



**CITY OF FAIR OAKS RANCH
AGENDA – CITY COUNCIL REGULAR MEETING**

August 15, 2019 6:30 PM
City Hall Council Chambers
7286 Dietz Elkhorn, Fair Oaks Ranch

I. OPEN MEETING

- A. Roll Call – Declaration of a Quorum.
- B. Pledge of Allegiance.

II. CITIZENS and GUEST FORUM / PRESENTATIONS

To address the Council, please sign the Attendance Roster located on the table at the entrance of the Council Chamber. 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. Citizens to be heard.
- B. Presentation of 5 Year Employee Service Award to Police Sergeant Richard Gonzalez and Adrian Garcia, Manager of Engineering Services.
- C. Life Saving Award to Police Officers Allen Paz and Riley Gobeil.

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 August 8, 2019 Special City Council Meeting Minutes
- B. Approval of declaring excess city-owned personal property as surplus and authorizing disposal of surplus.

IV. CONSIDERATION/DISCUSSION ITEMS

- A. Consideration and possible action on approving a proposal for Professional Engineering Services to remediate an exposed water line and authorizing the City Manager to sign an agreement.
Adrian Garcia P.E., Manager of Engineering Services
- B. Consideration and possible action on the first reading of an Ordinance approving FY2018-19 budget amendments.
Sarah Buckelew, Finance Director
- C. Consideration and possible action setting:
 - 1) The proposed Fiscal Year 2019-2020 Property Tax Rate.
 - 2) September 5, 2019, 9:30 AM and September 12, 2019, 6:30 PM as Public Hearing dates on the proposed Fiscal Year 2019-2020 Budget and 2019 Tax Rate.
 - 3) September 19, 2019, 6:30 PM as the date to adopt the Fiscal Year 2019-2020 Budget and 2019 Tax Rate.
Sarah Buckelew, Finance Director

D. Consideration and possible action on the first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 8 "Offenses and Nuisance" by creating an Article for violations of the City Charter. Carole Vanzant, Assistant City Manager

E. Discussion of a proposed Ordinance establishing City Council Meeting Rules of Procedure. Carole Vanzant, Assistant City Manager

V. REPORTS FROM STAFF/COMMITTEES/COUNCIL

A. Texas Environmental Super Conference Update. Council Member Patel

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. 551.071 (Consultation with Attorney) - Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs Edward I. Hill, Robert E. Heckendorn, Craig M. Luitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.

B. 551.071 (Consultation with Attorney) - to receive legal advice regarding claims made on behalf of a real property owner against the City's operation of the K-3 Trinity Glen Rose Water Well.

C. 551.071 (Consultation with Attorney) - to receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.

D. 551.074 (Personnel Matters) - to evaluate submission of qualifications and select finalist for the city's municipal court judges and city prosecutors

E. 551.074 (Personnel Matters) - to perform annual evaluations of the City Manager and the City Secretary.

VII. RECONVENE INTO OPEN SESSION

A. Consideration and possible action on selecting the finalist for the city's municipal court judges and city prosecutors and to set interview date(s).

B. Consideration and possible action on other 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: _____



I, C. Vanzant, Assistant City Manager, certifies 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. Said Notice was posted by 5:00 PM August 12, 2019 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 OF FAIR OAKS RANCH POLICE DEPARTMENT

7286 DIETZ ELKHORN ROAD
FAIR OAKS RANCH, TEXAS 78015

PHONE: (210) 698-0990 FAX: (210) 698-1647
NON-EMERGENCY/DISPATCH: (830) 249-8645

August 15, 2019

Life Saving Award

Officer Allen Paz,

On July 20th you were dispatched to a medical emergency at the 30000 Block of Setterfeld Circle. Upon arrival, you observed Officer Gobeil with the victim providing lifesaving actions. You immediately began to assist with the lifesaving efforts until the victim was responsive.

Your actions and quick thinking were instrumental in the saving of human life. Due to your extraordinary actions the victim survived and is recovering.

You are commended for your actions and hereby awarded the Fair Oaks Ranch Police Department Life Saving Award.

