VIA TELEPHONE CONFERENCE

CITY OF FAIR OAKS RANCH
AGENDA – CITY COUNCIL TELECONFERENCE
September 3, 2020 9:30 AM
Via Teleconference
7286 Dietz Elkhorn, Fair Oaks Ranch

THERE EXISTS A PUBLIC HEALTH EMERGENCY RELATED TO THE COVID-19 VIRUS THAT NECESSITATES A MEETING OF THE CITY COUNCIL TO TAKE PLACE VIA VIDEO CONFERENCE PURSUANT TO GOVERNMENT CODE CHAPTER 551.125, AS MODIFIED BY EXECUTIVE ORDER OF THE GOVERNOR

You can dial in using your phone:

United States (Local #): 210-714-4201

(Toll-Free #): 1-800-717-4201

*****Due to costs incurred by the city for each minute for each caller using the Toll Free line please consider using the Toll Number if your phone plan covers long distance calls.***

Conference ID: 2443302 #

If you wish to address the Council, please select *5 on your phone; this will place you in a queue for speaking. At the appropriate time the City Secretary will call upon each individual separately.

I. OPEN MEETING

A. Roll Call – Declaration of a Quorum.

II. CITIZENS and GUEST FORUM / PRESENTATIONS

If you wish to address the Council, please raise your hand on your computer or if calling in select *3 on your phone; this will place you in a queue for speaking. At the appropriate time the City Secretary will call upon each individual separately. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda.

A. Introduction of new employees:

a. Robert Garza – Utility Technician

b. Marta Harvey – Payroll/Accounts Payable Specialist

c. Juan Camacho – Utility Technician

B. Employee Recognition:

a. Tobin Maples – Elected as Texas City Managers Association, Region 8 President.

b. Carole Vanzant, Elected as Texas City Managers Association, Region 8 Secretary/Treasurer.

c. Debbie Landrum – Appointment as Vice President for the Freedom Trail Chapter of the Texas Court Clerks Association.

d. Joanna Merrill – Received a “Senior Certified Professional” certification from the International Public Management Association for Human Resources (IMPA).

e. Presentation of Employee Service Awards: Police Officer Riley Gobeil (5 years), Police Officer Elsie Serold (5 years), and Police Officer Alexander Willis (5 years).

C. Citizens to be heard.

D. Stormwater Utility Cost of Service and Equivalent Residential Unit Presentation.
Kate Ploetzner, P.E., CFM (Kimley-Horn)
Matthew Garrett, MBA, CGFO, CPM (NewGen Strategies & Solutions) Pgs. 4-37

III. CONSENT AGENDA

All of the following items are considered to be routine by the City Council, there will be no separate discussion on these items and will be enacted with one motion. Items may be removed by any Council Member by making such request prior to a motion and vote.

A. Approval of a Resolution re-affirming the City's Investment Policy.
Sarah Buckelew, CPA, Finance Director Pgs. 38-43

B. Approval of the August 14, 2020 Special City Council meeting minutes. Pg. 44

C. Approval of the August 17, 2020 Special City Council meeting minutes. Pg. 45

D. Approval of the August 19, 2020 Special City Council meeting minutes. Pg. 46

E. Approval of the August 20, 2020 Regular City Council meeting minutes. Pgs. 47-49

IV. CONSIDERATION/DISCUSSION ITEMS

A. Consideration and possible action authorizing the City Manager to sign a Professional Services Agreement for Auditing Services with ABIP, P.C.
Sarah Buckelew, CPA, Finance Director Pgs. 50-69

B. Consideration and possible action to approve the proposed Fiscal Year 2020-21 Municipal Development District (MDD) Budget. Al McDavid, MDD President Pgs. 70-71

C. Consideration and possible action authorizing the City Manager to sign an Interlocal Services Agreement with Bexar County to facilitate the procurement of goods and services. Clayton Hoelscher, Procurement Manager Pgs. 72-79

D. Consideration and possible action approving the First Reading of an Ordinance amending the Code of Ordinances, Chapter 1, Article 1.07, Division 2 Oak Wilt Control.
Melissa Castro, Environmental Compliance Manager Pgs. 80-87

E. Consideration and possible action regarding appointing/reappointing members to Boards and Commissions. Laura Koerner, Council Member Pgs. 88-90

F. Consideration and possible approval of an Ordinance authorizing the issuance of the "City of Fair Oaks Ranch, Texas combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2020", and other matters incident and related thereto.
Sarah Buckelew, CPA, Finance Director
Andrew Friedman, Samco Capital Markets, Inc. Pgs. 91-134

V. REPORTS FROM STAFF/COMMITTEES/COUNCIL

A. None

VI. CONVENE INTO EXECUTIVE SESSION

Pursuant to Section 551.101 of the Open Meetings Act, Texas Gov't Code, a quorum of the governing body hereby convenes into closed session:

A. Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

1. Claims made on behalf of a real property owner against the City's operation of the K-3 Trinity Glen Rose Water Well.
2. To receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.
3. To receive legal advice and to receive and deliberate an offer of settlement for claims made on behalf of a real property owner against the City's operation of well K-2.
4. Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs. Edward I. Hill, Robert E. Heckendorn, Craig M. Kuitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.

VII. RECONVENE INTO OPEN SESSION

Discussion and possible action on items discussed in Executive Session.

VIII. ADJOURNMENT

Requests for City topic needing additional information/research; or, potential consideration for a future agenda.

Signature of Agenda Approval: Tol E. Maxon

I, Christina Picioccio, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times. As per Texas Government Code 551.045, said Notice was posted by 9:30 AM, August 31, 2020 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch City Hall is wheelchair accessible at the side entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available. The City Council reserves the right to convene into Executive Session at any time regarding an issue on the agenda for which it is legally permissible; pursuant to *Texas Government Code* Chapter 551. Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

CITY COUNCIL PRESENTATION
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Stormwater Utility Cost of Service and Equivalent Residential Unit Presentation
DATE:	September 3, 2020
DEPARTMENT:	Public Works Department
PRESENTED BY:	Kate Ploetzner, P.E., CFM (Kimley-Horn) and Matthew Garrett, MBA, CGFO, CPM (NewGen Strategies & Solutions)

INTRODUCTION/BACKGROUND:

A Stormwater Utility is the programmed method that the City of Fair Oaks Ranch is considering to implement improvements to its existing drainage system. The City adopted a Master Drainage Plan in 2019 that identified 46 areas in the City with proposed improvements in the neighborhood of $10.4 million. The City signed a Professional Services Agreement with Kimley-Horn and Associates, Inc. to evaluate and understand the critical elements necessary to enact and create a stormwater utility in the state of Texas.

At the February 20, 2020 City Council meeting, Kimley-Horn presented three separate billing structures: Impervious-based, Rational Method-based, and Area-based. The Council agreed that the Impervious-based billing structure worked best for the City's purposes with a Stormwater Utility.

At the May 21, 2020 City Council meeting, Kimley-Horn along with NewGen presented Cost of Service considerations as detailed from the Local Government Code Section 552.044 has several items that can be included in the cost of service, as applicable: land acquisition cost; drainage facilities capital cost; professional service fees; drainage facilities O&M; machinery and equipment costs; financing costs; amortized costs; and direct and indirect administrative costs. In addition to all of these variable elements, NewGen Strategies & Solutions presented an analysis for a five-year period of initial operation.

The final element necessary is the assessment of all existing impervious cover within the City to establish an Equivalent Residential Unit (ERU). The ERU is based on average impervious area single-family residential parcels throughout the City. A key element for the ERU is the overall Cost of Service for the Stormwater Utility.

The Council is encouraged to offer their thoughts on the results of the evaluation.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

A Stormwater Utility is a means for a municipality to improve their existing stormwater drainage system. It provides a stable source of funds that make planning and managing a program far easier. It can adequately generate sufficient revenue to run a decent program. There are flexible elements of the proposed rate structure that can support any goal within any setting.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

N/A

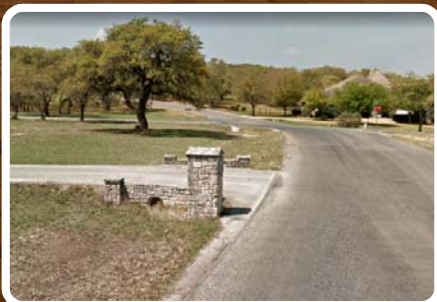
RECOMMENDATION/PROPOSED MOTION:

Staff desires general feedback of the consultant's Cost of Service and Equivalent Residential Unit evaluation for the Stormwater Utility from City Council.

SEPTEMBER 3, 2020

FAIR OAKS RANCH

STORMWATER UTILITY



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High-Level Considerations

- The Stormwater Utility can serve as a means for the City to manage the stormwater system
- This presentation discusses structural options for ***potential*** implementation of the utility
- Any decision regarding the utility and possible fees will be made by ***City Council in the future***
- Any new revenues to support the Stormwater Utility will affect residents and commercial customers

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Kimley»Horn

Overview of Stormwater Utility

A Stormwater Utility is a user-fee-based funding program for the City's drainage management activities and drainage infrastructure needs. This presentation will discuss funding for current and future City drainage operating expenses, including related capital projects.

Date
TBD

TOWN HALL #2

Stormwater Utility Costs Meeting

Location – TBD

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Progress Update

Completed	Council Discussion Determination to Move Forward with Impervious Area
Completed	Town Hall – Stormwater Utility 101
Completed	Determine Billing Method*
Completed	Determination of total impervious area (total ERUs) of billable parcels in the City
In Progress	**City's Cost of Service and 5-year plan**
In Progress	**Determine Fee Structure for 5-year plan**
Pending	Finalize Fee Structure Schedule
Pending	Prepare Ordinance
Pending	Conduct Public Hearings
Pending	Ordinance Adoption
Pending	Implementation

**City is expected to bill for the Stormwater utility in-house*

Today's Presentation Overview

- Refresher on Cost of Service Scenarios from May 21st Council presentation
- Present billing structure scenarios
- Presenting fees that match Cost of Service from May 21st Council presentation
- ***<u>City and Council has the right to assess a different fee than what is presented.</u>***

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Total Costs Estimated for the Next Five Years

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
New Program O&M	$209,802	$223,677	$238,209	$253,425	$260,886
Transfer to GF	35,185	45,721	62,550	77,874	78,543
Transfer to ERF	31,229	31,130	30,991	28,853	8,257
CIP/Debt Service	37,828	210,966	502,564	766,397	777,487
Base Personnel	354,238	366,304	378,803	391,753	405,170
Base Materials & Supplies	35,424	36,630	37,880	39,175	40,517
Total Cost of Service	**$703,706**	**$914,428**	**$1,250,997**	**$1,557,476**	**$1,570,860**
Increase ($)		**$210,723**	**$336,569**	**$306,479**	**$13,384**

These figures represent DRAFT estimates based on fully funding the various inputs described in this presentation.

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Service Level and Funding Option Discussion

Service Activity	Funding Sources Considered
Base Costs of Existing Staff	• Property Tax (M&O) • Water and Wastewater Rates • Stormwater Fee
Stormwater CIP	• Property Tax (I&S) • Stormwater Fee
New Stormwater Programs	• Stormwater Fee

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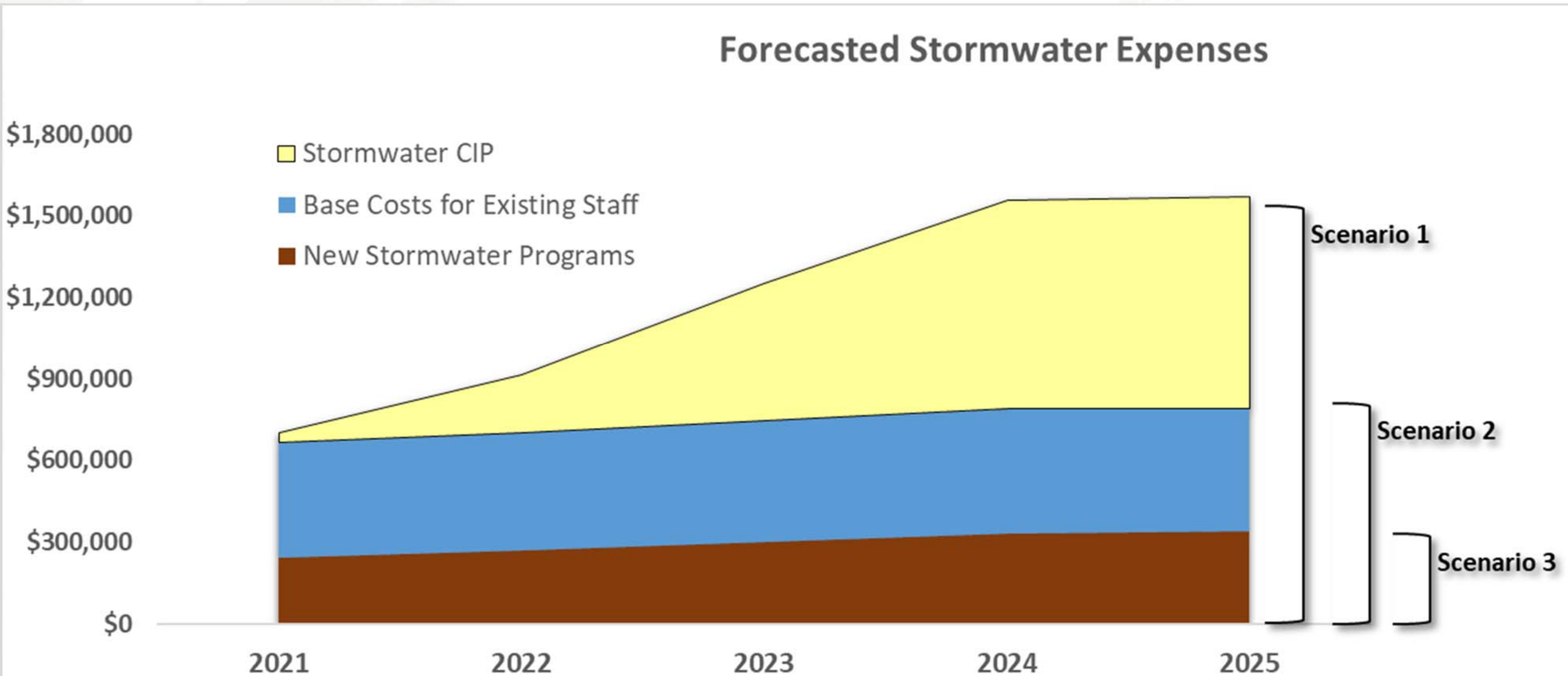
Potential Costs to be Funded by the Stormwater Utility

- Scenario 1 – All costs funded by Stormwater Fee
- Scenario 2 – Only operating costs funded by Stormwater Fee
- Scenario 3 – Only new costs funded by Stormwater Fee

Shown Below for Illustration and Explanation



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Who will Pay Fees for the Stormwater Utility?

- Properties in the City limits.
- Mandatory exempt properties include:
  - undeveloped properties;
  - properties that don’t drain to City system;
  - a subdivision lot until a Certificate of Occupancy has been issued; and
  - property owned by a state agency or institutions of higher learning.
- Discretionary exemptions can be given for the following property classifications:
  - Religious institutions;
  - City property; and
  - School district properties.

Basis of Stormwater Utility Rate Structure

More imperviousness

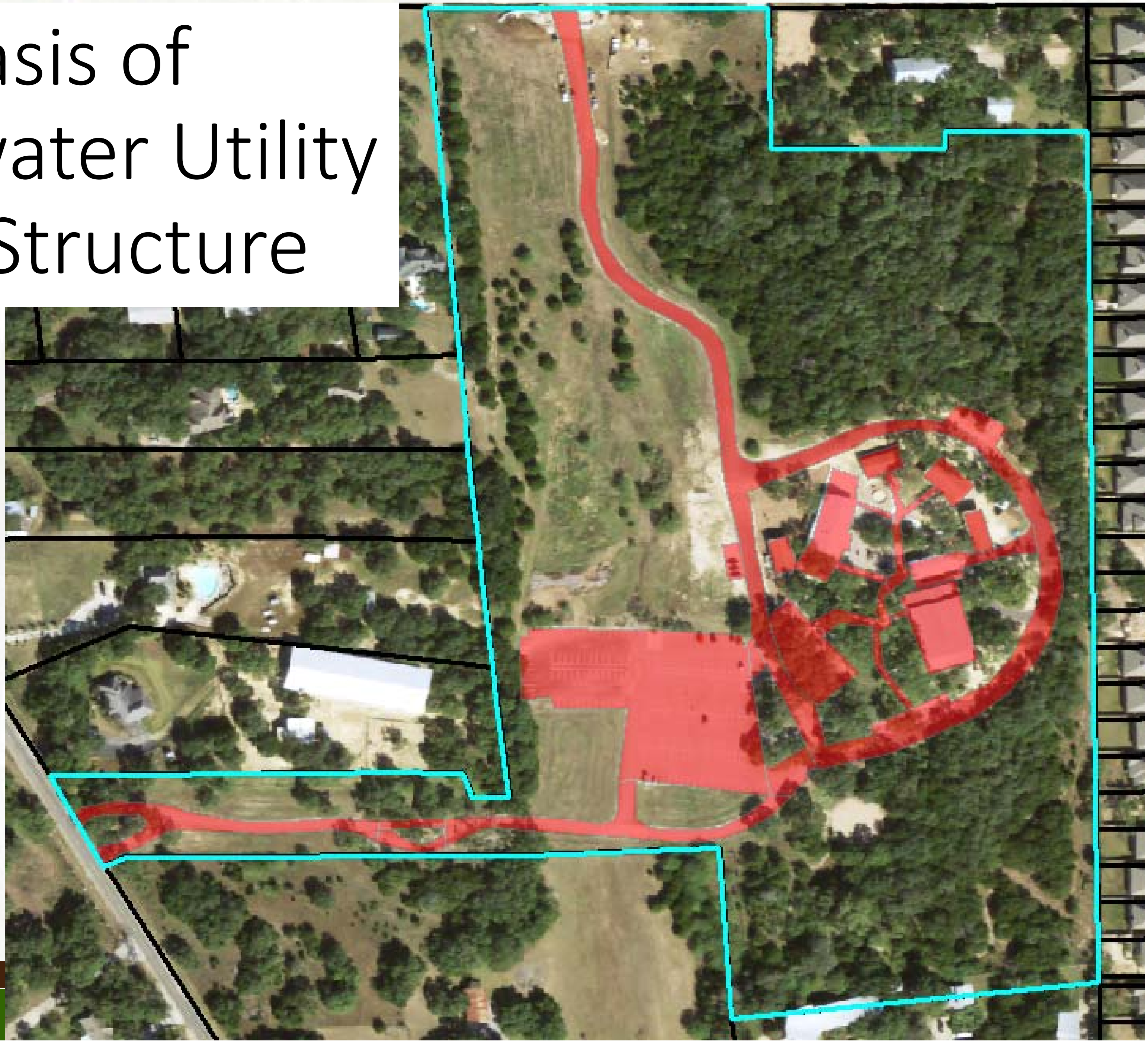
=

Increased runoff volume and flowrate

=

More use of the stormwater utility system

Basis of Stormwater Utility Rate Structure



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Total Impervious Area in the City

- **Total Impervious Area in the City = <u>28,590,796 s.f.</u>**

- **Single-Family Properties**
  - Total Impervious Area: 24,559,407 s.f.
  - Average Impervious Area per Property: 7,500 s.f.
- **Non-Single-Family Properties**
  - Total Impervious Area*: 4,031,389 s.f.

  *Excludes only mandatory exempt properties.

