, the subsequent owner must negotiate a new water contract within 60 calendar days of the close of the sale of the property if it desires to continue to purchase water from LCRA.

ARTICLE 9. VARIANCES

Where special conditions or compelling circumstances exist, the LCRA Board may consider and approve requests for variances from the requirements of these rules on a case-by-case basis upon recommendation by LCRA staff.

ARTICLE 10. REQUIREMENTS FOR INTERBASIN WATER SALES TO WILLIAMSON COUNTY

10.1 Applicability.

This article sets forth additional requirements that apply to interbasin water sales to any person or entity within Williamson County that did not have a water sale contract with LCRA on or before May 1, 1997, consistent with the requirements of Section 8503.029, Texas Special District Local Laws Code. In the event of a conflict between a requirement set forth in this Article 10 and any other requirement in these rules, the requirements in this Article 10 control.

10.2 Definitions.

- (a) **Adverse Effects of the Transfer:** The reduction in availability of sufficient Surface Water to meet the needs of LCRA's interruptible agricultural customers within Colorado, Wharton, and Matagorda counties resulting from water contracts entered into pursuant to Section 8503.029(a)(3)(B), Texas Special District Local Laws Code.
- (b) **Average Annual Volume:** The arithmetical average volume of water over a contiguous three-year period.
- (c) **Conserved Water:** The Average Annual Volume of water made available under Section 8503.029(a)(3)(B), Texas Special District Local Laws Code from conservation projects and demand reduction projects within the water service areas of LCRA's agricultural operations within Colorado, Wharton, and Matagorda counties. Conserved Water can be classified as firm, interruptible or any combination thereof.
- (d) **Developed Water:** The Average Annual Volume of additional water made available for use within the water service areas of LCRA's agricultural operations within Colorado, Wharton, and Matagorda counties under Section 8503.029(a)(3)(B), Texas Special District Local Laws Code that may include: (1) groundwater, or (2) surface water resources that are not presently under the control of LCRA. Such water may originate inside or outside the boundaries of the Colorado River basin and may be firm, interruptible or any combination thereof.
- (e) **No Net Loss:** A hydrologic condition where the volume of Transferred Water is equivalent to, or less than, the combined volume of Conserved Water, Developed Water, and Returned Water resulting in a reduced reliance on Surface Water for agricultural irrigation.

$$\text{Transferred Water} \leq \text{Conserved Water} + \text{Developed Water} + \text{Returned Water}$$

- (f) **Returned Water:** The Average Annual Volume of water that is imported to the lower Colorado River basin with the specific intent to meet the condition of Section 8503.029(a)(3)(B), Texas Special District Local Laws Code. Such water may be firm, interruptible or any combination thereof.
- (g) **Surface Water:** Water from the Colorado River or Highland Lakes. This water can be classified as either firm, interruptible water, or any combination thereof.
- (h) **Transferred Water:** The Average Annual Volume of Surface Water exported from the lower Colorado River basin to Williamson County under Section 8503.029(a)(3)(B), Texas Special District Local Laws Code.

10.3 Conservation Charge.

In addition to the standard rates and charges, any customer subject to the requirements of this Article shall pay a Conservation Charge, as set by the Board pursuant to Section

8503.029(c), Texas Special District Local Laws Code, which shall be sufficient to cover the costs of mitigating Adverse Effects of the Transfer.

10.4 No Net Loss.

Prior to any diversion of water, the means to conserve, develop, or return water to satisfy the No Net Loss condition shall be identified that would be sufficient based on an Average Annual Volume to conserve, develop, or return the necessary volumes of water.

TABLE 1. HIGHLAND LAKES REFERENCE ELEVATIONS

(in feet above mean sea level, based on the 1988 North American Vertical Datum)

Lake Buchanan

Spillway	1,020.61
Floodgate Sill at 15.5 foot	1,005.63
Floodgate Sill at 25.5 foot	995.63
Penstock Intake at bottom	937.26

Inks Lake

Spillway	888.63
Penstock Intake at bottom	845.81

Lake LBJ

Top of Normal Operating Pool	825.68
Floodgate Sill	795.64
Penstock Intake at bottom	793.68

Lake Marble Falls

Top of Normal Operating Pool	737.69
Floodgate Sill	726.23
Penstock Intake at bottom	710.05

Lake Travis

Spillway	714.6
Top of Conservation Pool	681.6
Penstock Intake at bottom	552.6
Floodgate Conduits at bottom	536.35

Lake Austin

Spillway	493.11
Floodgate Sill at 12 foot	481.11
Floodgate Sill at 18 foot	475.31
Penstock Intake at bottom	462.31

APPENDIX A
LCRA WATER CONSERVATION PLAN RULES

APPENDIX B
LCRA DROUGHT CONTINGENCY PLAN RULES

APPENDIX C
LCRA FIRM WATER PRO RATA CURTAILMENT RULES