Respectfully,



Scott Rubin
Chief of Police
Fair Oaks Ranch





CITY OF FAIR OAKS RANCH POLICE DEPARTMENT

7286 DIETZ ELKHORN ROAD
FAIR OAKS RANCH, TEXAS 78015

PHONE: (210) 698-0990 FAX: (210) 698-1647
NON-EMERGENCY/DISPATCH: (830) 249-8645

August 15, 2019

Life Saving Award

Officer Riley Gobeil,

On July 20th you were dispatched to a medical emergency at the 30000 Block of Setterfeld Circle. Upon arrival, you observed the victim in serious medical distress and immediately began providing lifesaving actions.

Your actions and quick thinking were instrumental in the saving of human life. Due to your extraordinary actions the victim survived and is recovering.

You are commended for your actions and hereby awarded the Fair Oaks Ranch Police Department Life Saving Award.

Respectfully,

Scott Rubin
Chief of Police
Fair Oaks Ranch



CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING MINUTES
August 8, 2019
7286 Dietz Elkhorn, Fair Oaks Ranch, TX 78015

I. OPEN MEETING

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

With a quorum present, Mayor Manitzas called the meeting to order at 3:03 a.m. The Pledge of Allegiance was led by meeting attendee Wes Pieper.

II. CITIZENS TO BE HEARD

Brett Mussey, 8472 Rolling Acres Trail, asks Council to consider including the Human Resources and IT budget requests previously stated in the earlier budget workshops and, to help alleviate flooding issues, provide funds for culvert cleaning.

Wes Pieper, 9264 Dietz Elkhorn, requested clarification on the availability of increased funds, in this year's budget, for the old police building renovation, police generator and chip sealing of parking lot. He noted as the city has the capability to upload meeting recordings to its' website he asked consideration of utilizing this feature and, also noted speaking directly into microphones would benefit the audio recordings.

III. FY 2019-20 BUDGET and STRATEGIC PLAN WORKSHOP

Finance Director Sarah Buckelew provided an overview on:

- 2018 Total tax rate 0.3668 (includes M&O and I&S)
- 2019 effective tax rate 0.3563
- 2019 Rollback tax rate 0.3791
- 2019 Proposed total tax rate 0.3668
- Average 2019 property value in Fair Oaks Ranch is \$504,541
- Draft budget assumes no increase to the total tax rate
- All but two strategic plan projects are funded; unfunded projects equal \$107,000 (.0067 tax)
- The renovation of the City Hall is financed with debt which will be seen in 2020 Tax Year.
- No water/wastewater rate increase
- Budget includes employee merit increases and a one-time \$750 pay incentive to all employees except City Manager

After a discussion and review of the strategic plan projects, City Council directed staff to fund the FM3351 Partnership and the Human Resources software. City Council confirmed their availability September 5th at 9:30 a.m. and September 12th at 6:30 p.m. for the budget and tax rate public hearings and, September 19th at 6:30 p.m. for the adoption of the budget and tax rate.

IV. ADJOURNMENT

Mayor Manitzas adjourned the meeting at 4:30 p.m.

Garry Manitzas, Mayor

ATTEST:

Christina Picioccio, City Secretary



CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
August 15, 2019

AGENDA TOPIC: Approval of declaring excess city-owned personal property as surplus and authorizing disposal of surplus.

DATE: August 15, 2019

DEPARTMENT: Police and Public Works

PRESENTED BY: Consent Agenda; Chief Rubin

INTRODUCTION/BACKGROUND:

There is no provision in the statutes or city charter regulating the sale of personal property belonging to municipalities and, the City has no ordinance or resolution governing the disposal of personal property; as such, property may be disposed of in such a manner as the City Council directs. The police and public works department is requesting the City Council declare the following items as surplus and authorize disposal:

- One New Holland Backhoe
- One John Deer Tractor with pull behind mower
- Four Headache racks for F-250's
- Two Truck toolboxes
- One Vibration Compactor
- One Jack Hammer
- One 18' Trailer
- One Ford F-250 Regular Cab Truck
- One 2013 Ford Police Interceptor SUV
- One 2006 GMC Sierra 1500 4dr (Seized Vehicle)
- Assorted items located within the Seized Vehicle

The intent is to use the on-line auction process that the City has utilized in the past. Items not receiving a bid during the auction will either be sold as scrap or disposed of appropriately.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

As the City has no further need for certain vehicles and miscellaneous equipment which have exceeded their usefulness it is in the best interests of the City to auction, sell or dispose of said property.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

No negative budgetary impact.