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Billing Scenarios:
3 Example Options

1. Single Tier Single Family Billing
2. Four Tier Single Family Billing – Plan A
3. Four Tier Single Family Billing – Plan B

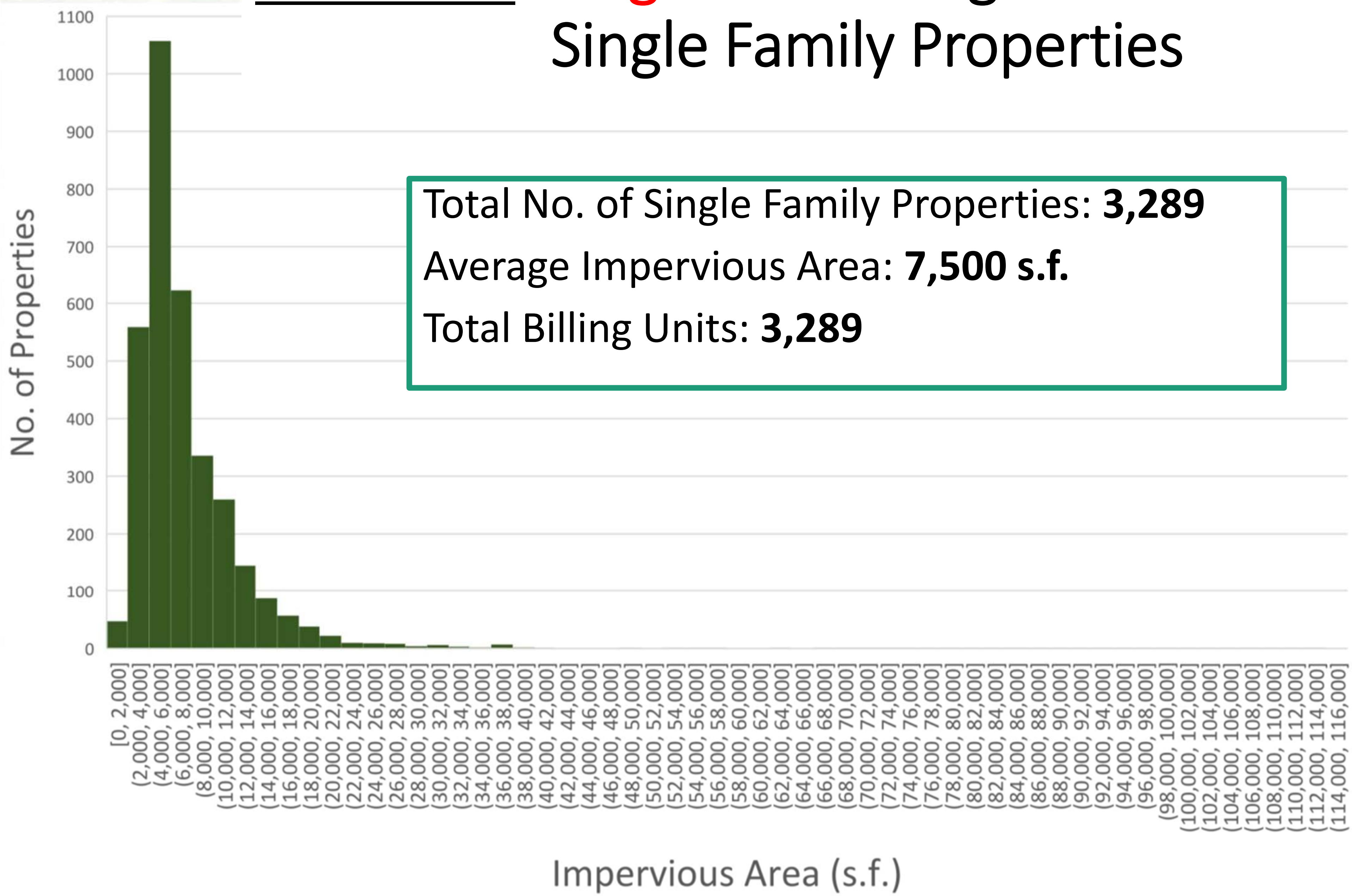
In each example option, non-single family properties will be charged based on impervious area (i.e., no tiers).

OPTION 1: Single Tier Billing Scenario for Single Family Properties

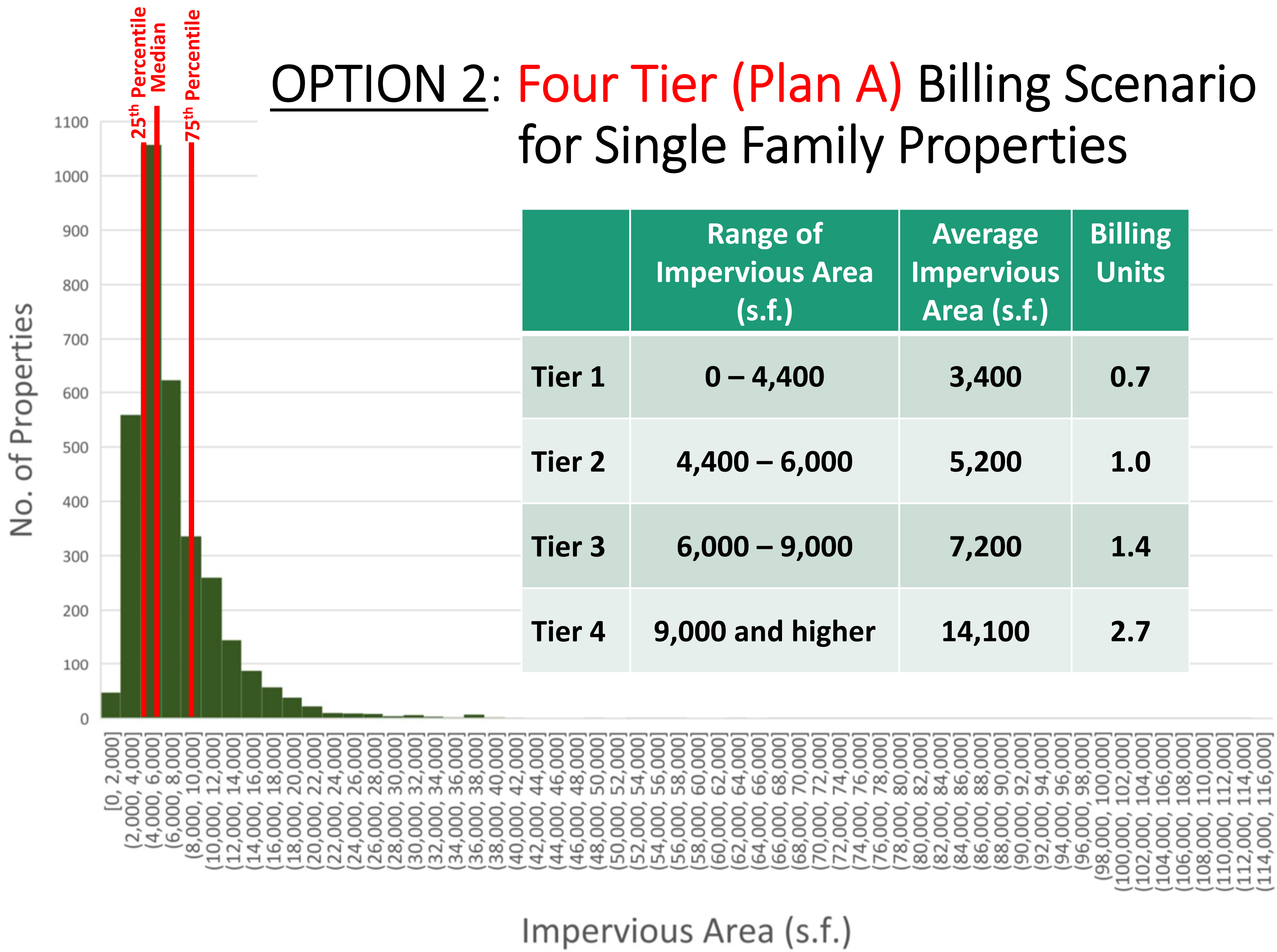
Total No. of Single Family Properties: **3,289**

Average Impervious Area: **7,500 s.f.**

Total Billing Units: **3,289**



OPTION 2: Four Tier (Plan A) Billing Scenario for Single Family Properties



	Range of Impervious Area (s.f.)	Average Impervious Area (s.f.)	Billing Units
Tier 1	0 – 4,400	3,400	0.7
Tier 2	4,400 – 6,000	5,200	1.0
Tier 3	6,000 – 9,000	7,200	1.4
Tier 4	9,000 and higher	14,100	2.7

OPTION 3: Four Tier (Plan B) Billing Structure for Single Family Properties

	Range of Impervious Area (s.f.)	Average Impervious Area (s.f.)	Impervious Area	Billing Units
Tier 1	0 – 4,400	3,400	< 22%	0.60
			> 22%	0.80
Tier 2	4,400 – 6,000	5,200	< 22%	0.86
			> 22%	1.14
Tier 3	6,000 – 9,000	7,200	< 22%	1.21
			> 22%	1.59
Tier 4	9,000 and higher	14,100	< 22%	2.33
			> 22%	3.07

Notes:

1. In this scenario, it is anticipated that the properties in each tier would start with a base fee and the properties with impervious area < 22% would receive a 25% discount.
2. Non-single family properties will also be subdivided at 22% breakpoint.

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Billing Units in the City

Option 1: Single Tier Billing Structure for Single Family Properties.

- 1 Billing Unit = 7,500 s.f. of impervious area

Option 1 Billing Units		
Single Family	Non-Single Family*	Total*
3,289	537.5	**3,826.5**

Option 2: Four Tier (Plan A) Billing Structure for Single Family Properties

- 1 Billing Unit = 5,200 s.f. of impervious area

Option 2 Billing Units		
Single Family	Non-Single Family*	Total*
4,773.4	775.3	**5,548.7**

*Note: Both options assume no discretionary exemptions are given. Therefore all City, School ISD and religious property are not exempt.

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Billing Units in the City

Option 3: Four Tier (Plan B) Billing Structure for Single Family Properties

Option 3 Billing Units		
Single Family	Non-Single Family*	Total*
4,673	828.5	**5,501.5**

*Note: This option assumes no discretionary exemptions are given. Therefore all City, School ISD and religious property are not exempt.

Potential Costs to be Funded by the Stormwater Utility

- Scenario 1 – All costs funded by Stormwater Fee
- Scenario 2 – Only operating costs funded by Stormwater Fee
- Scenario 3 – Only new costs funded by Stormwater Fee

	Scenario 1	Scenario 2	Scenario 3
FY 2021	$703,706	$665,878	$244,987
FY 2022	$914,428	$703,462	$269,398
FY 2023	$1,250,997	$748,433	$300,759
FY 2024	$1,557,476	$791,079	$331,299
FY 2025	$1,570,860	$793,373	$339,428

Potential Costs to be Funded by the Stormwater Utility

- Scenario 1 – All costs funded by Stormwater Fee
- Scenario 2 – Only operating costs funded by Stormwater Fee
- Scenario 3 – Only new costs funded by Stormwater Fee

	Scenario 1	Scenario 2	Scenario 3
FY 2021	$703,706	$665,878	$244,987
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Potential Revenue Projections

	Scenario Fiscal Year	Annual City Stormwater Need	Total Billing Units*	Monthly Fee per Billing Unit
Single Tier Option for Single Family Properties	Scenario 3 FY 2025	$339,428	3,826.5	$7.39
	Scenario 2 FY 2025	$793,373	3,826.5	$17.28
	Scenario 1 FY 2025	$1,570,860	3,826.5	$34.21
Four Tier Option (Plan A) for Single Family Properties	Scenario 3 FY 2025	$339,428	5,548.7	$5.10
	Scenario 2 FY 2025	$793,373	5,548.7	$11.92
	Scenario 1 FY 2025	$1,570,860	5,548.7	$23.59

*Note: Options assume no discretionary exemptions are given and fee is collected for all eligible properties. Therefore all City, School ISD and religious property are not exempt.

Potential Revenue Projections

	Scenario Fiscal Year	Annual City Stormwater Need	Total Billing Units*	Monthly Fee per Billing Unit
Four Tier Option (Plan B) for Single Family Properties	Scenario 3 FY 2025	$339,428	5,501.5	$5.14
	Scenario 2 FY 2025	$793,373	5,501.5	$12.02
	Scenario 1 FY 2025	$1,570,860	5,501.5	$23.79

*Note: Assumes no discretionary exemptions are given and fee is collected for all eligible properties. Therefore all City, School ISD and religious property are not exempt.

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Case Examples: Three Single Family Properties

- Property 1:
  - 1/4 acre property
  - 50% impervious (0.125 acres; 5,445 s.f.)
- Property 2
  - 2 acre property
  - 25% impervious (0.5 acres; 21,780 s.f.)
- Property 3
  - 10 acre property
  - 18% impervious (1.8 acres; 78,400 s.f.)

Case Examples: Single Tier Option

- Property 1:
  - 1/4 acre property
  - 50% impervious (0.125 acres; 5,445 s.f.)
- Property 2
  - 2 acre property
  - 25% impervious (0.5 acres; 21,780 s.f.)
- Property 3
  - 10 acre property
  - 18% impervious (1.8 acres; 78,400 s.f.)

Monthly Fees: Single Tier Option

Scenario Fiscal Year	Property 1	Property 2	Property 3
Scenario 3 FY 2025	$7.39	$7.39	$7.39
Scenario 2 FY 2025	$17.28	$17.28	$17.28
Scenario 1 FY 2025	$34.21	$34.21	$34.21

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Case Examples: Four Tier Option – Plan A

- Property 1:
  - 1/4 acre property
  - 50% impervious (0.125 acres; 5,445 s.f.)
- Property 2
  - 2 acre property
  - 25% impervious (0.5 acres; 21,780 s.f.)
- Property 3
  - 10 acre property
  - 18% impervious (1.8 acres; 78,400 s.f.)

Monthly Fees: Four Tier Option (Plan A)

Scenario Fiscal Year	Property 1	Property 2	Property 3
Scenario 3 FY 2025	$5.10	$13.77	$13.77
Scenario 2 FY 2025	$11.92	$32.18	$32.18
Scenario 1 FY 2025	$23.59	$63.69	$63.69

Case Examples: Four Tier Option – Plan B

- Property 1:
  - 1/4 acre property
  - 50% impervious (0.125 acres; 5,445 s.f.)
- Property 2
  - 2 acre property
  - 25% impervious (0.5 acres; 21,780 s.f.)
- Property 3
  - 10 acre property
  - 18% impervious (1.8 acres; 78,400 s.f.)

Monthly Fees: Four Tier Option (Plan B)

Scenario Fiscal Year	Property 1	Property 2	Property 3
Scenario 3 FY 2025	$6.17	$15.66	$11.88
Scenario 2 FY 2025	$14.42	$36.59	$27.77
Scenario 1 FY 2025	$28.54	$72.42	$54.96

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Case Example:
Non Single Family Property

- Property Details:
  - 5 acre property
  - 70% impervious (3.5 acres; 152,460 s.f.)

Monthly Fees: All Billing Scenario Options

Scenario Fiscal Year	Single Tier Option	Four Tier Option – Plan A	Four Tier Option – Plan B
Scenario 3 FY 2025	$150.22	$149.53	$171.56
Scenario 2 FY 2025	$351.27	$349.49	$401.19
Scenario 1 FY 2025	$695.42	$691.64	$794.04

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Market Survey of Texas Stormwater Fees per Billing Unit

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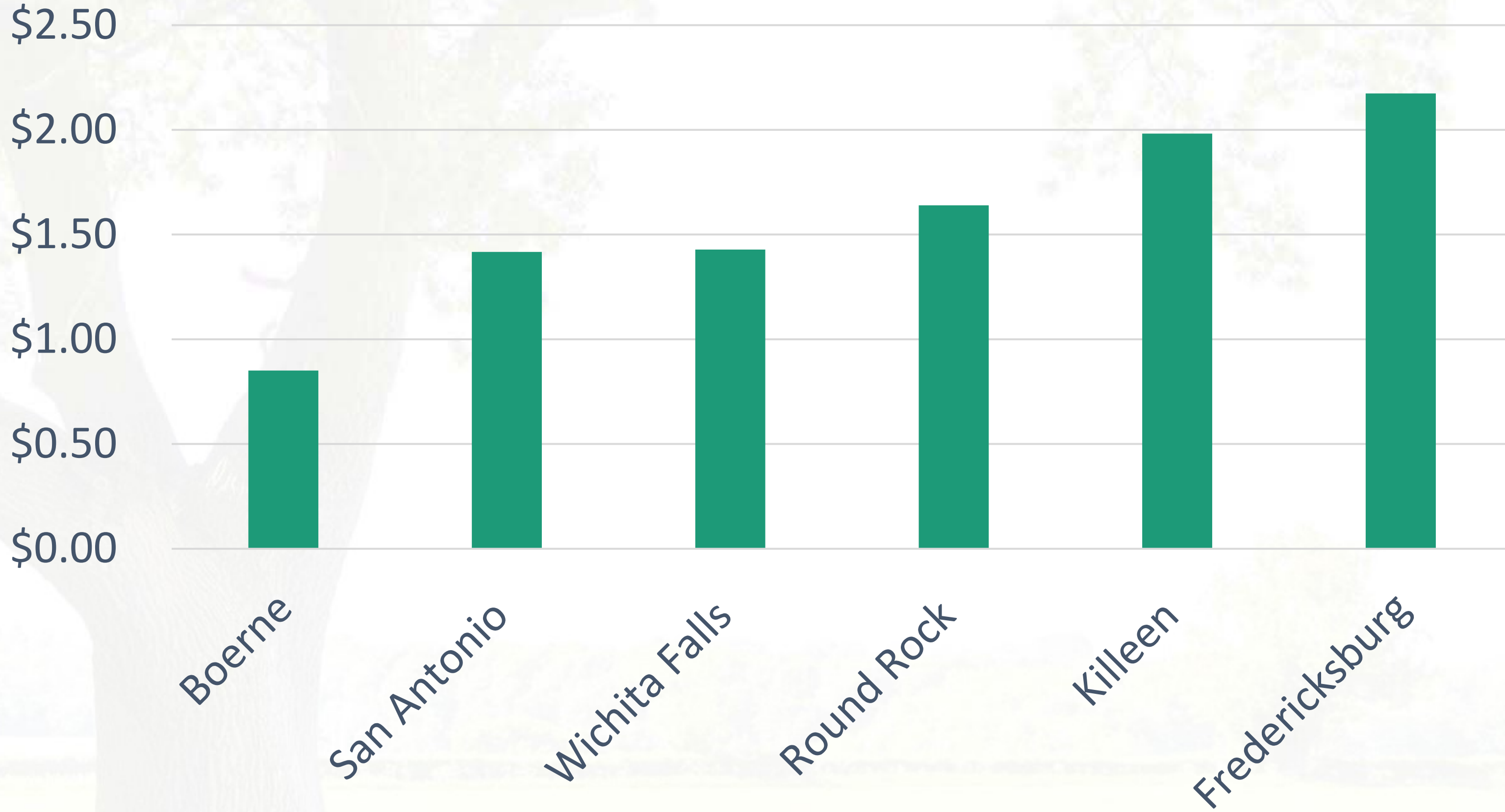
Texas Monthly Stormwater Fees per 1,000 s.f. of Impervious Area



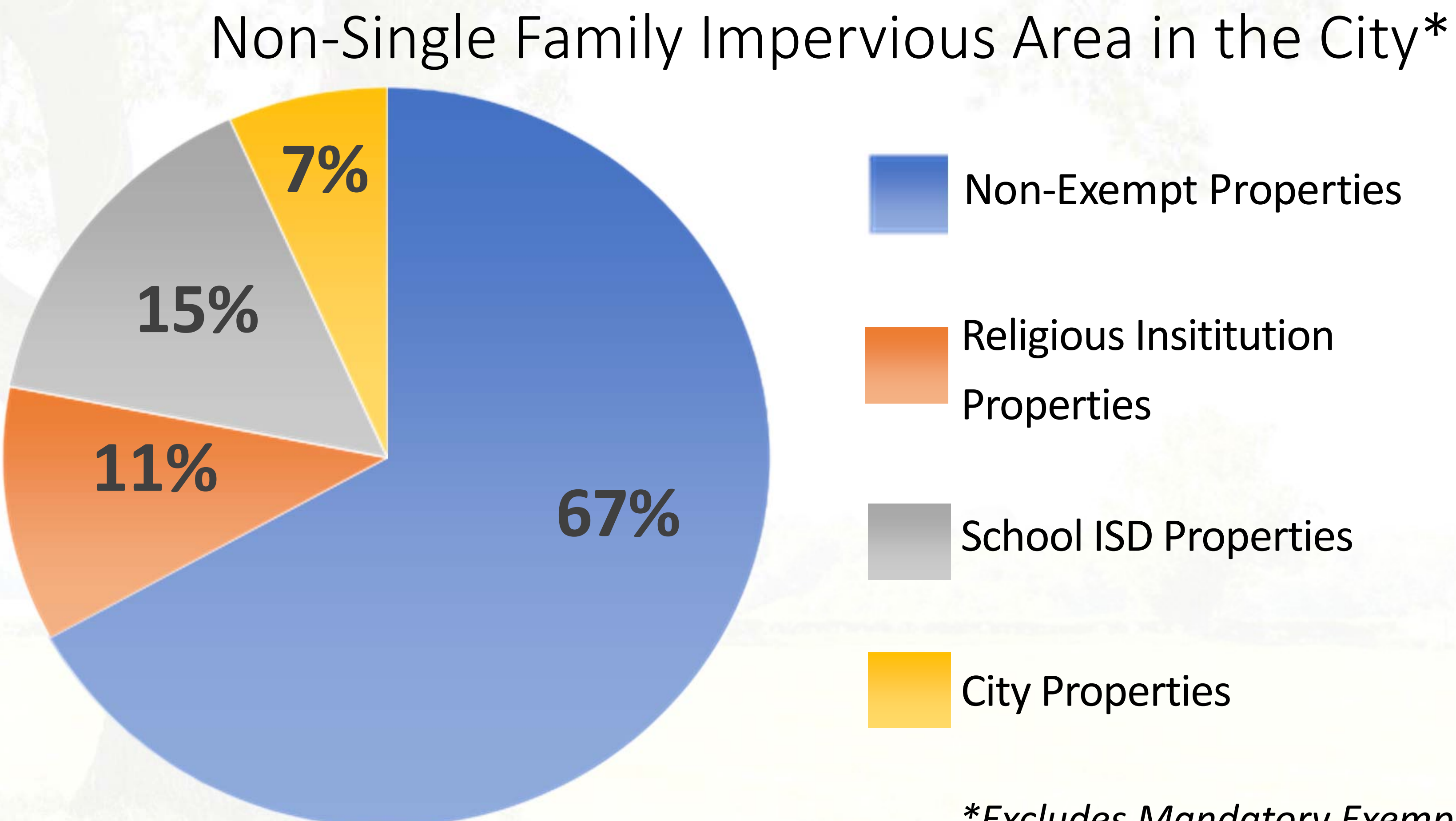
Funding Scenario 3 requires less than $1.00 per 1,000 sf of impervious area
Funding Scenario 2 requires approximately $2.30 per 1,000 sf of impervious area
Funding Scenario 1 requires approximately $4.60 per 1,000 sf of impervious area

Potential Revenue Projections

	Monthly Service Unit Fee	Fee Generated
Single Tier Option for Single Family Properties	**$4.00**	**$183,672.00**
	$6.00	**$275,508.00**
	$8.00	**$367,344.00**
	$10.00	**$459,180.00**
	$12.00	**$551,016.00**
Four Tier Option (Plan A) for Single Family Properties	**$4.00**	**$266,337.60**
	$6.00	**$399,506.40**
	$8.00	**$532,675.20**
	$10.00	**$665,844.00**
	$12.00	**$799,012.80**

*Note: Options assume no discretionary exemptions are given and fee is collected for all eligible properties. Therefore all City, School ISD and religious property are not exempt.

Discretionary Exemption Considerations



**Excludes Mandatory Exempt Properties*

Questions and Direction

- Which of the fee structures do you prefer?
  - We recommend the 4-tier option for single family
- What billing rates would Council be comfortable with?
- How should we approach discretionary exemptions?

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Approval of a Resolution re-affirming the City's Investment Policy
DATE:	September 3, 2020
DEPARTMENT:	Finance
PRESENTED BY:	Sarah Buckelew, Finance Director

INTRODUCTION/BACKGROUND:

Pursuant to Government Code §2256.005, City Council shall adopt, annually, a resolution stating the Investment Policy has been reviewed to ensure the highest return and maximum security of the investments of government funds and, record any changes made thereof.

At this time, no changes are recommended to the overall Financial Management Policy. The purpose of this resolution is to comply with Government Code §2256.005 by reaffirming the Investment Policy only.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Complies with Government Code and requirements under the Public Fund Investment Act.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

None

LEGAL ANALYSIS:

Approved as to form

RECOMMENDATION/PROPOSED MOTION:

(Consent Agenda) I move to approve the resolution re-affirming the City's Investment Policy.

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH TEXAS REAFFIRMING THE CITY OF FAIR OAKS RANCH INVESTMENT POLICY FOR THE INVESTMENT OF PUBLIC FUNDS, PROVIDING FOR THE HIGHEST INVESTMENT RETURN, MAXIMUM SECURITY, AND CONFORMING TO ALL STATE/LOCAL STATUTES GOVERNING THE INVESTMENT OF PUBLIC FUNDS

WHEREAS, to ensure the highest investment return, maximum security, and to conform to all state and local statutes governing the investment of public funds, the City Council of the City of Fair Oaks Ranch, Texas adopted a written Investment Policy ("Policy"); and,

WHEREAS, said Policy is Appendix A of the city's Financial Management Policy; and,

WHEREAS, said Policy was adopted by the Fair Oaks Ranch City Council, with amendments, August 2011 and reaffirmed without change each year thereafter; and,

WHEREAS, pursuant to Government Code §2256.005, the Fair Oaks Ranch City Council shall adopt, annually, a resolution stating the city's Investment Policy has been reviewed and, record any changes made thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF FAIR OAKS RANCH, TEXAS, THAT:

PART 1. That the City of Fair Oaks Ranch Investment Policy Attached hereto as Exhibit A, and previously adopted by the Fair Oaks Ranch City Council, as required by Government Code §2256.005, is reaffirmed as the Investment Policy with no changes.

PART 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

PART 3. That it is officially found, determined and declared that the meeting at which this Resolution was adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

PART 4. This Resolution shall take effect immediately from and after its passage.

PASSED and APPROVED by the City Council of the City of Fair Oaks Ranch, Texas on this 3rd day of September, 2020.

Garry Manitzas, Mayor

ATTEST:

Christina Picioccio, City Secretary

APPROVED AS TO FORM:

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney

It is the policy of the City to invest public funds in a manner which will provide the highest, reasonable investment return with the maximum security of principal while meeting the daily cash flow demands of the City and conforming to all federal, state, and local statutes governing the investment of public funds. It is also the policy of the City that the administration of its funds and the investment of those funds shall be handled as its highest public trust.

The Investment Policy shall be adopted by Resolution as part of the Financial Management Policies. The policy shall be reviewed and adopted by Resolution annually by the City Council.

II. Purpose
The purpose of this policy is to comply with Chapters 2256 and 2257 of the Texas Government Code, which requires City Council to adopt a written investment policy regarding the investment of its funds and funds under its control. The investment policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City's funds.

III. Scope
This investment policy applies to all financial assets and funds of the City. Funds are defined in the City's audited Annual Financial Report. Funds are created by the City unless specifically exempted by the City Council and this policy.

IV. General Objectives
The primary objectives, in priority order, of the City's investment activities shall be safety, liquidity, diversification, and yield.

Safety - Safety of the principal is the foremost objective of the city. Investments shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio.

Liquidity - The investment portfolio will remain sufficiently liquid to meet all operating requirements which might be reasonably anticipated.

Diversification - Diversification of the portfolio will include diversification by maturity and market sector.

Yield - The investment portfolio shall be designed with the objective of attaining a market rate of return, taking into account the investment risk constraints and liquidity needs. Market rate of return may be defined as the average yield of the current six month US Treasury Bill. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.

Effective cash management is recognized as essential to good fiscal management. Cash Management is defined as process of managing monies in order to ensure maximum cash availability. The City will effectively collect account receivables, practice prudent investment of its available cash, disburse payments in accordance with invoice terms and manage banking services.

V. Prudence
The standard of prudence to be used by investing officials shall be the "prudent person" rule and shall be applied in the context of managing an overall portfolio. This rule states that "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the expected income to be derived."

Limitation of Personal Liability - Investment officials acting in accordance with this policy and in accord with the Prudent Person Rule, shall be relieved of personal liability in the management of the portfolio provided that deviations from expectations for a specific security's credit risk or market price change is reported in a timely fashion and the appropriate action is taken to control unfavorable developments.

Ethics and Conflicts of Interest - Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution and management of the investment program, or that could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose any material interests in financial institutions that conduct business with the City. An investment official who has a personal business relationship with an organization seeking to sell an investment to the City shall file a statement disclosing that personal business interest. An investment official who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing the relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and City Council.

VI. Delegation of Authority
The city's Finance Officer, acting on behalf of the city, is designated as the Investment Officer of the city. Responsibility for the operation of the investment program is hereby delegated to the investment officer, who shall act in accordance with established procedures and internal controls for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all investment transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. No person may engage in an investment transaction except as provided under the terms of this policy and established written procedures.

Training - Investment officials must complete at least 10 hours of investment training within 12 months of taking office or assuming duties, and shall attend an investment training session not less than once in a two-year period and receive not less than 10 hours of instruction relating to investment responsibilities.

VII. Internal Controls
The City Manager and Investment Officer are responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (a) the cost of a control should not exceed the benefits likely to be derived and (b) the valuation of costs and benefits requires estimates and judgments by management.

VIII. Safekeeping and Custody

Authorized Financial Dealers and Institutions - The Investment Officer will maintain a list of financial institutions and security broker/dealers authorized to provide investment/depository services.

Those firms that request to become qualified bidders for securities transactions must provide one or more of the following as applicable: audited financial statements, proof of National Association of Security Dealers certification, trading resolution, proof of state registrations, certification of having read the entity's investment policy and depository contracts.

Depository Agreement - The City shall follow Section 105 of the Local Government Code when entering into a depository agreement for normal banking services including disbursements, collections, and safekeeping. Other banking institutions from which the City may purchase certificates of deposit will also be designated as a depository.

Delivery vs Payment - All trades with the exception of investment pools and mutual funds will be executed by delivery vs payment to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities and collateral will be held in the City's name by a third-party custodian as evidenced by safekeeping receipts of the institution with which the securities are deposited.

IX. Authorized and Suitable Investments

Eligible Investments - Assets of the City may be invested in the following instruments as authorized by the Public Funds Investment Act (Section 2256). Only those instruments listed in this section are authorized and will be used as needed to maintain an appropriate diversified portfolio:

1. Local Government Investment Pools which meets the requirements of Chapters 2256.016-2256.019 of the Public Funds Act and are rated no lower than AAA or AAA-m or an equivalent rating by at least one nationally recognized rating service.
2. Obligations of the United States or its agencies and instrumentalities.
3. Certificates of Deposit issued by a depository institution that has its main office or a branch in Texas. The CD must be guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor and secured by obligations in a manner and amount as provided by law.
4. No-load Money Market Mutual Funds that 1) are registered and regulated by the Securities and Exchange Commission, 2) have a dollar weighted average stated maturity of 90 days or fewer, 3) seek to maintain a net asset value of $1 for share, and 4) are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service. The City may not invest in money market mutual funds in the aggregate more than 80 percent of its monthly average fund balance.

Collateralization - Collateralization will be required on all funds on deposits with a depository bank, other than investments. In order to anticipate market changes and provide a level of security, the collateralization level will be one hundred two percent (102%) of market value of principal and accrued interest.

X. Investment Parameters

Diversification - See Section IV; General Objectives

Maximum Maturities - To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than 13 months from the date of purchase. Reserve funds may be invested in securities up to 2 years if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

XI. Investment Strategies

The City maintains separate portfolios for individual funds that are managed according to the terms of this Policy. The investment strategy for portfolios established after the annual Investment Policy review and adoption will be managed to ensure that it will meet all the requirements established by the City's investment policy and the Public Funds Investment Act.

The City maintains a pooled fund group that is an aggregation of the majority of City funds including tax receipts, enterprise fund revenues, fine and fee revenues, as well as some, but not all, bond proceeds, and grants. This portfolio is maintained to meet anticipated daily cash needs for City operations, capital projects and debt service. In order to ensure the ability of the City to meet obligations and to minimize potential liquidation losses, the dollar-weighted average stated maturity of the investment portfolio shall not exceed one (1) year. The objectives of this portfolio are to ensure safety of principal; ensure adequate investment liquidity; limit market and credit risk through diversification; and attain the best feasible yield in accordance with the objectives and restrictions set for in this Policy.

XII. Reporting

Methods - As required by Government Code 2256.023, on a quarterly basis, the Investment Officer shall prepare and submit to the City Council, a written report of investment transactions that have occurred since the previous report and, the market value of current investments.

Performance Standards - The investment portfolio shall be managed in accordance with the objectives specified in this policy (safety, liquidity, diversification, and yield). The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. The investment officer shall determine whether market yields are being achieved by comparing the portfolio market yield to the three (3) month U.S. Treasury Bill, the six (6) month U.S. Treasury Bill and the two (2) year U.S. Treasury Note.

CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING MINUTES
August 14, 2020
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

I. OPEN MEETING

Council Present: Mayor Manitzas and Mayor Pro Tem Elizondo
Council Members: Hartpence, Havard, Koerner, Patel, and Maxton.

With a quorum present, Mayor Manitzas called the meeting to order at 2:00 PM.

II. CITIZENS and GUEST FORUM/PRESENTATIONS

There were no citizens to be heard.

III. CONSIDERATION/DISCUSSION ITEMS

A. Consideration and possible action approving an Ordinance calling the Special Election reauthorizing the levying of local sales and use tax for the maintenance and repair of municipal streets to be held on November 3, 2020.

MOTION: Made by Council Member Maxton, seconded by Council Member Koerner to approve the first reading of an Ordinance calling a Special Election reauthorizing the levying of local sales and use tax for the maintenance and repair of municipal streets.

VOTE: 7-0; Motion passed.

B. Consideration and possible action approving a Resolution ordering a General Election to be held November 3, 2020 for the election of Council Member Places 2 and 6.

The City Secretary read into the record a letter received from Citizen Jim Roff who requested that Council consider/discuss that the filing period be re-opened for the November election. City Attorney Dan Santee recommended against reopening candidate filing. He noted that the Secretary of State had already decided on this topic and issued an Election Division Advisory Opinion 2020-12 on March 18th which declared that the postponement of elections does not have the effect of reopening candidate filings.

MOTION: Made by Council Member Patel, seconded by Council Member Koerner to approve a Resolution ordering a General Election to be held November 3, 2020 for the election of Council Member Places 2 and 6.

VOTE: 7-0; Motion passed.

IV. ADJOURNMENT

Mayor Manitzas adjourned the meeting at 2:18 PM.

____
Garry Manitzas, Mayor

ATTEST:

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Christina Picioccio, City Secretary

CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING MINUTES
August 17, 2020
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

I. OPEN MEETING

Council Present: Mayor Manitzas and Mayor Pro Tem Elizondo
Council Members: Hartpence, Koerner, Patel, and Maxton.

Absent: Council Member Havard

With a quorum present, Mayor Manitzas called the meeting to order at 2:00 PM.

II. CITIZENS and GUEST FORUM/PRESENTATIONS

There were no citizens to be heard.

III. CONSENT AGENDA

A. Approval of the second reading of an Ordinance calling the Special Election reauthorizing the levying of local sales and use tax for the maintenance and repair of municipal streets to be held on November 3, 2020.

MOTION: Made by Council Member Patel, seconded by Council Member Koerner to approve the consent agenda.

VOTE: 6-0; Motion passed.

IV. ADJOURNMENT

Mayor Manitzas adjourned the meeting at 2:04 PM.

____
Garry Manitzas, Mayor

ATTEST:

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Christina Picioccio, City Secretary

CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING MINUTES
August 19, 2020
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

I. OPEN MEETING

Council Present: Mayor Manitzas and Mayor Pro Tem Elizondo
Council Members: Hartpence, Havard, Koerner, Patel, and Maxton.

With a quorum present, Mayor Manitzas called the meeting to order at 9:00 AM.

II. CITIZENS and GUEST FORUM/PRESENTATIONS

There were no citizens to be heard.

III. PURPOSE OF THE SPECIAL CALLED MEETING

A. Conduct a City Council and Staff FY 2020-21 Budget and Strategic Plan Workshop.

The City Manager and Finance Director provided a summary of the General and Enterprise Fund FY20/21 Strategic Action Plan inclusive of funded and unfunded projects. Additionally, they answered questions from Council.

IV. ADJOURNMENT

Mayor Manitzas adjourned the meeting at 10:28 AM.

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Garry Manitzas, Mayor

ATTEST:

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Christina Picioccio, City Secretary

CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING MINUTES
August 20, 2020
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

I. OPEN MEETING

Council Present: Mayor Manitzas and Mayor Pro Tem Elizondo
Council Members: Havard, Hartpence, Koerner, Patel, and Maxton.

With a quorum present, Mayor Manitzas called the meeting to order at 6:30 PM.

II. CITIZENS and GUEST FORUM/PRESENTATIONS

There were no citizens to be heard.

III. CONSENT AGENDA

A. Approval of the August 6, 2020 Regular City Council meeting minutes.

MOTION: Made by Council Member Koerner, seconded by Council Member Maxton to approve the consent agenda.

VOTE: 7-0; Motion passed.

IV. CONSIDERATION/DISCUSSION ITEMS

A. Consideration and possible action regarding the selection of new carriers for the City's Benefit Package currently offered to employees and their dependents.

MOTION: Made by Council Member Koerner, seconded by Council Member Hartpence to authorize the City Council to approve the recommendations from city staff and HUB International regarding the selection of United Healthcare to replace the City's existing Insurance Carrier and provide coverage for Medical, Dental, Vision, Basic Life, Voluntary Life, Short Term Disability and Long Term Disability.

VOTE: 7-0; Motion passed.

B. Consideration and possible action confirming the proposed maximum Fiscal Year 2020-21 ad valorem tax rate, and setting the date to hold the proposed Fiscal Year 2020-21 budget public hearing and 2020 tax rate public hearing as September 17, 2020 at 6:30 PM and setting the date to adopt said budget and tax rate on September 24, 2020.

MOTION: Made by Council Member Hartpence, seconded by Council Member Koerner to propose that the maximum total ad valorem tax rate Council will consider for Fiscal Year 2020-21 is 37.35 cents per $100 taxable value; and to hold the proposed Fiscal Year 2020-21 budget public hearing and 2020 tax rate public hearing on September 17, 2020 at 6:30 PM and to adopt said budget and tax rate on September 24, 2020.

VOTE: 7-0; Motion passed.

C. Consideration and possible action authorizing the job posting for an IT Specialist in lieu of an executive assistant.

MOTION: Made by Council Member Hartpence, seconded by Mayor Pro Tem Elizondo to authorize the job posting for an IT Specialist in lieu of an executive assistant position.

VOTE: 7-0; Motion passed.

D. Discussion of Code Compliance Strategic Business Plan.

The City's Code Compliance Officer provided to Council a presentation regarding the Code of Compliance Strategic Business Plan and led a discussion regarding its content.

V. REPORTS FROM STAFF/COMMITTEES/COUNCIL

A. None.

VI. CONVENE INTO EXECUTIVE SESSION

Pursuant to Section 551.101 of the Open Meetings Act, Texas Gov't Code, a quorum of the governing body convened into Executive Session at 8:14 PM regarding:

A. Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

5. To receive legal advice and to deliberate an offer of settlement for claims made on behalf of a real property owner against the City.

B. 551.074 (Personnel Matters)

1. To perform annual evaluations of the City Manager and the City Secretary.

Council Member Hartpence left the meeting at 9:06 PM.

City Council did not convene into Executive Session regarding:

A. Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

1. Claims made on behalf of a real property owner against the City's operation of the K-3 Trinity Glen Rose Water Well.
2. To receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.
3. To receive legal advice and to receive and deliberate an offer of settlement for claims made on behalf of a real property owner against the City's operation of well K-2.
4. Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs. Edward I. Hill, Robert E. Heckendorn, Craig M. Kuitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.

VII. RECONVENE INTO OPEN SESSION

The Mayor reconvened into open session at 10:28 PM.

A roll call reestablishing a quorum was taken:

Present: Mayor Manitzas and Mayor Pro Tem Elizondo
Council Members: Havard, Koerner, Patel and Maxton.

Absent: Council Member Hartpence.

No action was taken.

VIII. ADJOURNMENT

Mayor Manitzas adjourned the meeting at 10:30 PM.

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Garry Manitzas, Mayor

ATTEST:

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Christina Picioccio, City Secretary

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Consideration and possible action authorizing the City Manager to sign a Professional Services Agreement for Auditing Services with ABIP, P.C.
DATE:	September 3, 2020
PRESENTED BY:	Sarah Buckelew, CPA, Finance Director

INTRODUCTION/BACKGROUND:

Financial Integrity is a top priority in the City's strategic plan, which includes reliable and materially accurate financial statements. The City's Audit Committee met on August 12, 2020 to review the City's external auditor's proposed scope of work and fees. The Audit Committee approved the scope of work and fees, and recommends that the City engage with ABIP, P.C. for external financial statement audit services for the fiscal year ending 9/30/2020.

The City budget for 2019-20 audit services is $28,424, split between the General Fund and Enterprise Funds. Fees per the engagement letter are stated at $22,250.00 plus any out of pocket costs (such as report production, postage and travel). No budget adjustment is required for this engagement.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Obtaining an independent audit of the financial statements plays a vital role by helping to preserve the integrity of the finance functions and by maintaining citizens' confidence in their elected leaders.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

ABIP, P.C. has agreed to all terms of the City's Professional Service Agreement.