LEGAL ANALYSIS:

N/A

RECOMMENDATION/PROPOSED MOTION:

Consent Agenda approval.



CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
August 15, 2019

AGENDA TOPIC: Consideration and possible action on approving a proposal for Professional Engineering Services to remediate an exposed water line and authorizing the City Manager to sign an agreement

DATE: August 15, 2019

DEPARTMENT: Public Works

PRESENTED BY: Adrian M. Garcia, P.E., Manager of Engineering Services

INTRODUCTION/BACKGROUND:

In the fall of 2016, the City became aware of a 10" exposed water main near the banks of the Balcones Creek. The location of the line, shallow depth, and erosion caused by drainage may have all been contributing factors to this waterline becoming uncovered. Additional details such as disagreement with the recorded utility easement and the route the water main takes across the Balcones Creek add to the complexity of the proposed solution.

Later in the fall of 2016 City reached out to Garza EMC, a local engineering consulting firm, to provide a proposal to remediate the exposed water line. Upon completion of the Master Water and Wastewater plan in 2019 and the allocation of funding, the City re-engaged discussions with Garza EMC to provide an updated proposal.

The provided proposal includes the completion of a Technical Memorandum to provide the City with multiple options to remediate the exposed waterline. Design phase, bid phase, and construction phase services are outlined in the proposal's scope of services.

The Public Works Department recommends the approval of the proposal with Garza EMC.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

The Master Water and Wastewater plan, adopted in 2019, targeted rehabilitation projects to protect the City's water system. Projects include replacing and relocating lines to provide system redundancy and to avoid service interruptions in the future.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

Although the City budgeted \$400,000 in the enterprise fund (05-501-150) under the title "Fix Exposed Water line", this agenda item is for engineering services for \$63,265.

LEGAL ANALYSIS:

Engineering Consultant will be required to sign and adhere to the city's Standard Professional Services Agreement prior to the commencement of work.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the proposal for Professional Engineering Services to remediate an exposed water line and authorize the City Manager to sign an agreement with Garza EMC, LLC in an amount not to exceed \$63,265.

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 _____ ("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 set forth in Exhibit "B" and 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) and accounted for in the total contract amount in Exhibit "B". 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 C throughout the term of this Agreement and thereafter as required herein. In addition to the insurance provided for in Exhibit C, 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.

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.

Section 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.

Section 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.

Section 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.

Section 26. Multiyear contract. “The Parties acknowledge and agree that Article 11, Sections 5 and 7 of the Texas Constitution prohibits municipalities from incurring debt beyond its current budget year without first providing for a 2% percent sinking fund. As this Agreement provides for payment of \$63,265 in the City’s fiscal year ending on September 30, 2019 (FY 18-19) the Parties hereby agree that: **notwithstanding any provision of this Agreement to the contrary the City’s obligation to make payment on this Agreement shall terminate on September 30, 2019, unless City Council, on or before such date, provides in the City’s FY 19-20 budget for the continuation of funding of this Agreement. Should City Council fail to provide such funding for FY 19-20, the City shall have no further financial obligation under this agreement after September 30, 2019, and the Professional shall have no further obligation under this Agreement save and except its obligation to complete all work for which payment was made by City in FY 18-19.** It is City Council’s intent to use its best efforts to obtain and appropriate funds for the FY 19-20 payment.

EXECUTED, by the City on this the _____ day of _____, 20____.