RECOMMENDATION/PROPOSED MOTION:

I move to authorize the City Manager to sign the Professional Services Agreement ("Engagement Letter") with ABIP, P.C. for the FY 2019-2020 audit at a cost of $22,250.00 plus out of pocket expenses.

CITY OF FAIR OAKS RANCH
STANDARD PROFESSIONAL SERVICES AGREEMENT

THE STATE OF TEXAS §
§
BEXAR COUNTY §

This Professional Services Agreement ("Agreement") is made and entered by and between the City of Fair Oaks Ranch, Texas, (the "City") a Texas municipality, and ABIP Advisors, LLC ("Professional").

Section 1. Duration. This Agreement shall become effective upon execution by the City and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

Section 2. Scope of Work.

(A) Professional shall perform the Services as more particularly described in the Scope of Work attached hereto as Exhibit "A". The work as described in the Scope of Work constitutes the "Project". Unless otherwise provided in the Scope of Work, the anticipated submittal of all Project deliverables is immediately upon completion of the Project.

(B) The Quality of Services provided under this Agreement shall be performed with the professional skill and care ordinarily provided by competent Professionals practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent Professional holding the same professional license.

(C) The Professional shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.

(D) The Professional may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

Section 3. Compensation.

(A) The Professional shall be paid in the manner as provided herein.

(B) *Billing Period:* The Professional may submit monthly, or less frequently, an invoice for payment based on the estimated completion of the described tasks and approved work schedule. Subject to Chapter 2251, Texas Government Code (the "Prompt Payment Act"), payment is due within thirty (30) days of the City's receipt of the Professional's invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.

(C) *Reimbursable Expenses*: Any and all reimbursable expenses related to the Project shall be included in the scope of services (Exhibit A). If these items are not specifically accounted for in Exhibit A they shall be considered subsidiary to the total contract amount.

Section 4. Changes to the Project Work; Additional Work.

(A) *Changes to Work:* Professional shall make such revisions to any work that has been completed as are necessary to correct any errors or omissions as may appear in such work. If the City finds it necessary to make changes to previously satisfactorily completed work or parts thereof, the Professional shall make such revisions if requested and as directed by the City and such services will be considered as additional work and paid for as specified under following paragraph.

(B) *Additional Work:* The City retains the right to make changes to the Scope of Work at any time by a written order. Work that is clearly not within the general description of the Scope of Work and does not otherwise constitute special services under this Agreement must be approved in writing by the City by supplemental agreement before the additional work is undertaken by the Professional. If the Professional is of the opinion that any work is beyond that contemplated in this Agreement and the Scope of Work governing the project and therefore constitutes additional work, the Professional shall promptly notify the City of that opinion, in writing. If the City agrees that such work does constitute additional work, then the City and the Professional shall execute a supplemental agreement for the additional work and the City shall compensate the Professional for the additional work on the basis of the rates contained in the Scope of Work. If the changes deduct from the extent of the Scope of Work, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement. Any work undertaken by Professional not previously approved as additional work shall be at risk of the Professional.

Section 5. Time of Completion.

The prompt completion of the services under the Scope of Work is critical to the City. Unnecessary delays in providing services under a Scope of Work shall be grounds for dismissal of the Professional and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Professional prior to the time of termination. The Scope of Work shall provide, in either calendar days or by providing a final date, a time of completion prior to which the Professional shall have completed all tasks and services described in the Scope of Work.

Section 6. Insurance.

Before commencing work under this Agreement, Professional shall obtain and maintain the liability insurance provided for in attached Exhibit B throughout the term of this Agreement and thereafter as required herein.

In addition to the insurance provided for in Exhibit B, Professional shall maintain the following limits and types of insurance:

Professional Liability Insurance: professional errors and omissions liability insurance with limits of liability not less than $1,000,000 per occurrence covering all work performed by the Professional, its employees, sub-contractors, or independent contractors. If this coverage can only be obtained on a "claims made" basis, the certificate of insurance must clearly state coverage is on a "claims made" basis and coverage must remain in effect for at least two years after final payment with the Professional continuing to furnish the City certificates of insurance.

Workers Compensation Insurance: The Professional shall carry and maintain during the term of this Agreement, workers compensation and employers liability insurance meeting the requirements of the State of Texas on all the Professional's employees carrying out the work involved in this contract.

General Liability Insurance: The Professional shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than $1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than $1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be $2,000,000. This coverage shall protect the public or any person from injury or property damages sustained by reason of the Professional or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than $2,000,000.

Automobile Liability Insurance: Professional shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least $1,000,000 per occurrence for bodily injury and property damage or split limits of at least $1,000,000 for bodily injury per person per occurrence and $1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Professional or its employees.

Subcontractor: In the case of any work sublet, the Professional shall require subcontractor and independent contractors working under the direction of either the Professional or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Professional.

Qualifying Insurance: The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a “per occurrence basis” and not a “claims made” form.

Evidence of such insurance shall be attached as Exhibit “B”.

Section 7. Miscellaneous Provisions.

(A) *Subletting.* The Professional shall not sublet or transfer any portion of the work under this Agreement or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Professional of any responsibility for work done by such subcontractor.

(B) *Ownership of Documents.* Upon completion or termination of this Agreement, all documents prepared by the Professional or furnished to the Professional by the City shall be delivered to and become the property of the City. All drawings, charts, calculations, plans, specifications and other data, including electronic files and raw data, prepared under or pursuant to this Agreement shall be made available, upon request, to the City without restriction or limitation on the further use of such materials PROVIDED, HOWEVER, THAT SUCH MATERIALS ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY THE CITY OR OTHERS. ANY REUSE WITHOUT PRIOR VERIFICATION OR ADAPTATION BY THE PROFESSIONAL FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE CITY'S SOLE RISK AND WITHOUT LIABILITY TO THE PROFESSIONAL. Where applicable, Professional shall retain all pre-existing proprietary rights in the materials provided to the City but shall grant to the City a non-exclusive, perpetual, royalty-free license to use such proprietary information solely for the purposes for which the information was provided. The Professional may, at Professional's expense, have copies made of the documents or any other data furnished to the City under or pursuant to this Agreement.

(C) *Professional's Seal.* To the extent that the Professional has a professional seal it shall placed on all documents and data furnished by the Professional to the City. All work and services provided under this Agreement will be performed in a good and workmanlike fashion and shall conform to the accepted standards and practices of the Professional's industry. The plans, specifications and data provided by Professional shall be adequate and sufficient to enable those performing the actual work to perform the work as and within the time contemplated by the City and Professional. The City acknowledges that Professional has no control over the methods or means of work nor the costs of labor, materials or equipment. Unless otherwise agreed in writing, any estimates of costs by the Professional are for informational purposes only and are not guarantees.

(D) *Compliance with Laws.* The Professional shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Professional shall furnish the City with satisfactory proof of compliance.

(E) *Independent Contractor.* Professional acknowledges that Professional is an independent contractor of the City and is not an employee, agent, official or representative of the City. Professional shall not represent, either expressly or through implication, that Professional is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Professional.

(F) *Non-Collusion.* Professional represents and warrants that Professional has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Professional further agrees that Professional shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the services performed by Professional under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Professional, Professional shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Professional under or pursuant to this Agreement.

(G) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

(H) In the case of any conflicts between the terms of this Agreement and wording contained within the Scope of Services, this Agreement shall govern. The Scope of Services is intended to detail the technical scope of services, fee schedule, and contract time only and shall not dictate Agreement terms.

Section 8. Termination.

(A) This Agreement may be terminated:

(1) By the mutual agreement and consent of both Professional and City;

(2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;

(3) By the City, immediately upon notice in writing to the Professional, as consequence of the failure of Professional to perform the services contemplated by this Agreement in a timely or satisfactory manner;

(4) By the City, at will and without cause upon not less than thirty (30) days written notice to the Professional.

(B) If the City terminates this Agreement pursuant to Section 5 or subsection 8(A)(2) or (3), above, the Professional shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those services that have been timely and adequately performed by the Professional considering the actual costs incurred by the Professional in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Professional to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed at time of termination. In the event of termination that is not the fault of the Professional, the Professional shall be compensated for all basic, special, and additional services actually performed prior to termination, together with any reimbursable expenses then due.

Section 9. Indemnification. Professional shall indemnify, defend and hold harmless the City of Fair Oaks Ranch, Texas and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including reasonable attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of Services contemplated by this Agreement but only to the extent caused by the negligent acts, errors or omissions, intentional torts, intellectual property infringement, or a failure to pay a sub-contractor or supplier committed by Professional or Professional's agent, consultant under contract, or another entity over which Professional exercises control (whether active or passive) of Professional or its employees, agents or sub-contractors (collectively referred to as "Professional") (ii) the failure of Professional to comply with any of the paragraphs herein or the failure of Professional to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Agreement. Professional expressly agrees to indemnify and hold harmless the Indemnitees, or any one of them, from and against all liabilities which may be asserted by an employee or former employee of Professional, or any of its sub-contractors, as provided above, for which Professional's liability to such employee or former employee would otherwise be limited to payments under State Workers' Compensation or similar laws. Nothing herein shall require Professional to indemnify, defend, or hold harmless any Indemnitee for the Indemnitee's own negligence or willful misconduct. Any and all indemnity provided for in this Agreement shall survive the expiration of this Agreement and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Agreement but thereafter so long as any liability could be asserted in regard to any acts or omissions of Professional in performing Services under this Agreement.

For Professional Liability Claims, Professional shall be liable for reasonable defense costs incurred by Indemnitees but only after final adjudication and to the extent and percent that Professional or Professional's agents are found negligent or otherwise at fault. As used in this Agreement, final adjudication includes any negotiated settlement and release of claims, without limitation as to when a negotiated settlement and release of claims occurs.

Section 10. Notices. Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of

America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

Section 11. No Assignment. Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

Section 12. Severability. If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

Section 13. Waiver. Either City or the Professional shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

Section 14. Governing Law; Venue. This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Bexar County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Bexar County, Texas.

Section 15. Paragraph Headings; Construction. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

Section 16. Binding Effect. Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

Section 17. Gender. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

Section 18. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 19. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 20. Entire Agreement. It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

Section 21. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

Section 22. Right To Audit. City shall have the right to examine and audit the books and records of Professional with regards to the work described in Exhibit A, or any subsequent changes, at any reasonable time. Such books and records will be maintained in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

23. Dispute Resolution. In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

24. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire. Professional represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

25. Boycott Israel. The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company; (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract. (Texas government code chapter 2270) by entering this agreement, Professional verifies that it does not Boycott Israel, and agrees that during the term of the agreement will not Boycott Israel as that term is defined in the Texas Government Code Section 808.001, as amended.

EXECUTED, by the City on this the ______ day of ________________, 2020.

CITY:

By:___________________________

Name: Tobin Maples

Title: City Manager

PROFESSIONAL:

By:___________________________

Name: Michael Del Toro

Title: Partner

ADDRESS FOR NOTICE:

CITY

City of Fair Oaks Ranch
Attn: City Secretary
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

PROFESSIONAL

ABIP Advisors, LLC
Attn: Michael Del Toro
7330 San Pedro Ave, Suite 901
San Antonio, TX 78216

EXHIBIT A
SCOPE OF SERVICES

abip

CPAs | ADVISORS

August 12, 2020

To the City Council and Mayor
City of Fair Oaks Ranch, Texas
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas 78015

We are pleased to confirm our understanding of the services we are to provide the City of Fair Oaks Ranch, Texas (the City) for the year ended September 30, 2020. We will audit the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the City as of and for the year ended September 30, 2020. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1) Management's Discussion and Analysis
2) Budgetary Comparison Schedules
3) Schedule of Changes – Net Pension Liability and Related Ratios
4) Schedule of Contributions - Pension
5) Schedule of Changes – OPEB Liability and Related Ratios
6) Schedule of Contributions - OPEB

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

1) Nonmajor Fund Combining Statements
2) Budgetary Comparison Schedule – Debt Service Fund

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information:

1) Introductory Section
2) Statistical Section

Audit Objective

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records of the City and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of the City's financial statements. Our report will be addressed to the city council and management of the City. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Other Services

We will also assist in preparing the financial statements and related notes of the City in conformity with U.S. generally accepted accounting principles based on information provided by you. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for designing, implementing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, including identification of all related parties and all related party relationships and transactions (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws and regulations.

With regard to including the auditor's report in an exempt offering document, you agree that the aforementioned auditor's report, or reference to ABIP, PC, will not be included in any such offering document without our prior permission or consent. Any agreement to perform work in connection with an exempt offering document, including an agreement to provide permission or consent, will be a separate engagement.

With regard to an exempt offering document with which ABIP, PC, is not involved, you agree to clearly indicate in the exempt offering document that ABIP, PC, is not involved with the contents of such offering document

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon.

Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You agree to assume all management responsibilities for financial statement preparation services and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

The audit documentation for this engagement is the property of ABIP, PC and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the State of Texas or its designee. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of ABIP, PC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

We expect to begin our audit in August 2020 and expect to deliver a report draft to the City for review by December 18, 2020. We will present a final report to city council at a February 2021 meeting. Michael Del Toro is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Our fee for these services will be at our standard hourly rates. We estimate that our fees for these services will be $22,250, plus any out-of-pocket costs (such as report production, postage, and travel). Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination.

The above fee is based on an expected level of control risk, anticipated cooperation, and preparation of requested items from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

If there are delays in items we request or if the preparation of our initial requests are not available at the agreed upon start date of the audit it could result in not meeting expected delivery dates and rescheduling fees up to $4,000. To avoid rescheduling fees or delays in completion of the audit, we ask that you notify us of any delays in any of our initial requested items at least one week prior to the agreed upon start date to determine if a new start date is necessary. Scheduling for the audit fieldwork dates are as follows:

Interim procedures visit: August 24, 2020 to August 28, 2020
Year-end field visit: October 26, 2020 to November 6, 2020

We appreciate the opportunity to be of service to the City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,
ABIP, PC

ABIP, PC

San Antonio, Texas

RESPONSE:

This letter correctly sets forth the understanding of the City of Fair Oaks Ranch, Texas.

By: ______________________________

Title: ______________________________

EXHIBIT B
EVIDENCE OF INSURANCE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 08/17/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATIONIS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
FROST INSURANCE AGENCY INC/PHS
65812422
The Hartford Business Service Center
3600 Wiseman Blvd
San Antonio, TX 78251

CONTACT NAME:
PHONE (A/C, No, Ext): (866) 467-8730 **FAX (A/C, No):** (888) 443-6112
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC#
INSURER A :	Twin City Fire Insurance Company	29459
INSURER B :	Property and Casualty Insurance Company of Hartford	34690
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

INSURED
ABIP, PC ABIP-SA, PC
1717 SAINT JAMES PL STE 500
HOUSTON TX 77056-3404

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED.NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/Y YYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR [X] General Liability GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / [X] LOC OTHER:	X	X	65 SBA AB5593	06/25/2020	06/25/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $1,000,000 $10,000 $1,000,000 $2,000,000 $2,000,000
A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS [X] HIRED AUTOS / [X] NON-OWNED AUTOS	X		65 SBA AB5593	06/25/2020	06/25/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
A	[X] UMBRELLA LIAB [X] OCCUR EXCESS LIAB CLAIMS-MADE DED [X] RETENTION $ 10,000	X	X	65 SBA AB5593	06/25/2020	06/25/2021	EACH OCCURRENCE AGGREGATE	$2,000,000 $2,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/ A		65 WBC AG4TAC	06/06/2020	06/06/2021	[X] PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE -EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $1,000,000 $1,000,000 $1,000,000
A	EMPLOYMENT PRACTICES LIABILITY			65 SBA AB5593	06/25/2020	06/25/2021	Each Claim Limit Aggregate Limit	$10,000 $10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES **(ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

Those usual to the Insured's Operations. Certificate holder is an additional insured per the Business Liability Coverage Form SS0008 attached to this policy.Waiver of Subrogation applies in favor of the Certificate Holder per the Business Liability Coverage Form SS0008, attached to this policy.

CERTIFICATE HOLDER
City of Fair Oaks Ranch
7286 DIETZ ELKHORN RD
Fair Oaks Ranch TX 78015-4707

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Susan L. Castaneda

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Consideration and possible action to approve the proposed Fiscal Year 2020-21 Municipal Development District (MDD) Budget.
DATE:	September 3, 2020
PRESENTED BY:	Al McDavid, MDD President

INTRODUCTION/BACKGROUND:

MDD By-Laws (Article IV, Section 1) require MDD Board of Directors budget approval by 15 July each fiscal year and City Council budget approval on or before the Council's last September meeting each fiscal year. The MDD board approved the FY 2020-21 budget on July 15, 2020. That budget is submitted today for City Council approval.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

The Fiscal Year 2020-21 MDD Budget provides MDD expected revenues and proposed expenditures for the upcoming fiscal year and is available to all citizens. On 19 August 2020 the MDD board approved an action which authorizes MDD contract negotiation with the City for the City's Civic Center grant request, subject to MDD board final approval. We do not anticipate any change to the FY 2020-21 budget except the possible earmarking of MDD Project Funds upon successful contract negotiations. The MDD Project Fund has been building and steadily growing since inception in 2011.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

Clarity and open record of MDD anticipated revenues and all projected expenditures for upcoming Fiscal Year 2020-21. All MDD funds are invested in accordance with the Texas Public Funds Investment Act.

LEGAL ANALYSIS:

The Civic Center proposed project is an authorized project pursuant to Local Government Code Chapter 377.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the FY 2020-21 MDD Budget as presented.

FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT
Proposed Budget
FY 2020-21

REVENUES		FY 2018-19 ACTUAL	FY 2019-20 BUDGET	FY 2019-20 PROJECTED	FY 2020-21 PROPOSED BUDGET
REVENUES					
20-400-121	Local Sales Tax	$ 236,151	$ 229,000	$ 272,000	$ 190,400
20-400-310	Bank/Investment Interest	$ 20,919	$ 20,000	$ 10,500	$ 10,000
20-400-900	Miscellaneous Revenue	$ -	$ -	$ -	$ -
TOTAL REVENUES		$ 257,070	$ 249,000	$ 282,500	$ 200,400

EXPENDITURES		FY 2018-19 ACTUAL	FY 2019-20 BUDGET	FY 2019-20 PROJECTED	FY 2020-21 PROPOSED BUDGET
ADMINISTRATION					
20-501-300	Supplies	$ -	$ 250	$ -	$ 250
20-501-305	Minor Equipment	$ -	$ -	$ -	$ -
20-501-307	Postage	$ -	$ -	$ -	$ -
20-501-315	Training/Seminars	$ -	$ 500	$ -	$ 500
20-501-323	Telephone	$ -	$ -	$ -	$ -
20-501-390	Miscellaneous	$ 78	$ 100	$ 100	$ 100
TOTAL ADMINISTRATION		$ 78	$ 850	$ 100	$ 850
CONTRACTUAL SERVICES					
20-501-500	Attorney fees	$ 1,651	$ 9,300	$ 2,500	$ 9,300
20-501-501	Auditor Fees	$ 4,300	$ 5,000	$ 3,800	$ 5,000
20-501-502	Professional Services	$ 26,750	$ 33,450	$ 33,450	$ 33,450
20-501-510	Insurance	$ 33	$ 50	$ 50	$ 50
TOTAL CONTRACTUAL SERVICES		$ 32,735	$ 47,800	$ 39,800	$ 47,800

TRANSFERS OUT		FY 2018-19 ACTUAL	FY 2019-20 BUDGET	FY 2019-20 PROJECTED	FY 2020-21 PROPOSED BUDGET
20-501-981	Transfer to Assigned Fund Balance	$ 224,257	$ 200,350	$ 242,600	$ 151,750
TOTAL TRANSFERS OUT		$ 224,257	$ 200,350	$ 242,600	$ 151,750
TOTAL EXPENDITURES		$ 257,070	$ 249,000	$ 282,500	$ 200,400
REVENUE OVER EXPENSES		**$ -**	**$ -**	**$ -**	**$ -**

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Consideration and possible action authorizing the City Manager to sign an Interlocal Agreement with Bexar County to facilitate the procurement of goods and services
DATE:	September 3, 2020
PRESENTED BY:	Clayton Hoelscher, Procurement Manager

INTRODUCTION/BACKGROUND:

Section 271.102 of the Texas Local Government Code allows for local governments to participate in cooperative purchasing programs with other local governments of the State. Both Bexar County and the City of Fair Oaks Ranch routinely procure common goods and services and have agreed that economies of scale can be gained through a cooperative purchasing agreement. Entering into this agreement will allow the Awarding Party to allow the other "Riding" Party to cooperatively purchase from existing contracts. This will allow for the City to utilize Bexar County contracts when it is in the best interest of the City to do so.