CITY:

By: _____
Name: Tobin Maples
Title: City Manager

PROFESSIONAL:

By: _____
Name: _____
Title: _____

ADDRESS FOR NOTICES:

CITY

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

PROFESSIONAL

with a copy to:

City Attorney
City of Fair Oaks Ranch, Texas
Attn: Daniel Santee
2517 N. Main Avenue
San Antonio, Texas 78212

Exhibit "A & B"

Scope of Services and Compensation

Attached

Exhibit "C"

Evidence of Insurance

To be provided no later than commencement of work



July 31, 2019

Mr. Adrian Garcia, P.E.
City of Fair Oaks Ranch
Manager of Engineering Services
Fair Oaks Ranch, Texas 78015

Re: Proposal for Professional Services (Rev.01)
Exposed Water Main on the Balcones Creek

Mr. Garcia:

We appreciate the opportunity to submit this proposal for Civil Engineering Services in connection with the above referenced project. This proposal is in response to the information obtained during our preliminary site visit on October 7, 2016 and the information received on October 11, 2016 and June 28, 2019. We understand that the scope of work consists of providing a recommendation for the remediation of the water main exposure due to scouring along with Construction Drawings, Bid Phase Services and Construction Phase Services.

We appreciate the opportunity to submit this proposal and look forward to assisting you in the development of this project.

Upon your review of this proposal, we would appreciate the opportunity to meet with you to review and further clarify the project and scope as presented. Please call if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brett Larson'.

Brett Larson, P.E.
Project Manager

Garza EMC, LLC
100 NE Loop 410, Ste 1090
San Antonio, Texas 78216
o: 210.526.0286
f: 210.526.0325
www.garzaemc.com
TBPE No. F-14629

SCOPE OF SERVICES

A. Remediation Technical Memorandum

It appears that the existing 10-inch water main along with the pipe bedding is being exposed by storm water from adjacent properties. This erosion is likely the result of several factors including site topography, vegetative cover, and the existing soil conditions. A Technical Memorandum (TM) will be prepared to provide a recommendation for either relocation or protection of the existing water main. Below is a detailed description of the proposed services related to the TM.

1. Project Management – Development of project and invoicing.
2. Develop three (3) alternatives for the remediation of the exposed water main.
3. Prepare supporting exhibits, calculations, etc. for discussion with and review of the proposed changes by the City of Fair Oaks Ranch.
4. Provide recommendation on whether an easement acquisition(s) is warranted.
5. Provide an Engineer's Opinion of Probable Construction Cost (EOPCC) for each alternative.
6. Provide recommendation for remediation of the exposed water main.

B. Preparation of Construction Drawings, Specifications and Cost Estimate

Once we have received approval on an alternative, we will begin to incorporate our findings onto Construction Drawings. Submittals for Construction Drawings include a 90% Submittal, 100% Submittal and a Final Submittal (Signed & Sealed). Below is a detailed description of the proposed services related to the Design Phase Services.

1. Project Management – Schedules, budget, invoicing, and project coordination. One (1) project meeting at two (2) hours in length is planned for each submittal to address any questions and review comments.
2. 90% Design Plans – Prepare 90% plans based on approved alternative. Submittal to include plans, specifications, cost estimate and schedule.
3. 100% Design Plans – Address comments from 90% review and prepare 100% plans. Submittal to include plans, cost estimate and updated schedule.
4. Final Design Plans – Address comments from 100% review and prepare final plans. Submittal to include signed & sealed plans, cost estimate and updated schedule.
5. Specifications will be prepared using the City of Fair Oaks Ranch standard specifications for water main improvements, and City of San Antonio (CoSA) standard specifications for other improvements. Specifications will be supplemented by San Antonio Water System (SAWS) standard specifications in the absence of City of Fair Oaks Ranch specifications. Special Specifications will be prepared for other items not covered under a standard specification.

C. Bid Phase Services

Garza EMC will prepare the Project Manual using standard front-end documents provided by the City. Garza EMC will review the standard documents once prepared and provide any comments to the City. Garza EMC will prepare the Bid Form. Garza EMC will attend the pre-bid meeting and provide sign-in sheets, meeting agenda, exhibits and handouts as necessary. The City will schedule and manage the bid opening and provide Garza EMC with the bids for review. Garza EMC will review the bids for qualifications and accuracy and make a recommendation of award to the City.