By entering into this Agreement, neither the City nor Bexar County are obligated to utilize this agreement to purchase goods or services. Vendors that are awarded contracts will not be obligated to extend pricing and terms to the Riding Party. If a vendor under contract with Bexar County agrees to extend the pricing and terms to the City, the City would execute an agreement directly with the vendor. Utilizing a cooperative agreement also fulfills any state law requiring competitive bids.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Entering into this Agreement will allow the City to potentially see savings in both cost and time associated with procuring items.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

There is no cost associated with entering into this Interlocal Agreement.

LEGAL ANALYSIS:

The agreement has been reviewed by the City Attorney.

RECOMMENDATION/PROPOSED MOTION:

I move to authorize the City Manager to sign the Interlocal Agreement for Purchasing Services with Bexar County.

STATE OF TEXAS § **INTERLOCAL AGREEMENT FOR**
COUNTY OF BEXAR § **PURCHASING SERVICES**

This Interlocal Agreement (the "ILA" or "Agreement") is entered into between Bexar County, a political subdivision of the State of Texas (the "County") and the City of Fair Oaks Ranch, a Home Rule City (the "City") (individually, a "Party" or collectively, the "Parties"), to facilitate the procurement of goods and services. This Agreement is made and entered into by the Parties pursuant to the authority granted under the Interlocal Cooperation Act, Texas Gov't Code 791 *et. seq.*

ARTICLE I
PURPOSE

1.01 The purpose of this ILA is to set forth an agreement between the parties regarding: 1) the provision of purchasing services by the County to the City, and 2) the City's participation, pursuant to Local Government Code Section 271.102, in a cooperative purchasing program wherein a party is allowed to ride a contract with a participating vendor.

ARTICLE II
DESIGNATION OF REPRESENTATIVES

2.01 County appoints the County Purchasing Agent or Interim Purchasing Agent as its designated representative and primary point of contact with regard to this Agreement.

2.02 City appoints the City Procurement Manager or City Manager as its designated representative and primary point of contact with regard to this Agreement.

ARTICLE III
TERM

3.01 This ILA shall commence upon execution by the last signatory and shall continue for an initial term of one year. The ILA shall automatically renew for four additional one-year terms.

3.02 This ILA may be terminated upon thirty days written notice by either party. Any fees due for services prior to the termination of this ILA shall be paid pursuant to the ILA.

ARTICLE IV
PURCHASING SERVICES

County's Responsibilities

4.01 When requested by the City, and subject to the terms herein, County's Purchasing Department shall provide the following services ("Purchasing Services") to the City for purchases of goods and services above $5,000.00:

a. Provide to City the County’s purchasing policies and any forms or documents that the County requires the City to use. Provide written procedures for the City to use for requesting the County’s Purchasing Services.

b. Accept or reject the forms and documents provided by the City that identify the goods or services needed by the City.

c. Conduct the procurement in a timely manner and in accordance with County purchasing policies and state procurement statutes;

d. Specify in the procurement documents that goods and services procured shall be delivered directly to the City.

e. Notify the City of the results of each procurement and provide all documentation of the procurement so that the City can evaluate the bids or other responses, place an item on the City Council’s agenda for action related to the applicable procurement done by the County on behalf of City and award the contract.

f. Act at the direction of the City regarding rejected items.

Purchasing Services <u>do not</u> include professional and consulting services pursuant to Texas Government Code Chapter 2254.

4.02 No other County department has any duties or responsibilities regarding this ILA.

4.03 County is not responsible for payment to any vendor for items procured pursuant to this Agreement.

4.04 County is not responsible for any claims of statutory violations related to its procurement services.

4.05 County will provide the Purchasing Services according to County procurement policies and statutory requirements.

4.06 County will not draft nor execute contracts, awards, or any other document that binds the City or the County for purposes of procuring goods or services on behalf of the City.

<u>City’s Responsibilities</u>

4.08 City shall:

a. Utilize the forms, documents, policies and procedures provided by the County to identify the goods and services the City wants to procure; identify applicable quantities, specifications, scopes of work, if appropriate; and the deadlines by which the goods and services are needed.

b. Place agenda items on the City Council’s agenda for approval or rejection, when required pursuant to City’s bylaws.

c. Award the contract, if applicable, drafting and executing all necessary documents to complete the purchase.

d. Notify the County’s designated representative, or designee, within 72 hours of the action taken by City Council.

e. Take further action—including informing the County if the City accepts or rejects the award—to enable the County to cancel or re-issue the applicable procurement.
f. Adhere to the County's purchasing policies and procedures and statutory requirements.
g. Take delivery, inventory, tag and record all goods procured by the County on the City's behalf.
h. Have all vendors invoice the City. City shall pay vendor for all goods and services procured pursuant to this Agreement.

4.9 City is responsible for any claims that the statutory purchasing requirements were violated.

ARTICLE V
COOPERATIVE PURCHASING

5.01 Definitions. The following terms used in this section, Cooperative Purchasing, shall, unless stated otherwise, have the meaning set forth below:

a. "Awarding Party" means the party that awarded a contract for goods and/or services to a vendor after a solicitation process required or permitted by state law and the charter, ordinances, or policies of that party.
b. "Purchase Contract" means a contract for goods and/or services awarded to a vendor by the Awarding Party.
c. "Riding Party" means the Party wishing to utilize a Purchase Contract procured by the Awarding Party.
d. "Vendor" means the entity providing goods or services under a Purchase Contract.

5.02 Each party routinely procures goods and services using solicitation methods required or permitted by state law, and the charter, ordinances, orders and policies of that party. Each party may, from time to time, as it deems appropriate, include a provision in its solicitations and contracts allowing the other party to cooperatively purchase from its Purchase Contracts, subject to the consent of the Vendor who is awarded the Purchase Contract. If the Vendor consents to extend its pricing and terms, the Awarding Party shall make all Purchase Contract documents available to the Riding Party.

5.03 A Riding Party shall administer its own contract with the Vendor as it relates to its own purchases, including, but not limited to, issuing purchase orders to, take shipments of goods from, and making payment directly to the Vendor.

5.04 Each party shall be responsible for the Vendor's compliance with the terms and conditions of the Purchase Contract only as it relates to that party's own purchases.

5.05 Any arrangement, contractual or otherwise, between a Vendor and Riding Party, shall not bind or obligate the Awarding Party. Awarding Party shall not be a party to the contract between Riding Party and Vendor, nor shall Riding Party be a party to the Purchase Contract between the Awarding Party and the Vendor. Use of the Purchase Contract shall not make Awarding Party a party to the contract between Riding Party and Vendor. Awarding Party shall have no obligation for payment to a Vendor for any goods or services purchased by Riding Party. Awarding Party shall have no responsibilities for goods or services provided, or to be provided, by a Vendor.

5.06 In no event shall Awarding Party be considered a dealer, remarketer, agent or other representative of a Vendor or the other party.

5.07 The $5,000.00 minimum amount for Purchasing Services discussed in Article IV does not apply to Cooperative Purchasing under Article V.

ARTICLE VI
INVOICING

6.01 Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party. The payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract.

6.02 All invoices shall be paid pursuant to the Texas Prompt Payment Act.

ARTICLE VII
INDEPENDENT CONTRACTOR STATUS AND SUBCONTRACTORS

7.01 In performing under this Agreement, the parties act as an independent contractor, and no provision of this Agreement will be construed as making one party the agent, servant, or employee of the other.

ARTICLE VIII
NOTICES AND ADDRESSES

8.01 All notices required to be given under this Agreement shall be in writing and shall either be personally served, documented with written receipt, or give by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the property party at the address which appears below, or at such other address as the Parties may designate in accordance with this provision. All notices given by mail shall be considered to have been given at the time of the deposit in the United States mail and shall be effective from such date.

If to County: Bexar County Judge
101 W. Nueva Street
Paul Elizondo Tower, Suite 1000
San Antonio, Texas 78207

With a copy to: Bexar County Purchasing Agent
1103 South Frio
San Antonio, Texas 78207

If to City: Mayor
City of Fair Oaks Ranch
7268 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

With a copy to: Tobin E. Maples, AICP
City Manager
tmaples@fairoaksranchtx.org

ARTICLE IX
<u>LAW GOVERNING</u>

9.01 This Agreement and all claims, disputes, or other matters in controversy between City and County will be governed by, and construed in accordance with, the substantive and procedural laws of the State of Texas, and exclusive venue for any proceeding shall be in Bexar County, Texas.

ARTICLE X
<u>SEVERABILITY</u>

10.01 If any provision of this Agreement is held invalid, illegal, or unenforceable, the remainder of the Agreement shall remain valid and enforceable and shall be construed to conform to the intent of the parties.

ARTICLE XI
<u>AMENDMENT</u>

11.01 No amendment, modification, or alteration of the terms of this Agreement will be binding unless same is in writing, dated subsequent to the date of this Agreement, and is duly executed by County and City.

ARTICLE XII
<u>ASSIGNMENT</u>

12.01 Neither party may assign, or otherwise transfer, any of its rights, duties and/or obligations arising out of this Agreement without the prior written consent of the other party.

ARTICLE XIII
<u>FORCE MAJEURE</u>

13.01 Neither party will be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which includes acts of God, strikes, lockouts, material or labor restrictions, civil riot, floods, and any other catastrophic event not reasonably within the control of such party and which by the exercise of due diligence by the party is unable, wholly or in part, to prevent or overcome.

ARTICLE XIV
NO WAIVER OF BREACH

14.01 The failure of a party to insist upon or enforce strict performance of any of the provisions of this Agreement, or to exercise any rights or remedies under this Agreement, will not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provisions, rights or remedies in that or any other instance; rather, the same will remain in full force and effect.

EXECUTED IN DUPLICATE ORIGINALS THIS ____ DAY OF _______________, 2020.

COUNTY OF BEXAR	**CITY OF FAIR OAKS RANCH**
By: _________________________________	By: _________________________________
NELSON W. WOLFF County Judge	GARRY MANITZAS Mayor
Date: ________________________________	Date: ________________________________

SIGNATURE PAGE

APPROVED AS TO LEGAL FORM:	**APPROVED:**
______________________________	______________________________
SUE JANA Assistant Criminal District Attorney Civil Division	Name: __________________________ Title: __________________________

APPROVED AS TO FINANCIAL CONTENT:

____
LEO S. CALDERA, CIA, CGAP
County Auditor

____
DAVID SMITH
County Manager

APPROVED AS TO PURCHASING CONTENT:

____
PATRICIA TORRES, CTP
Purchasing Agent

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Consideration and possible action approving the First Reading of an Ordinance amending the Code of Ordinances, Chapter 1, Article 1.07, Division 2 Oak Wilt Control
DATE:	September 3, 2020
DEPARTMENT:	Public Works
PRESENTED BY:	Melissa Castro, Environmental Compliance Manager

INTRODUCTION/BACKGROUND:

On August 6, 2020, City Council held a discussion and provided guidance to city staff for the development of an ordinance relative to tree maintenance and oak wilt control. Based on said discussion, the Public Works Department strived to accomplish the following: include preventative measures as recommended by the Texas A&M Forest Service, such as implementing a designated time frame for oak tree maintenance and immediate painting of cuts and wounds; broaden contractor registration to educate and manage all those engaging in the business of tree maintenance; implement an oak wilt treatment notification process to keep up-to-date and accurate information on verified cases; prohibit new plantings of tree species that are highly susceptible to oak wilt; and promote landscape diversity throughout the City.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

The City seeks to control the spread of oak wilt and to educate residents on preventative measures and best management practices.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

Legal review completed on August 22, 2020.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the First Reading of an Ordinance amending the Code of Ordinances, Chapter 1, Article 1.07, Division 2 relative to tree maintenance and oak wilt control.

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH AMENDING THE CODE OF ORDINANCES, CHAPTER 1 GENERAL PROVISIONS, ARTICLE 1.07 TREES AND SHRUBS, DIVISION 2 OAK WILT CONTROL; PROVIDING FOR SEVERABILITY AND REPEAL CLAUSES; PROVIDING FOR A CIVIL PENALTY NOT EXCEEDING $200; AND PROVIDING FOR AN EFFECTIVE DATE OF NOVEMBER 1, 2020.

WHEREAS, the City Council desires to protect the trees of the City and control the spread of oak wilt; and

WHEREAS, the City Council desires to preserve the natural beauty of the City; and

WHEREAS, the City Council hereby finds and deems it necessary to amend Chapter 1, Article 1.07, Division 2 of the Code of Ordinances to provide provisions relative to tree maintenance and oak wilt control.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

PART 1. Chapter 1 "General Provisions" Article 1.07 "Trees and Shrubs" Division 2 "Oak Wilt Control" is hereby amended as set forth in the attached Exhibit "A".

PART 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

PART 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance and the remainder of this Ordinance shall be enforced as written.

PART 4. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

PART 5. A penalty provision section is established in section 1.07.039 of the attached Exhibit "A."

PART 6. This Ordinance shall take effect on November 1, 2020 and after passage and publication as may be required by governing law.

PART 7. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this Ordinance.

PART 8**.** The provisions of this Ordinance shall be cumulative of all ordinances not repealed by this Ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED and APPROVED on first reading this the 3rd day of September, 2020.

PASSED, APPROVED and ADOPTED on second reading this the 17th day of September, 2020.

Garry Manitzas, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney

Exhibit A

Chapter 1 "General Provisions" Article 1.07 "Trees and Shrubs" Division 2 "Oak Wilt Control" is hereby amended as follows:

DELETE:

~~Division 2. Oak Wilt Control~~

~~Sec. 1.07.031 Purpose~~

~~The city council must act to impose certain restrictions and to educate the community in preventing and controlling the spread of the oak wilt infection in oak trees.~~

~~Sec. 1.07.032 Penalty~~

~~Any person, firm, corporation, utility or business entity that violates the provisions of this division shall, upon conviction, be fined as provided in section 1.01.009 of this chapter for each day of violation.~~

~~Sec. 1.07.033 Investigation; treatment; preventive measures~~

~~(a) The city has taken the lead in investigation and infestation treatment procedures. Any suspected infestation of oak wilt shall be reported immediately to the city. The city will initiate investigation procedures through state agencies and private contractors.~~

~~(b) Immediate treatment is essential should oak wilt infestation be diagnosed. The city will assist property owners and will administratively process treatment requests through appropriate state agencies for possible monetary assistance.~~

~~(c) The most effective preventive measure that can be taken is to immediately treat any cuts or wounds (including pruning) to any oak tree with an appropriate wound paint. This shall be done within thirty minutes to minimize contact with nitidulid beetles.~~

~~(d) Tree pruning should be accomplished during winter or summer months. As a rule of thumb, pruning should be avoided mid-February through mid-June. However, the variability of south Texas weather makes the predictability of the beetle presence very uncertain. Therefore, it is essential that wounds be painted at any time pruning occurs or a wound is observed.~~

~~(e) Notification of this division and its provisions will be provided by the city to all who seek building permits as well as developers, utility companies and business entities in the city.~~

~~(f) It is the responsibility of property owners to inform landscape contractors, tree services and yard maintenance crews of the provisions of this division.~~

~~(g) It is recommended that only seasoned firewood, aged approximately one year since cutting, be purchased for use in the city. Also, it is suggested that existing firewood be utilized within one year.~~

(h) ~~If a red oak tree is diagnosed with oak wilt, the property owner shall remove the infected tree immediately from the property and properly dispose of the tree.~~

(i) ~~Because the red oak tree is a continuing conduit for spread of oak wilt even after death, no person shall plant new red oak trees on their property within the city without obtaining certification from the tree seller that the tree is disease-free.~~

ADD:

Division 2. Tree Maintenance

Sec. 1.07.031 Purpose

(a) Protect the trees of Fair Oaks Ranch and control the spread of oak wilt; and

(c) Preserve the natural beauty of Fair Oaks Ranch.

Sec. 1.07.032 Definitions

For the purposes of this Ordinance, the following definitions shall apply unless the context of their usage clearly indicates otherwise:

Oak wilt. A vascular wilt disease of oak trees caused by a fungus, Bretziella fagacearum, which invades the water-conducting tissues of roots, trunks, and limbs; and as further defined by the Texas A&M Forest Service.

Oak wilt center. A site where the oak wilt fungus is spreading through the roots of diseased trees to infect healthy oaks, creating an area of sick, dead and dying oaks.

Tree. A self-supporting woody perennial plant, excluding a bush or shrub.

Sec. 1.07.033 Preventative Measures for Oak Wilt

(a) Maintenance of oak trees on private property, including, but not limited to, cutting, trimming, pruning and removal, shall be limited to a designated time frame of July 1st through January 31st when fungal spore formation and nitidulid beetle activity are lowest. The only exceptions for maintaining oak trees outside the designated time frame is for clearing branches posing a danger to life or property; purposes of residential or commercial development; and maintenance performed by utility, phone, and cable services. In the event of an exception, all preventative measures required in this subsection must be applied.

(b) All wounds to the trunk, limbs, and root system of oak trees in the City, regardless of the time of year, shall be painted immediately after trimming, cutting, or pruning using black paint (latex, oil-based, spray-on, brush-on or wound dressing). Such painting of oak trees is to prevent contact with contaminated nitidulid beetles.

(c) All contractors engaged in trenching (i.e. irrigators, plumbers, etc.) are required to paint exposed roots using black paint (latex, oil-based, spray-on, brush-on or wound dressing). This is required whether the subjected roots were previously uncovered or the roots were exposed during the process of the contractor's work.

(d) All contractors engaged in oak tree maintenance are required to sterilize all equipment used in the trimming, cutting, pruning or removal of oak trees after each tree is completely cut and before proceeding to the next tree. A 10% bleach or 80% alcohol solution is recommended for equipment sterilization.

Sec. 1.07.034 Tree Contractor Registration

(a) Any person or entity engaged in the business of tree maintenance shall not trim, cut, prune or remove any tree within the City without first registering with the City for this purpose.

(b) All those who register with the City as a tree contractor shall provide the following items:

(1) Registration fee as established in the City's Master Fee Schedule, found in Appendix A of the City's Code of Ordinances;

(2) State of Texas Sales Tax ID No.;

(3) Proof of a general liability insurance policy;

(4) Copies of any current certifications or licenses related to tree activities; and

(5) Signed acknowledgement of receipt and review of the City's tree maintenance guidelines.

(c) Registration is valid for one (1) year from the date of issuance.

(d) Registration applies to all contractors hired by builders, general contractors and homeowners/property owners.

(e) The City will maintain a current list of registered tree contractors, which will be made available upon request.

(f) Unless instructed by the property owner, all limbs, branches and other cuttings from tree services shall be removed from the project site by the permitted contractor at the end of each business day.

(g) The City's Environmental Compliance Manager or his/her designee shall have the opportunity to visit the project site(s) of a registered contractor to ensure all preventative measures, as set forth in Section 1.07.033, are being applied. Those operating without current registration will completely cease to work and obtain registration prior to re-commencing work. Registered tree contractors must also quickly produce painting tools at the request of the Environmental Compliance Manager or his/her designee. If tools are not presently available or if the tools are incapable of reaching all wounds, the contractor must stop work immediately and acquire the necessary tools.

Sec. 1.07.035 Tree Maintenance Performed by Property Owners

A property owner, as opposed to a professional independent contractor, may perform tree maintenance on his/her own property without permit and/or registration. All preventative measures as set forth in Section 1.07.033 must be applied.

Sec. 1.07.036 Oak Wilt Treatment

(a) No person, firm, corporation or any type of business entity or any agent for such entity, shall provide treatment for oak wilt within the City without first providing notification to the City's Environmental Compliance Manager.

(b) Notifications of oak wilt treatment shall include the following items:

  (1) Proof of a current Texas Department of Agriculture License;

  (2) Texas Oak Wilt Qualified No.; and

  (3) A copy of the treatment proposal with the date(s) of service.

(c) Those operating without prior notification shall provide the City the necessary items immediately upon request.

Sec. 1.07.037 Prohibited Trees

Members of the red oak group (Quercus section Lobatae) shall not be newly planted in the City due to their high susceptibility to oak wilt. This includes, but is not limited to, Texas red oak or Spanish oak (Quercus buckleyi); Shumard oak (Quercus shumardii); and Blackjack oak (Quercus marilandica). Information on recommended tree plantings can be found on the City of Fair Oaks Ranch website.

Sec. 1.07.038 Oak Wilt Map

Any update to the City's Oak Wilt Map shall be completed by the Public Works Department with assistance from a Texas Oak Wilt Qualified ISA Certified Arborist or the Texas A&M Forest Service, and can be found on the City of Fair Oaks Ranch website.

Sec. 1.07.039 Schedule of Penalties

(a) <u>Civil penalty.</u>

  (1) Any contractor violating any of the provisions of this Ordinance shall be subject to a $50 civil penalty for the first violation, a $100 civil penalty for the second violation, and a $200 civil penalty for the third violation. Continuous violations may result in revocation of contractor registration.

  (2) Any property owner violating any of the applicable provisions of this Ordinance shall be subject to a written warning for the first violation, a $50 civil penalty for the second violation, and a $100 civil penalty for the third violation.

  (3) Notice of violations and assessments of penalties made pursuant to this article shall be sent to the property owner or contractor informing them of the violation and assessment of penalties. Notices provided herein shall be deemed delivered within five (5) business days after their placement with the United States Postal Service, hand delivery, or courier.

(b) <u>Civil penalty appeal.</u>

(1) An aggrieved person may request an appeal hearing before a hearing officer(s) appointed by the City Manager within fifteen (15) business days after the date on the notice provided in compliance with article. The hearing officer(s) shall evaluate all information offered by the aggrieved person at the hearing. The aggrieved person shall bear the burden of proof to show why, by preponderance of the evidence, the administrative fee should not be assessed. The hearing officer(s) shall render a decision in writing within five (5) business days of the conclusion of the hearing. Receipt of the decision of the hearing officer(s) by the aggrieved person is deemed delivered within five (5) business days after their placement with the United States Postal Service, hand delivery, or courier.

(2) The aggrieved person may appeal the decision from the hearing officer(s) in writing to the City Manager within ten (10) business days from the date the City mails the decision of the hearing officer(s) to the aggrieved person. In the written appeal, the aggrieved person shall provide the factual basis for the appeal and describe why the decision of the hearing officer(s) is not supported by the evidence. The City Manager shall promptly review the appeal. The decision by the City Manager is final.

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Consideration and possible action regarding appointing/reappointing members to Boards and Commissions
DATE:	September 3, 2020
DEPARTMENT:	City Secretary
PRESENTED BY:	Council Member Laura Koerner

INTRODUCTION/BACKGROUND:

At the June 4, 2020 City Council Meeting, the Mayor created a Boards and Commissions Subcommittee to review and make recommendations regarding the city's process of appointing/reappointing members of the City's Boards and Commissions. The subcommittee was tasked with working with City Staff to implement a consistent formal process that includes:

- Incumbent declaration of interest to continue serving
- Common application form
- Creation of website page to notify citizenry of open positions
- Standardized appointment process
- Standardized term start corresponding with fiscal year
- Staggered terms
- Possible standard term limits

The subcommittee met on June 24, June 27, and July 22, along with the City Secretary's Office. At the August 6, 2020 City Council meeting, the Council voted to approve the subcommittee's recommendations which included:

- Accept the request of all incumbents to serve an additional term (formal reappointment for a term starting on October 1 and details on term length will be presented for vote at a September City Council meeting)
- Post remaining open or vacant positions on the City's Boards and Commission webpage, with the common standardized application, encouraging citizens to apply, with a deadline of Aug 24th. The City Communications team will assist with outreach to city residents
- The subcommittee will meet again the week of Aug 24th-Aug 28th to review the applications and determine recommendations to City Council including recommended term lengths to create staggers, as needed/possible.
- The subcommittee will present recommendations to Council at the Sept 3rd City Council, seeking guidance on whether interviews are desired or needed.
- Formal appointment/reappointment consideration and action will be presented for Council vote at the Sept 17th City Council meeting, with terms starting October 1, 2020.

This consideration seeks review and possible action on the subcommittee's recommended plan for appointing/reappointing incumbents and open positions, and scheduling interviews for positions with many applicants. The subcommittee met on August 26th to review the applicants received and applicable Boards and Commissions ordinances

The subcommittee recommends the following:

- **Municipal Development District Board:**
  - Conduct interviews for the 2 open/vacant positions the week of September 7-11th. Four citizens applied for the two open positions. The applicants selected will be appointed to 2-year terms, starting October 1st, 2020.
  - Submit for reappointment all incumbents (4) with expired terms, who applied for reappointment by the July 17th deadline, including the two City Council representatives. Those four incumbents will be reappointed for the full 2-year term, as statutorily required, starting on October 1st. One incumbent, the FORHA representative, has an unexpired term and does not need to be reappointed. *Note: Staggering terms can be addressed next year by appointing/ reappointing select positions before their term has expired.*
- **Zoning Board of Adjustment:**
  - There are no unexpired terms on the ZBOA, but there is one vacancy. One applicant was received for this vacancy but is being considered for the Planning & Zoning Commission.
  - Submit one alternate for appointment to the vacant board position, no change to term dates. One alternate indicated interest in being moved up to fill the vacancy.
  - Post the vacant alternate position on the City website for the next cycle or for potential off-cycle appointment if an applicant is received.
- **Planning & Zoning Commission:**
  - There was one opening posted and one applicant received. After reviewing that application, the subcommittee recommends no interview and to submit the one applicant for appointment to a 3-year term, starting October 1st, 2020.
  - Submit for reappointment all incumbents (2) with expired terms, who applied for reappointment by the July 17th deadline. Those two incumbents will be reappointed for the full 3-year term, starting on October 1st. Four incumbents have unexpired terms and do not need to be reappointed.
- **Board of Appeals:**
  - Submit to reappoint all incumbents (4), all of which applied for reappointment by the July 17th deadline. If the ordinance amendment is approved, to create staggered terms, the incumbents will be reappointed to 1-year, 2-year, or 3-year terms, selected at random, with terms starting October 1st, 2020. Any future reappointments will be to the full 3-year term.
- **Capital Improvements Advisory Committee:**
  - Amend the Ordinance to add a term length of 3 years, staggered terms, and terms starting on October 1st. (separate agenda item)

- Conduct interviews for the 3 open positions the week of September 7-11th. Six citizens applied for the three open positions. If the ordinance amendment is approved, the applicants selected will be appointed to 3-year terms, starting October 1st, 2020.
- Submit for reappoint all incumbents (5) who applied for reappointment by the July 17th deadline. If the ordinance amendment is approved, to create staggered terms, the incumbents will be reappointed to 1-year, 2-year, or 3-year terms, selected at random, with terms starting October 1st, 2020. Any future reappointments will be to the full 3-year term.

Formal appointment/reappointment consideration and action will be presented for Council vote at the Sept 17th City Council meeting or at a Special City Council meeting, as applicable.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

It will allow more citizens who have interest in community service to become involved providing fresh perspective to established committees.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

N/A

RECOMMENDATION/PROPOSED MOTION:

I move to accept the Boards and Commissions Subcommittee recommendations, as presented.

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 3, 2020

AGENDA TOPIC:	Consideration and possible approval of an Ordinance authorizing the issuance of the "City of Fair Oaks Ranch, Texas combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2020", and other matters incident and related thereto.
DATE:	September 3, 2020
DEPARTMENT:	Finance
PRESENTED BY:	Sarah Buckelew, CPA, Finance Director, and Andrew Friedman, Managing Director, Samco Capital

INTRODUCTION/BACKGROUND:

On July 2, 2020 City Council authorized the Publication of Notice of Intention to issue Certificates of Obligation related to the potential refinance of a Capital Lease at more favorable terms to the City. Since that time, steps have been taken to receive bids from potential purchasers of the Bonds, which are due today, September 3, 2020.

In this presentation, Andrew Friedman, Managing Director of Samco Capital will be reviewing the bids received, and ask for authorization to issue the revenue certificates. The authorization must be received the same day the bids are received in order to lock in pricing. Because of this, the ordinance must be approved in one reading under the provision afforded by the Texas Local Government Code Section 1201.028. This provision states that the ordinance to approve the issuance of debt can be done at the same time the bids are received in one reading, and therefore overrides any local government charter requirements of multiple ordinance readings.

The attached Ordinance is only a draft at the time this consideration page is being drafted, as the final ordinance cannot be drafted until the bids are received on September 3rd.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Monitoring interest rates and recapitalizing and or refinancing debt instruments to take advantage of favorable market conditions is an important role of the Finance Function to ensure the City's debt capacity is utilized most prudently.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

The overall savings benefit from the refinance will be discussed on the day of September 3, once the bids are received.

LEGAL ANALYSIS:

The City Attorney has reviewed Ordinance as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to adopt an ordinance authorizing the issuance of "City of Fair Oaks Ranch, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2020"; and other matters incident and related thereto.

AN ORDINANCE

AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF FAIR OAKS RANCH, TEXAS COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2020"; PROVIDING FOR THE PAYMENT OF SAID CERTIFICATES BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND FURTHER SECURING SAID CERTIFICATES BY A LIEN ON AND PLEDGE OF THE PLEDGED REVENUES OF THE SYSTEM; PROVIDING THE TERMS AND CONDITIONS OF SAID CERTIFICATES AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SAID CERTIFICATES; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND A PURCHASE AND INVESTMENT LETTER; COMPLYING WITH THE REQUIREMENTS OF THE LETTER OF REPRESENTATIONS PREVIOUSLY EXECUTED WITH THE DEPOSITORY TRUST COMPANY; AUTHORIZING THE EXECUTION OF ANY NECESSARY ENGAGEMENT AGREEMENT WITH THE CITY'S FINANCIAL ADVISORS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Fair Oaks Ranch, Texas (the *City*) has caused notice to be given of its intention to issue certificates of obligation in the maximum principal amount of $2,700,000 for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) purchasing and installing energy efficient equipment and energy management control systems; (2) the purchase of materials, supplies, equipment, and machinery for authorized needs and purposes relating to the aforementioned capital improvements; and (3) payment for professional services relating to the design, construction, project management, and financing of the aforementioned projects. This notice has been posted on the City's website, if available, and duly published in a newspaper hereby found and determined to be of general circulation in the City, once a week for two (2) consecutive weeks, the date of the first publication of such notice being not less than forty-six (46) days prior to the tentative date stated therein for the passage of the ordinance authorizing the issuance of such certificates of obligation; and

WHEREAS, in accordance with the provisions of Section 271.049, as amended, Texas Government Code, the City confirms that notice of the City's intention to issue certificates of obligation was approved by resolution at a public meeting and stated (1) the then-current principal of all outstanding debt of the City; (2) the then-current combined principal and interest required to pay all outstanding debt obligations of the City on time and in full, based on the City's expectations relative to the interest due on any variable rate debt obligations, as applicable (3) the maximum principal amount of the certificates of obligation to be authorized; (4) the estimated combined principal and interest required to pay the certificates of obligation in full; (5) the estimated interest rate for the certificates of obligation or that the maximum interest rate for the certificates of obligation may not exceed the maximum legal interest rate; and (6) the maximum maturity date of the certificates of obligation; and

WHEREAS, no petition protesting the issuance of the certificates of obligation described in this notice, signed by at least 5% of the qualified electors of the City, has been presented to or filed with the City Secretary prior to the date tentatively set in such notice for the passage of this ordinance; and

WHEREAS, the City Council hereby finds and determines that the issuance of the certificates of obligation, under the terms herein specified, is in the best interests of the City and its residents; and

WHEREAS, the City Council hereby finds and determines that certificates of obligation in the principal amount of $__________ described in such notice should be issued and sold at this time; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS THAT:

SECTION 1. Authorization - Designation - Principal Amount - Purpose. The certificates of obligation of the City shall be and are hereby authorized to be issued in the aggregate principal amount of ____ THOUSAND AND NO/100 DOLLARS ($__________), to be designated and bear the title of "CITY OF FAIR OAKS RANCH, TEXAS COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2020" (the *Certificates*), for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) purchasing and installing energy efficient equipment and energy management control systems; (2) the purchase of materials, supplies, equipment, and machinery for authorized needs and purposes relating to the aforementioned capital improvements; and (3) payment for professional services relating to the design, construction, project management, and financing of the aforementioned projects, pursuant to the authority conferred by and in conformity with the laws of the State of Texas, particularly the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code Section 271.041 through Section 271.064, Chapter 1502, as amended, Texas Government Code, the City's Home Rule Charter, and the Ordinance.

SECTION 2. Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates – Certificate Date. The Certificates are issuable in fully registered form only; shall be dated September 1, 2020 (the *Certificate Date*) and shall generally be issued in denominations of $100,000 or any integral multiple of $5,000 (within a Stated Maturity) in excess thereof, and the Certificates shall become due and payable on February 1 in each of the years and in principal amounts (the *Stated Maturities*) and bear interest on the unpaid principal amounts from the Closing Date, or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, to Stated Maturity, at the per annum rates, while Outstanding, in accordance with the following schedule:

Years of Stated Maturity	Principal Amounts ($)	Interest Rates (%)
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		

The Certificates shall bear interest on the unpaid principal amounts from the Closing Date (anticipated to occur on September 23, 2020), or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, to Stated Maturity, while Outstanding, at the rates per annum shown in the above schedule (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Certificates shall be payable on February 1 and August 1 in each year (each, an *Interest Payment Date*), commencing February 1, 2021, while the Certificates are Outstanding.

SECTION 3. Payment of Certificates - Paying Agent/Registrar. The principal of, premium, if any, and interest on the Certificates, due and payable by reason of Stated Maturity, or otherwise, shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and such payment of principal of, premium if any, and interest on the Certificates shall be without exchange or collection charges to the Holder (hereinafter defined) of the Certificates.

The selection and appointment of ______________, _______________, ___________ (the *Paying Agent/Registrar*) to serve as the initial Paying Agent/Registrar, for the Certificates is hereby approved and confirmed, and the City agrees and covenants to cause to be kept and maintained at the corporate trust office of the Paying Agent/Registrar books and records (the *Security Register*) for the registration, payment and transfer of the Certificates, all as provided herein, in accordance with the terms and provisions of a Paying Agent/Registrar Agreement, attached, in substantially final form, as Exhibit A hereto, and such reasonable rules and regulations as the Paying Agent/Registrar and City may prescribe. The City covenants to maintain and provide a Paying Agent/Registrar at all times while the Certificates are Outstanding, and any successor Paying Agent/Registrar shall be (i) a national or state banking institution or (ii) an association or a corporation organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise trust powers. Such Paying Agent/Registrar shall be subject to supervision or examination by federal or state authority and authorized by law to serve as a Paying Agent/Registrar.

The City reserves the right to appoint a successor Paying Agent/Registrar upon providing the previous Paying Agent/Registrar with a certified copy of a resolution or ordinance terminating such agency. Additionally, the City agrees to promptly cause a written notice of this substitution to be sent to each Holder of the Certificates by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of, premium, if any, and interest on the Certificates, due and payable by reason of Stated Maturity or otherwise, shall be payable only to the registered owner of the Certificates appearing on the Security Register (the *Holder* or *Holders*) maintained on behalf of the City by the Paying Agent/Registrar as hereinafter provided (i) on the Record Date (hereinafter defined) for purposes of payment of interest thereon, (ii) on the date of surrender of the Certificates for purposes of receiving payment of principal thereof at the Certificates' Stated Maturity, and (iii) on any other date for any other purpose. The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder as the owner of a Certificate for purposes of receiving payment and all other purposes whatsoever, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

Principal of and premium, if any, on the Certificates shall be payable only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its corporate trust office; provided, however, with respect to principal payment prior to the final Stated Maturity, the Certificates need not be surrendered to the Paying Agent/Registrar, who will merely document such payment on an internal ledger maintained by the Paying Agent/Registrar. Interest on the Certificates shall be paid to the Holder whose name appears in the Security Register at the close of business on the fifteenth day of the month next preceding an Interest Payment Date for the Certificates (the *Record Date*) and shall be paid (i) by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, by the Paying Agent/Registrar, to the address of the Holder appearing in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in writing by the Holder at the Holder's risk and expense.

If the date for the payment of the principal of, premium, if any, or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a day. The payment on such date shall have the same force and effect as if made on the original date any such payment on the Certificates was due.

In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a Special Record Date) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder of a Certificate appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4. Redemption. The Certificates are not subject to redemption prior to Stated Maturity.

SECTION 5. Execution - Registration. The Certificates shall be executed on behalf of the City by its Mayor or Mayor Pro Tem under the seal of the City reproduced or impressed thereon and attested by its City Secretary. The signature of either of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who were, at the time of the Certificate Date, the proper officers of the City shall bind the City, notwithstanding that such individuals or either of them shall cease to hold such offices prior to the delivery of the Certificates to the Purchasers (hereinafter defined), all as authorized and provided in Chapter 1201, as amended, Texas Government Code.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 8C, executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent by manual signature, or a certificate of registration substantially in the form provided in Section 8D, executed by the Paying Agent/Registrar by manual signature, and either such certificate upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified or registered and delivered.

SECTION 6. Registration - Transfer - Exchange of Certificates - Predecessor Certificates. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of every owner of the Certificates, or if appropriate, the nominee thereof. Any Certificate may, in accordance with its terms and the terms hereof, be transferred or exchanged for Certificates of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Certificate at the corporate trust office of the Paying Agent/Registrar, the City shall execute and the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates executed on behalf of, and furnished by, the City of authorized denominations and having the same Stated Maturity and of a like interest rate and aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holder, Certificates may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Certificates surrendered for exchange upon surrender of the Certificates to be exchanged at the corporate trust office of the Paying Agent/Registrar. Whenever any Certificates are so surrendered for exchange, the Paying Agent/Registrar shall register and deliver, new Certificates executed on behalf of, and furnished by, the City to the Holder requesting the exchange.

All Certificates issued upon any transfer or exchange of Certificates shall be delivered at the corporate trust office of the Paying Agent/Registrar, or be sent by registered mail to the Holder at his request, risk, and expense, and upon the delivery thereof, the same shall be the valid and binding obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered upon such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be Predecessor Certificates, evidencing all or a portion, as the case may be, of the same debt evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer therefor. Additionally, the term Predecessor Certificates shall include any Certificate registered and delivered pursuant to Section 25 in lieu of a mutilated, lost, destroyed, or stolen Certificate which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

SECTION 7. Initial Certificate. The Certificates herein authorized shall be issued initially either (i) as a single fully registered Certificate in the total principal amount of $__________ with principal installments to become due and payable as provided in Section 2 and numbered T-1, or (ii) as one (1) fully registered Certificate for each year of Stated Maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (the *Initial Certificate*) and, in either case, the Initial Certificate shall be registered in the name of the Purchasers or the designee thereof. The Initial Certificate shall be the Certificate submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchasers. Any time after the delivery of the Initial Certificate to the Purchasers, the Paying Agent/Registrar, pursuant to written instructions from the Purchasers or their designee, shall cancel the Initial Certificate delivered hereunder and exchange therefor definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates on the unpaid principal amounts from the Closing Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to Stated Maturity, and shall be lettered "R" and numbered consecutively from one (1) upward for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the Purchasers, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 8. Forms.

A. Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Certificates shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends and any reproduction of an opinion of Bond Counsel (hereinafter referenced)) thereon as may, consistent herewith, be established by the City or determined by the officers executing the Certificates as evidenced by their execution thereof. Any portion of the text of any Certificate may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Certificate.

The definitive Certificates shall be typewritten, printed, lithographed, or engraved, produced by any combination of these methods, or produced in any other similar manner, all as determined by the officers executing the Certificates as evidenced by their execution thereof, but the Initial Certificate submitted to the Attorney General of the State of Texas may be typewritten or photocopied or otherwise reproduced.

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B. Form of Definitive Certificate.

REGISTERED
NO. _________

REGISTERED
PRINCIPAL AMOUNT
$_____________

United States of America
State of Texas
Counties of Bexar, Comal, and Kendall
CITY OF FAIR OAKS RANCH, TEXAS
COMBINATION TAX AND LIMITED PLEDGE REVENUE
CERTIFICATES OF OBLIGATION, SERIES 2020

Certificate Date:	Interest Rate:	Stated Maturity:	CUSIP No.
September 1, 2020			

REGISTERED OWNER: ____

PRINCIPAL AMOUNT: ____

The City of Fair Oaks Ranch, Texas (the *City*), a body corporate and municipal corporation in the Counties of Bexar, Comal, and Kendall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above (the *Holder*), the Principal Amount specified above and to pay interest on the unpaid Principal Amount hereof from the Closing Date (anticipated to occur on September 23, 2020) specified above, or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for until such Principal Amount has become due and payment thereof has been made or duly provided for, to Stated Maturity, while Outstanding, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year (each, an *Interest Payment Date*), commencing February 1, 2021.

Principal and premium, if any, of this Certificate shall be payable at its Stated Maturity, to the Registered Owner hereof (the *Holder*), upon presentation and surrender, at the corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof; provided, however, with respect to principal payment prior to the final Stated Maturity, the Certificates need not be surrendered to the Paying Agent/Registrar, who will merely document such payment on an internal ledger maintained by the Paying Agent/Registrar. Interest shall be payable to the Holder of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Certificate shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by the Holder hereof at the Holder's risk and expense.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of $__________ (the *Certificates*) pursuant to an Ordinance adopted by the governing body of the City (the *Ordinance*), for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) purchasing and installing energy efficient equipment and energy management control systems; (2) the purchase of materials, supplies, equipment, and machinery for authorized needs and purposes relating to the aforementioned capital improvements; and (3) payment for professional services relating to the design, construction, project management, and financing of the aforementioned projects, under and in strict conformity with the laws of the State of Texas, particularly Chapter 1502, as amended, Texas Government Code, the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code, Section 271.041 through 271.064, and the City's Home Rule Charter.

As provided in the Ordinance, the Certificates are not subject to redemption prior to Stated Maturity.

The Certificates of this series are payable from the proceeds of an ad valorem tax levied upon all taxable property within the City, within the limitations prescribed by law, and are further payable from and secured by a lien on and pledge of the Pledged Revenues (identified and defined in the Ordinance), being a limited amount of the Net Revenues derived from the operation of the City's combined utility system (the *System*), such lien on and pledge of the limited amount of Net Revenues being subordinate and inferior to the lien on and pledge of such Net Revenues securing payment of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Additional Limited Pledge Obligations (all as identified and defined in the Ordinance), while the Certificates are Outstanding, without limitation as to principal amount but subject to any terms, conditions or restrictions as may be applicable thereto under law or otherwise.

Reference is hereby made to the Ordinance, a copy of which is on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied and the revenues pledged for the payment of the Certificates; the terms and conditions under which the City may issue Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Additional Limited Pledge Obligations; the terms and conditions relating to the transfer or exchange of the Certificates; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holder; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Certificate may be discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Ordinance. Capitalized terms used herein without definition have the same meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register upon presentation and surrender at the corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity, and (iii) on any other date as the owner hereof for all other purposes, and neither the City nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a Special Record Date) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Certificate in order to render the same a legal, valid, and binding obligation of the City have been performed, exist, and have been done, in regular and due time, form, and manner, as required by the laws of the State of Texas and the Ordinance, and that the issuance of the Certificates does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of, premium if any, and interest on the Certificates by the levy of a tax and collection of Pledged Revenues as aforestated. In case any provision in this Certificate or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the City has caused this Certificate to be duly executed under its official seal.

CITY OF FAIR OAKS RANCH, TEXAS

By ___________________________________
Mayor

ATTEST:

____
City Secretary

(CITY SEAL)

C. *Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Certificate Only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER OF	§	
PUBLIC ACCOUNTS	§	
	§	REGISTER NO. __________
THE STATE OF TEXAS	§	

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this ____________________

____
Comptroller of Public Accounts
of the State of Texas

(SEAL)

*NOTE TO PRINTER: Do Not Print on Definitive Certificates.

D. *Form of Certificate of Paying Agent/Registrar to Appear on Definitive Certificates Only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued under the provisions of the within-mentioned Ordinance; the Certificate or Certificates of the above-entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: ______________, ____________,
______________, as Paying Agent/Registrar

____________________________________ By: ________________________________
Authorized Signature

*NOTE TO PRINTER: Print on Definitive Certificates.

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): ______________________________

____

(Social Security or other identifying number): ______________________________ the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints ____________________ attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED: ____________________________

____

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular.

Signature guaranteed:

____

F. Form of Initial Certificate. The Initial Certificate shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Certificate shall be modified as follows:

(i) immediately under the name of the Certificate the headings "Interest Rate and "Stated Maturity shall both be completed "as shown below";

(ii) the first two paragraphs shall read as follows:

The City of Fair Oaks Ranch, Texas (the *City*), a body corporate and municipal corporation in the Counties of Bexar, Comal, and Kendall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above stated to mature on the first day of February in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

Years of Stated Maturity	Principal Amounts ($)	Interest Rates (%)

(Information to be inserted
from schedule in Section 2 hereof)

and to pay interest on the unpaid Principal Amounts hereof from the Closing Date (anticipated to occur on September 23, 2020), or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for until the Principal Amount has become due and payment thereof has been made or duly provided for, to Stated Maturity, while Outstanding, at the per annum rates of interest specified above, computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year (each, an *Interest Payment Date*), commencing February 1, 2021.

Principal of this Certificate shall be payable to the Registered Owner hereof (the *Holder*), upon its presentation and surrender, to Stated Maturity, while Outstanding, at the corporate trust office of **_____________**, **______________**, **_________** (the *Paying Agent/Registrar*); provided, however, with respect to principal payment prior to the final Stated Maturity, the Certificates need not be surrendered to the Paying Agent/Registrar, who will merely document such payment on an internal ledger maintained by the Paying Agent/Registrar. Interest shall be payable to the Holder of this Certificate whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Certificate shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof.

[END OF FORMS]

G. Insurance Legend. If bond insurance is obtained by the City or the Purchasers for the Certificates, the Definitive Certificates and the Initial Certificate shall bear an appropriate legend as provided by the bond insurer to appear under the following header:

[BOND INSURANCE] or [STATEMENT OF INSURANCE]

SECTION 9. Definitions. For all purposes of this Ordinance (as defined below), except as otherwise expressly provided or unless the context otherwise requires: (i) the terms defined in this Section have the meanings assigned to them in this Section, and certain terms used in Sections 27 and 44 of this Ordinance have the meanings assigned to them in Sections 27 and 44 of this Ordinance, and all such terms, include the plural as well as the singular; (ii) all references in this Ordinance to designated "Sections" and other subdivisions are to the designated Sections and other subdivisions of this Ordinance as originally adopted; and (iii) the words "herein", "hereof', and "hereunder" and other words of similar import refer to this Ordinance as a whole and not to any particular Section or other subdivision.

A. The term *Additional Limited Pledge Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation or other evidences of indebtedness hereafter issued by the City payable in whole or in part from a limited pledge of and lien on Net Revenues of the System such pledge being subordinate and inferior to the lien thereon and pledge thereof securing the payment of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City, which pledge of revenues is limited pursuant to Section 1502.052, as amended, Texas Government Code, all as further provided in Section 20 of this Ordinance, and (ii) any obligations issued to refund the foregoing as determined by the City Council in accordance with applicable law.

B. The term *Authorized Officials* shall mean the Mayor, the Mayor Pro Tem, the City Manager, and/or the Finance Director.

C. The term *Certificates* shall mean the $__________ "CITY OF FAIR OAKS RANCH, TEXAS COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2020" authorized by this Ordinance.

D. The term *Certificate Fund* shall mean the special Fund created and established by the provisions of Section 10 of this Ordinance.

E. The term *City* shall mean the City of Fair Oaks Ranch, located in Bexar, Comal, and Kendall Counties, Texas and, where appropriate, the City Council of the City.

F. The term *Closing Date* shall mean the date of physical delivery of the Initial Certificate in exchange for the payment of the agreed purchase price for the Certificates.

G. The term *Collection Date* shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

H. The term *Debt Service Requirements* shall mean, as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear interest at the maximum rate permitted by the terms thereof and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to Stated Maturity, the principal amounts thereof will be redeemed prior to Stated Maturity in accordance with the mandatory redemption provisions applicable thereto.

I. The term *Depository* shall mean an official depository bank of the City.

J. The term *Fiscal Year* shall mean the annual financial accounting period for the System now ending on September 30th of each year; provided, however, the City Council may change such annual financial accounting period to end on another date if such change is found and determined to be necessary for accounting purposes or is required by applicable law.

K. The term *Government Securities*, as used herein, shall mean (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent; (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Certificates.

L. The term *Gross Revenues* for any period shall mean all revenue during such period in respect or on account of the operation or ownership of the System, excluding refundable meter deposits, restricted gifts, and grants in aid of construction, but including earnings and income derived from the investment or deposit of money in any special fund or account (except the Certificate Fund) created and established for the payment or security of the Certificates.

M. The term *Holder* or *Holders* shall mean the registered owner, whose name appears in the Security Register, for any Certificate.

N. The term *Interest Payment Date* shall mean the date interest is payable on the Certificates, being February 1 and August 1 of each year, commencing February 1, 2021, while any of the Certificates remain Outstanding.

O. The term *Junior Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation or any similar obligations hereafter issued by the City that are payable in whole or in part from and equally and ratably secured by a junior and inferior lien on and pledge of the Net Revenues of the System, such pledge being junior and inferior to the lien on and pledge of the Net Revenues of the System that may be pledged to the payment of any Prior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues of the System that are or will be pledged to the payment of the currently outstanding Limited Pledge Obligations, and the Certificates, or any Subordinate Lien Obligations or Additional Limited Pledge Obligations hereafter issued by the City all as further provided in Section 20 of this Ordinance and (ii) obligations hereafter issued to refund any of the foregoing that are payable from and equally and ratably secured by a junior and inferior lien on and pledge of the Net Revenues of the System as determined by the City Council in accordance with any applicable law.

P. The term *Limited Pledge Obligations* shall mean (i) the Certificates and the outstanding and unpaid obligations of the City that are payable, in part, from and secured by a subordinate and inferior lien on and pledge of a limited amount of the Net Revenues of the System and (ii) any obligations hereafter issued to refund any of the foregoing as determined by the City Council in accordance with any applicable law.

Q. The term *Maintenance and Operating Expenses* shall mean all current expenses of operating and maintaining the System not paid from the proceeds of the Certificates, including (1) the cost of all salaries, labor, materials, repairs, and extensions necessary to render efficient service, but only if, in the case of repairs and extensions, they are, in the judgment of the City Council (reasonably and fairly exercised), necessary to maintain operation of the System and render adequate service to the City and the inhabitants thereof, or are necessary to meet some physical accident or condition which would otherwise impair obligations payable from Net Revenues, (2) payments to pension, retirement, health, hospitalization, and other employee benefit funds for employees of the City engaged in the operation or maintenance of the System, (3) payments under contracts for the purchase of water supply, treatment of sewage, or other materials, goods, or services for the System to the extent authorized by law and the provisions of such contract, (4) payments to auditors, attorneys, and other consultants incurred in complying with the obligations of the City hereunder, and (5) any legal liability of the City arising out of the operation, maintenance, or condition of the System, but excluding any allowance for depreciation, property retirement, depletion, obsolescence, and other items not requiring an outlay of cash and any interest on the Certificates or other bonds, notes, warrants, or similar obligations of the City payable from Net Revenues.

R. The term *Net Revenues* for any period shall mean the Gross Revenues of the System less the Maintenance and Operating Expenses of the System.

S. The term *Ordinance* shall mean this ordinance as finally passed and adopted by the City Council of the City.

T. The term *Outstanding* when used in this Ordinance with respect to the Certificates shall mean, as of the date of determination, all Certificates issued and delivered under this Ordinance, except:

(1) those Certificates cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates for which payment has been duly provided by the City in accordance with the provisions of Section 29 of this Ordinance; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 25 of this Ordinance.

U. The term *Pledged Revenues* shall mean, while the Certificates remain Outstanding, an amount of Net Revenues not in excess of $1,000. The Pledged Revenues shall be deposited, allocated, and expended in accordance with Section 10 of this Ordinance.

V. The term *Pledged Revenue Amount* shall mean the total amount, not to exceed $1,000 while the Certificates are Outstanding, of Net Revenues that may be transferred in whole or in part by the City in any given Fiscal Year (however, any amounts transferred prior to the final maturity date of the Certificates may not exceed the total amount of $1,000) to the Certificate Fund.

W. The term *Prior Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation or any similar obligations hereafter issued by the City that are payable in whole or in part from and equally and ratably secured by a first and prior lien on and pledge of the Net Revenues of the System, all as further provided in Section 20 of this Ordinance, and (ii) any obligations hereafter issued to refund the foregoing if issued in a manner so as to be payable from and equally and ratably secured by a first and prior lien on and pledge of the Net Revenues of the System as determined by the City Council in accordance with any applicable law.

X. The term *Purchasers* shall mean the initial purchaser or purchasers of the Certificates named in Section 26 of this Ordinance.

Y. The term *Stated Maturity* shall mean the annual principal payments of the Certificates payable on February 1 of each year the Certificates are Outstanding as set forth in Section 2 of this Ordinance.

Z. The term *Subordinate Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation, or any similar obligations hereafter issued by the City that are payable in whole or in part from and equally and ratably secured by a lien on and pledge of the Net Revenues of the System, such pledge being subordinate and inferior to the lien on and pledge of the Net Revenues of the System that may be pledged to the payment of any Prior Lien Obligations or Junior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the limited amount of the Net Revenues securing, in part, the payment of the currently outstanding Limited Pledge Obligations and the Certificates or any Additional Limited Pledge Obligations hereafter issued by the City, all as further provided in Section 20 of this Ordinance and (ii) any obligations hereafter issued to refund any of the foregoing if issued in a manner so as to be payable from and equally and ratably secured by a subordinate and inferior lien on and pledge of the Net Revenues as determined by the City Council in accordance with any applicable law.

AA. The term *System* shall mean all properties, facilities and plants currently owned, operated, and maintained by the City for the supply, treatment, and transmission of treated potable water, for the collection and treatment of wastewater, together will all future extensions, improvements, replacements and additions thereto, whether situated within or without the limits of the City and the City expressly reserves the right at its sole discretion to include additional utility, telecommunications, technology, or similar enterprise services as components of the System; provided, however, that notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term System shall not mean to include facilities of any kind which are declared not to be a part of the System and which are acquired or constructed by or on behalf of the City with the proceeds from the issuance of *Special Facilities Bonds*, which are hereby defined as being special revenue obligations of the City which are not payable from Net Revenues but which are payable from and equally and ratably secured by other liens on and pledges of any revenues, sources or payments, not pledged to the payment of the Bonds Similarly Secured including, but not limited to, special contract revenues or payments received from any other legal entity in connection with such facilities.

SECTION 10. Certificate Fund – Investments. For the purpose of paying the interest on and to provide a sinking fund for the payment and retirement of the Certificates, there shall be and is hereby created a special fund to be designated "COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2020, INTEREST AND SINKING FUND" (the *Certificate Fund*), which fund shall be kept and maintained at the Depository, and money deposited in the Certificate Fund shall be used for no other purpose and shall be maintained as provided in Section 27. Authorized Officials of the City are hereby authorized and directed to make withdrawals from the Certificate Fund sufficient to pay the purchase price or the amount of principal of, premium, if any, and interest on the Certificates as the same become due and payable and shall cause to be transferred to the Paying Agent/Registrar from money on deposit in the Certificate Fund an amount sufficient to pay the amount of principal and/or interest stated to mature on the Certificates, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the business day next preceding each interest and principal payment date for the Certificates.

The City, at its sole discretion, may deposit the Pledged Revenue Amount to the Certificate Fund. The Pledged Revenue Amount, if deposited, shall be expended annually to pay principal of and interest on the Certificates as the same become due and payable. This Pledged Revenue Amount shall be accounted for and transferred to the Paying Agent/Registrar in accordance with the provisions of the previous paragraph of this Section.

Pending the transfer of funds to the Paying Agent/Registrar, money deposited in any fund created and established by this Ordinance may, at the option of the City, be placed in time deposits, certificates of deposit, guaranteed investment contracts, or similar contractual agreements, as permitted by the provisions of the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type hereinafter described, or be invested, as authorized by any law, including investments held in book-entry form, in securities, including, but not limited to, direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, Small Business Administration, Farmers Home Administration, Federal Home Loan Mortgage Association, or Federal Housing Association; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from such fund will be available at the proper time or times. All interest and income derived from deposits and investments in any fund established pursuant to the provisions of this Ordinance shall be credited to, and any losses debited to, such fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 11. Tax Levy. To provide for the payment of the Debt Service Requirements on the Certificates being (i) the interest on the Certificates and (ii) a sinking fund for their redemption at Stated Maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied for the current year and each succeeding year thereafter while the Certificates or any interest thereon shall remain Outstanding, a sufficient tax, within the limitations prescribed by law, on each one hundred dollars valuation of taxable property in the City, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Certificate Fund and are thereafter pledged to the payment of the Certificates. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness and other obligations of the City.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

A. Prior to the date the City Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the City Council shall determine:

> (1) the amount of Debt Service Requirements to become due and payable on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year;
>
> (2) the amount on deposit in the Certificate Fund after (a) deducting therefrom the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Pledged Revenues, if any, to be appropriated and allocated during such year to pay such Debt Service Requirements, if any, prior to the Collection Date for the ad valorem taxes to be levied; and
>
> (3) the amount of Pledged Revenues, if any, to be appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding Fiscal Year.

B. The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (1) above less the sum total of the amounts established in paragraphs (2) and (3), after taking into consideration delinquencies and costs of collecting such annual taxes.

SECTION 12. Pledge of Revenues. The City hereby covenants and agrees that, subject to (i) any prior lien on and pledge of the Net Revenues of the System to the payment and security of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City and (ii) the lien on and pledge of a limited amount of the Net Revenues to the payment and security of the currently outstanding Limited Pledge Obligations, the Pledged Revenues are hereby irrevocably pledged to the payment of the principal of and interest on the Certificates and the pledge of Pledged Revenues herein made for the payment of the Certificates shall constitute a lien on the Pledged Revenues in accordance with the terms and provisions hereof and be valid and binding without any physical delivery thereof or further act by the City.

SECTION 13. System Fund. The City hereby covenants and agrees that all Gross Revenues derived from the operation of the System shall be kept separate and apart from all other funds, accounts and money of the City and shall be deposited as collected into the "CITY OF FAIR OAKS RANCH, TEXAS UTILITY SYSTEM FUND" (the *System Fund*). All money deposited in the System Fund shall be pledged and appropriated to the extent required for the following purposes and in the order of priority shown:

- First: to the payment of the reasonable and proper Maintenance and Operating Expenses of the System required by statute or ordinances authorizing the issuance of any indebtedness of the City to be a first charge on and claim against the Gross Revenues of the System;

- Second: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Prior Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinance authorizing their issuance;

- Third: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Junior Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinance authorizing their issuance;

- Fourth: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Subordinate Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinance authorizing their issuance; and

- Fifth: To the payment of the amounts that may be deposited in the special funds and accounts established for the payment of the currently outstanding Limited Pledge Obligations, including the Certificates, and any Additional Limited Pledge Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinances authorizing their issuance.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment, security and benefit thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 14. Deposits to Certificate Fund – Surplus Certificate Proceeds. The City hereby covenants and agrees to cause to be deposited in the Certificate Fund prior to a principal and interest payment date for the Certificates, from the Pledged Revenues in the System Fund, after the deduction of all payments required to be made to the special funds or accounts created for the payment, security, and benefit of (i) any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City and (ii) the currently outstanding Limited Pledge Obligations, including the Certificates, and any amounts budgeted to be paid therefrom in such Fiscal Year.

Accrued interest received from the Purchasers of the Certificates shall be deposited to the Certificate Fund and ad valorem taxes levied and collected for the benefit of the Certificates shall be deposited to the Certificate Fund. In addition, any surplus proceeds, including investment income therefrom, from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said fund from ad valorem taxes.

SECTION 15. Security of Funds. All money on deposit in the funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested as provided herein) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds (including as required by and in accordance with the Texas Public Funds Collateral Act, codified in Chapter 2257, as amended, Texas Government Code), and money on deposit in such funds shall be used only for the purposes permitted by this Ordinance.

SECTION 16. Maintenance of System - Insurance. The City covenants and agrees that while the Certificates remain Outstanding it will maintain and operate the System with all possible efficiency and maintain casualty and other insurance (including a system of self-insurance) on the properties of the System and its operations of a kind and in such amounts customarily carried by municipal corporations in the State of Texas engaged in a similar type of business and that it will faithfully and punctually perform all duties with reference to the System required by the laws of the State of Texas. All money received from losses under such insurance policies, other than public liability policies, are held for the benefit of the holders of the Certificates until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses. Nothing in this Ordinance shall be construed as requiring the City to expend any funds which are derived from sources other than the operation of the System but nothing herein shall be construed as preventing the City from doing so.

SECTION 17. Rates and Charges. The City hereby covenants and agrees with the Holders of the Certificates that rates and charges for utility services afforded by the System will be established and maintained to provide Gross Revenues sufficient at all times:

A. to pay, together with any other lawfully available funds, all operating, maintenance, depreciation, replacement, betterment, and other costs incurred in the maintenance and operation of the System, including, but not limited to, Maintenance and Operating Expenses; provided, however, that the City expressly reserves the right to utilize other lawfully available funds to pay the Maintenance and Operating Expenses;

B. to produce Net Revenues sufficient, together with any other lawfully available funds, to pay (i) the interest on and principal of any Prior Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof, (ii) the interest on and principal of any Junior Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof, (iii) the interest on and principal of any Subordinate Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof, and (iv) the amounts that may be deposited in the special funds established for the payment of the currently outstanding Limited Pledge Obligations, the Certificates, or any Additional Limited Pledge Obligations hereafter issued by the City; and

C. to pay other legally incurred indebtedness payable from the Net Revenues of the System and/or secured by a lien on the System or the Net Revenues thereof.

SECTION 18. Records and Accounts - Annual Audit. The City further covenants and agrees that so long as any of the Certificates remain Outstanding it will keep and maintain separate and complete records and accounts pertaining to the operations of the System in which complete and correct entries shall be made of all transactions relating thereto, as provided by Chapter 1502, as amended, Texas Government Code, or other applicable law. The Holders of the Certificates or any duly authorized agent or agents of the Holders shall have the right to inspect the System and all properties comprising the same. The City further agrees that, following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of certified public accountants. Expenses incurred in making the annual audit of the operations of the System are to be regarded as Maintenance and Operating Expenses.

SECTION 19. Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in the payments to be made to the Certificate Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, the Holders of any of the Certificates shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition, or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 20. Issuance of Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Additional Limited Pledge Obligations. The City hereby expressly reserves the right to hereafter issue bonds, notes, warrants, certificates of obligation, or similar obligations, payable, in whole or in part, as appropriate, from and secured by a pledge of and lien on the Net Revenues of the System with the following priorities, without limitation as to principal amount, but subject to any terms, conditions, or restrictions applicable thereto under existing ordinances, laws, or otherwise:

A. Prior Lien Obligations payable from and equally and ratably secured by a first and prior lien on and pledge of the Net Revenues of the System;

B. Junior Lien Obligations payable from and equally and ratably secured by a lien on and pledge of the Net Revenues that is junior and inferior to the lien on and pledge thereof securing the payment of any Prior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues securing in whole or in part the payment of the currently outstanding Limited Pledge Obligations, the Certificates, and any Subordinate Lien Obligations or Additional Limited Pledge Obligations hereafter issued by the City;

C. Subordinate Lien Obligations payable from and equally and ratably secured by a lien on and pledge of the Net Revenues that is subordinate and inferior to the lien on and pledge thereof securing the payment of any Prior Lien Obligations or Junior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues securing, in part, the payment of the currently outstanding Limited Pledge Obligations, the Certificates, and any Additional Limited Pledge Obligations hereafter issued by the City; and

D. Additional Limited Pledge Obligations secured by a lien on and pledge of a limited amount of the Net Revenues in accordance with the provisions of the following paragraph.

Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations, if issued, may be payable, in whole or in part, from Net Revenues (without impairment of the obligation of contract with the holders of the currently outstanding Limited Pledge Obligations and the Certificates) upon such terms and conditions as the City Council may determine. Additional Limited Pledge Obligations, if issued and payable, in whole or in part, from Pledged Revenues (defined in the same or similar terms as provided in Section 9 of this Ordinance or in the ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations), shall not in any event be construed to be payable from the Pledged Revenues authorized by this Ordinance or in the respective ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations to be budgeted and appropriated for the payment of the Certificates or the respective ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations. However, the lien on and pledge of the limited amount of Net Revenues securing, in part, the payment of the Certificates, the Limited Pledge Obligations, and any Additional Limited Pledge Obligations shall be subordinate and inferior to the pledge of and lien on the Net Revenues securing the payment of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City.

SECTION 21. <u>Special Covenants</u>. The City hereby further covenants that:

A. it has the lawful power to pledge the Pledged Revenues supporting the Certificates and has lawfully exercised said powers under the laws of the State of Texas, including power existing under Chapter 1502, as amended, Texas Government Code, the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code, Section 271.041 through Section 271.064, and the City's Home Rule Charter;

B. other than for the payment of the currently outstanding Limited Pledge Obligations, and the Certificates, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System;

C. as long as any Certificates or any interest thereon remain Outstanding, the City will not sell, lease or encumber (except in the manner provided in Section 20 of this Ordinance) the System or any substantial part thereof, provided that this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System;

D. to the extent that it legally may, the City further covenants and agrees that, so long as any of the Certificates, or any interest thereon, are Outstanding, no franchise shall be granted for the installation or operation of any competing utility systems other than those owned by the City, and the operation of any such systems by anyone other than the City is hereby prohibited; and

E. no free service of the System shall be allowed, and should the City or any of its agents or instrumentalities make use of the services and facilities of the System, payment of the reasonable value thereof shall be made by the City out of funds from sources other than the revenues and income of the System.

SECTION 22. Application of the Covenants and Agreements of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations. It is the intention of the City Council and accordingly hereby recognized and stipulated that the provisions, agreements, and covenants contained herein bearing upon the management and operations of the System, and the administration and application of Gross Revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements, and covenants contained in the ordinances authorizing the issuance of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City, and to the extent of any irreconcilable conflict between the provisions contained herein and in the ordinances authorizing the issuance of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance, especially the priority of rights and benefits conferred thereby to the holders of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City. It is expressly recognized that prior to the issuance of any Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, or Additional Limited Pledge Obligations, the City must comply with each of the conditions precedent contained in the respective ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations and the Certificates, as appropriate.

SECTION 23. Notices to Holders – Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first-class postage prepaid, to the address of each Holder as it appears in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Holders. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 24. Cancellation. All Certificates surrendered for payment, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Certificates held by the Paying Agent/Registrar shall be destroyed as directed by the City.

SECTION 25. Mutilated, Destroyed, Lost, and Stolen Certificates. If (1) any mutilated Certificate is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Certificate, and (2) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Certificate has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Certificate, a new Certificate of the same Stated Maturity and interest rate and of like tenor and principal amount, bearing a number not contemporaneously Outstanding.

In case any such mutilated, destroyed, lost, or stolen Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Certificate, pay such Certificate.

Upon the issuance of any new Certificate or payment in lieu thereof, under this Section, the City may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses and charges (including attorney's fees and the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Certificate issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Certificate shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Certificates.

SECTION 26. Sale of Certificates - Purchase and Investment Letter Approval – Use of Proceeds. The Certificates authorized by this Ordinance are hereby sold by the City to ___________________, ______________, _____________, as the initial purchasers of the Certificates pursuant to a private placement (the *Purchasers*, having all of the rights, benefits, duties, and obligations of a Holder) in accordance with the provisions of a Purchase and Investment Letter, dated as of September 3, 2020, between the City and the Purchasers, in substantially the form attached hereto as Exhibit B and incorporated herein by reference as a part of the Ordinance for all purposes (the *Purchase Contract*). The Initial Certificate shall be registered in the name of ______________________. The pricing and terms of the sale of the Certificates are hereby found and determined to be the most advantageous reasonably obtainable by the City. Each Authorized Official is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City and as the act and deed of this City Council, and in regard to the approval and execution of the Purchase Contract, the City Council hereby finds, determines and declares that the representations, warranties, and agreements of the City contained in the Purchase Contract are true and correct in all material respects and shall be honored and performed by the City. Delivery of the Certificates to the Purchasers shall occur as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of the Purchase Contract.

Proceeds from the sale of the Certificates shall be applied as follows:

(1) Accrued interest, if any, received from the Purchasers shall be deposited into the Certificate Fund.

(2) The balance of the proceeds derived from the sale of the Certificates (after paying costs of issuance) shall be deposited into the special construction account or accounts created for the projects to be constructed with the proceeds of the Certificates and used to pay costs of such projects. This special construction account shall be established and maintained at the Depository and shall be invested in accordance with the provisions of Section 10 of this Ordinance. Interest earned on the proceeds of the Certificates pending completion of construction of the projects financed with such proceeds shall be accounted for, maintained, deposited, and expended as permitted by the provisions of Chapter 1201, as amended, Texas Government Code, or as required by any other applicable law. Thereafter, such amounts shall be expended in accordance with Section 14 of this Ordinance.

SECTION 27. Covenants to Maintain Tax-Exempt Status.

A. Definitions. When used in this Section, the following terms have the following meanings:

"Closing Date" means the date on which the Certificates are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Certificates. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final

Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Certificates means the yield as calculated pursuant to Section 1.148-4 of the Regulations.

B. Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

C. No Private Use or Private Payments. Except to the extent it will not cause the Certificates to become "private activity bonds" within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Certificates:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

D. No Private Loan. Except to the extent it will not cause the Certificates to become "private activity bonds" within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if- (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

E. Not to Invest at Higher Yield. Except to the extent it will not cause the Certificates to become "arbitrage bonds" within the meaning of section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Certificates directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, materially exceeds the Yield of the Certificates.

F. Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

G. Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

H. Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder or except to the extent the City complies with Subsection J of this Section:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Certificate is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Certificates with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Certificate Fund or its general fund, as permitted by applicable

Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Certificates equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

I. Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection H of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

J. No Rebate Required. The City need not comply with the covenants and duties imposed by the provisions of Subsection H. of this Section if:

(1) the City is a governmental unit with general taxing powers;

(2) 95% of the Net Proceeds of the Certificates and all income from the investment thereof will be used for the governmental activities of the City;

(3) the aggregate face amount, within the meaning of Section 1.148-8(c)(1) of the Regulations, of all debt obligations (other than private activity bonds) issued or expected to be issued by the City or any subordinate entity in the calendar year in which the Certificates are issued is not reasonably expected to exceed $5,000,000; and

(4) the City otherwise satisfies the requirements of paragraph (4)(c) of section 148(f) of the Code and Section 1.148-8 of the Regulations and rulings thereunder.

K. Certificates Not Hedge Bonds.

(1) The City reasonably expects to spend at least 85% of the spendable proceeds of the Certificates within three years after such Certificates are issued.

(2) Not more than 50% of the proceeds of the Certificates will be invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

L. Elections. The City hereby directs and authorizes any Authorized Official and Bond Counsel, either individually or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document. Such elections shall be deemed to be made on the Closing Date.

M. Qualified Tax-Exempt Obligations. The City hereby designates the Certificates as qualified tax-exempt obligations for purposes of section 265(b) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (a) during the calendar year in which the Certificates are issued, the City (including any subordinate entities) has not designated nor will designate obligations, which when aggregated with the Certificates, will result in more than $10,000,000 of "qualified tax-exempt obligations" being issued; (b) the City reasonably anticipates that the amount of tax-exempt obligations issued during the calendar year 2020 by the City (including any subordinate entities) will not exceed $10,000,000; and the City will take such action or refrain from such action as is necessary in order that the Certificates will not be considered "private activity bonds" within the meaning of section 141 of the Code.

SECTION 28. Control and Custody of Certificates. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas and shall take and have charge and control of the Certificates pending their approval by the Attorney General of the State of Texas, the registration thereof by the Comptroller of Public Accounts of the State of Texas and the delivery of the Certificates to the Purchasers.

Furthermore, any Authorized Official, either individually or any combination of them, is hereby authorized and directed to furnish and execute such documents relating to the City and its financial affairs as may be necessary for the issuance of the Certificates, the approval of the Attorney General of the State of Texas and their registration by the Comptroller of Public Accounts of the State of Texas and, together with the City's financial advisors, Bond Counsel, and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Certificate to the Purchasers and, when requested in writing by the Purchasers, the initial exchange thereof for definitive Certificates.

SECTION 29. Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied and the lien on and pledge of the Pledged Revenues under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates, or any principal amount(s) thereof, shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at Stated Maturity, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, and/or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities will mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any money deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof for the Certificates. In the event of a defeasance of the Certificates, the City shall deliver a certificate from its financial advisor, the Paying Agent/Registrar, an independent accounting firm, or another qualified third party concerning the deposit of cash and/or Government Securities to pay, when due, the principal of and interest due on any defeased Certificate. To the extent applicable, if at all, the City covenants that no deposit of money or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as arbitrage bonds within the meaning of section 148 of the Code (as defined in Section 27 hereof).

Any money so deposited with the Paying Agent/Registrar, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such money has been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates and remaining unclaimed for a period of three (3) years after the Stated Maturity of the Certificates, such money was deposited and is held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor, subject to the unclaimed property laws of the State of Texas.

SECTION 30. Printed Opinion. The Purchasers' obligation to accept delivery of the Certificates is subject to their being furnished a final opinion of Norton Rose Fulbright US LLP, San Antonio, Texas, as Bond Counsel, approving certain legal matters as to the Certificates, this opinion to be dated and delivered as of the date of initial delivery and payment for such Certificates. Printing of a true and correct copy of this opinion on the reverse side of each of the Certificates, with appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City is hereby approved and authorized.

SECTION 31. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof, and neither the City nor Bond Counsel are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 32. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 33. Ordinance a Contract, Amendments - Outstanding Certificates. The City acknowledges that the covenants and obligations of the City herein contained are a material inducement to the purchase of the Certificates. This Ordinance shall constitute a contract with the

Holders from time to time, binding on the City and its successors and assigns, and it shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of Holders holding a majority in aggregate principal amount of the Certificates then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided, however, that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of and interest on the Certificates, reduce the principal amount thereof or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount of Certificates required for consent to any such amendment, addition, or rescission.

SECTION 34. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, Bond Counsel, Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, Bond Counsel, Paying Agent/Registrar, and the Holders.

SECTION 35. Inconsistent Provisions. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

SECTION 36. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 37. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 38. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 39. Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council of the City.

SECTION 40. Authorization of Paying Agent/Registrar Agreement. The City Council of the City hereby finds and determines that it is in the best interest of the City to authorize the execution of a Paying Agent/Registrar Agreement concerning the payment, exchange, registration, and transferability of the Certificates. A copy of the Paying Agent/Registrar Agreement is attached hereto, in substantially final form, as Exhibit A and is incorporated by reference to the provisions of this Ordinance.

SECTION 41. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 42. Unavailability of Authorized Publication. If, because of the temporary or permanent suspension of any newspaper, journal, or other publication, or, for any reason, publication of notice cannot be made meeting any requirements herein established, any notice required to be published by the provisions of this Ordinance shall be given in such other manner and at such time or times as in the judgment of the City or of the Paying Agent/Registrar shall most effectively approximate such required publication and the giving of such notice in such manner shall for all purposes of this Ordinance be deemed to be in compliance with the requirements for publication thereof.

SECTION 43. No Recourse Against City Officials. No recourse shall be had for the payment of principal of, premium, if any, or interest on any Certificate or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificate.

SECTION 44. Continuing Disclosure Undertaking.

Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

Rule means SEC Rule 15c2-12, as amended from time to time.

SEC means the United States Securities and Exchange Commission.

The Certificates are being sold pursuant to a private placement with the Purchasers, generally in denominations of $100,000 or any integral multiple of $5,000 thereof, to less than thirty-five sophisticated investors, and therefore SEC Rule 15c2-12 is not applicable to the offering of the Certificates. Accordingly, no contract to provide continuing disclosure information after the issuance of the Certificates has been made by the City with investors.

SECTION 45. Book-Entry Only System.

The Certificates may initially be registered so as to participate in a securities depository system (the *DTC System*) with the Depository Trust Company, New York, New York, or any successor entity thereto (*DTC*), as set forth herein. Each Stated Maturity of the Certificates shall be issued (following cancellation of the Initial Certificate described in Section 7) in the form of a separate single definitive Certificate. Upon issuance, the ownership of each such Certificate shall be registered in the name of Cede & Co., as the nominee of DTC, and all of the Outstanding Certificates shall be registered in the name of Cede & Co., as the nominee of DTC. The Issuer and the Paying Agent/Registrar are authorized to execute, deliver, and take the actions set forth in such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including the Letter of Representations attached hereto as Exhibit C (the *Representation Letter*).

With respect to the Certificates registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation to any broker-dealer, bank, or other financial institution for which DTC holds the Certificates from time to time as securities depository (a *Depository Participant*) or to any person on behalf of whom such a Depository Participant holds an interest in the Certificates (an *Indirect Participant*). Without limiting the immediately preceding sentence, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any Depository Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any Depository Participant or any other person, other than a registered owner of the Certificates, as shown on the Security Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the delivery to any Depository Participant or any Indirect Participant or any other Person, other than a Holder of a Certificate, of any amount with respect to principal of, premium, if any, or interest on the Certificates. While in the DTC System, no person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a bond certificate evidencing the obligation of the Issuer to make payments of principal, premium, if any, or interest on the Certificates pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks or drafts being mailed to the Holder, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

In the event that (a) the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, (b) the Representation Letter shall be terminated for any reason, or (c) DTC or the Issuer determines that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the Issuer shall notify the Paying Agent/Registrar, DTC, and the Depository Participants of the availability within a reasonable period of time through DTC of bond certificates, and the Certificates shall no longer be restricted to being registered in the name of Cede & Co., as nominee of DTC. At that time, the Issuer may determine that the Certificates shall be registered in the name of and deposited with a successor depository operating a securities depository system, as may be acceptable to the Issuer, or such depository's agent or designee, and if the Issuer and the Paying Agent/Registrar do not select such alternate securities depository system then the Certificates may be registered in whatever name or names the Holders of Certificates transferring or exchanging the Certificates shall designate, in accordance with the provisions hereof.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the Representation Letter.

SECTION 46. Accounting Reports. Notwithstanding the provisions of Section 44 of this Ordinance, the City shall provide annually to each of the Purchasers for so long as they are a holder of the Certificates, within 270 days after the end of each fiscal year ending in or after 2020, financial information and operating data with respect to the City (which includes financial information and operating data relating to the System); provided that such financial statements so to be provided shall be (1) prepared in accordance with the generally accepted accounting principles, or such other accounting principles as the City may be required to employ from time to time pursuant to Texas law or regulations, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide (1) unaudited financial statements for the applicable fiscal year within 270 days after the end of such fiscal year, and (2) audited financial statements for the applicable fiscal year to the Purchasers when and if the audit report on such statements become available.

SECTION 47. Further Procedures. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the initial sale and delivery of the Certificates, the Purchase Contract, the Paying Agent/Registrar Agreement, and the Official Statement. In addition, prior to the initial delivery of the Certificates, any Authorized Official and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance and as described in the Official Statement necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance, (ii) obtain a rating from any of the national bond rating agencies, or (iii) obtain the approval of the Certificates by the Texas Attorney General's office. In case any officer of the City whose signature shall appear on any certificate shall cease to be such officer before the delivery of such certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 48. Contract with Financial Advisor. The City Council authorizes any Authorized Official, or their designees, to take all actions necessary to execute any necessary financial advisory contract with SAMCO Capital Markets, Inc., as the financial advisor to the City (the *Financial Advisor*). The City understands that under applicable federal securities laws and regulations that the City must have a contractual arrangement with its Financial Advisor relating to the sale, issuance, and delivery of the Certificates.

SECTION 49. City's Consent to Provide Information and Documentation to the Texas MAC. The Municipal Advisory Council of Texas (the *Texas MAC*), a non-profit membership corporation organized exclusively for non-profit purposes described in section 501(c)(6) of the Internal Revenue Code and which serves as a comprehensive financial information repository regarding municipal debt issuers in Texas, requires provision of written documentation regarding the issuance of municipal debt by the issuers thereof. In support of the purpose of the Texas MAC and in compliance with applicable law, the City hereby consents to and authorizes any Authorized Official, Bond Counsel to the City, and/or Financial Advisor to the City to provide to the Texas MAC information and documentation requested by the Texas MAC relating to the Certificates; provided, however, that no such information and documentation shall be provided prior to the

Closing Date. This consent and authorization relates only to information and documentation that is a part of the public record concerning the issuance of the Certificates.

SECTION 50. Effective Date. Pursuant to the provisions of Section 1201.028, as amended, Texas Government Code, this Ordinance shall be effective immediately upon adoption, notwithstanding any provision in the City's Home Rule Charter to the contrary concerning a multiple reading requirement for the adoption of ordinances.

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PASSED, APPROVED, AND ADOPTED on the 3rd day of September, 2020.

Garry Manitzas, Mayor

ATTEST:

Christina Picioccio, City Secretary

APPROVED AS TO FORM:

Denton Navarro Rocha Bernal & Zech, P.C., City Attorney

(CITY SEAL)

INDEX TO EXHIBITS

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

See Tab No. __

EXHIBIT B

PURCHASE CONTRACT

See Tab No. __

EXHIBIT C

DTC Letter of Representations

See Tab No. __