D. Construction Phase Services

Garza EMC will attend the pre-construction meeting and provide sign-in sheets, meeting agenda, exhibits and handouts as necessary. We will review shop drawings and material submittals for the project. We will respond to any Requests for Information submitted by the Contractor. We will make bi-weekly site visits throughout the duration of the project to verify accurateness to the design plans, provide guidance for any field changes and to document site conditions. A site observation report will be prepared for each visit documenting work that has been completed to date along with site conditions and any general comments. Garza EMC will also document any visual deviations from the plans to incorporate into as-built drawings. Garza EMC will conduct a substantial completion walk-through and prepare a punch list for items to be completed or corrected prior to acceptance of the project.

E. Supplemental Services

Garza EMC will subcontract with a local surveyor to perform a boundary and topographic survey of the site upon approval from the City.

Where additional easement is required for the water main, Garza EMC will subcontract with a local surveyor to prepare the easement documents. The City will be responsible for coordination and negotiations with the current landowner. The documents will then be filed by the City.

Garza EMC will subcontract with a local Subsurface Utility Engineering provider as needed to locate existing utilities. This work will be as necessary with approval from the City.

If it is determined that any structural improvements are required, Garza EMC will subcontract with a local Geotechnical Engineer to perform analysis of the existing soil conditions and make a recommendation for structural design.

ASSUMPTIONS

In preparing this proposal, we have made the following assumptions:

- TM Phase Services shall be based on available GIS data including contours, property lines, aerial photos, etc., and visual inspection during site visits.

- This scope of work assumes that no structural design will be required.
- This scope of work will not include channel stabilization measures.
- This scope of work will not include slope stabilization analysis.
- The existing main is adequately sized for the required flow rates.
- The City will acquire rights-of-entry for us, or our sub-consultants, to access the site.
- The City will provide Front-End Documents for the Project Manual; and
- The City will distribute the construction and bid documents to possible bidders.

EXCLUSIONS / ADDITIONAL SERVICES

The following items are excluded from this proposal but can be provided as an additional service:

- Front-End Documents
- Regular or scheduled project or team meetings other than specifically described in the scope above or required for general design coordination
- Preparation or coordination of as-built drawings or record drawings
- Geotechnical investigation and report.

FEE SCHEDULE

We propose to provide the specific services described above on a joint lump sum basis as follows:

	ITEM	FEE BASIS	FEE	PHASE	
	Civil Engineering				
A.	Remediation TM	Lump Sum	\$	13,380.00	.30
B.	90% Design Phase	Lump Sum	\$	13,190.00	.31
C.	100% Design Phase	Lump Sum	\$	7,295.00	.32
D.	Bid Phase	Lump Sum	\$	3,330.00	.40
E.	Construction Phase	Lump Sum	\$	7,120.00	.50
F.	Surveying Services	Lump Sum	\$	7,900.00	.80
G.	Subsurface Utility Engineering	Lump Sum	\$	10,450.00	.81
H.	Reimbursables	At Cost*	\$	600.00	.90
	Total		\$	63,265.00	

* Estimate for budgeting purposes.

Please note that the above fees are based on a smooth project implementation and have assumed there will be no major changes following approval of an alternative provided in the TM. Work provided outside the above Scope of Services will be negotiated as part of Additional Services. See Attachment A for a breakdown of the fees.

City of Fair Oaks Ranch
Water Main Improvements
Fee Breakdown
Garza EMC

ATTACHMENT A



Title	Senior VP	Senior PM	Project Manager	Professional Eng I	EIT	CAD Technician	Admin	Labor	Expenses	Total
Rate	\$ 250.00	\$ 190.00	\$ 180.00	\$ 160.00	\$ 130.00	\$ 130.00	\$ 85.00			
BASIC SERVICES										
30% - Technical Memorandum										
1.0 Project Management (1 month)										
1.1 Project Kick-Off Meeting			2	2				\$680.00		\$680.00
1.2 Review Meeting w/ City			2	2				\$680.00		\$680.00
1.3 Invoicing/Contracts			1				2	\$350.00		\$350.00
1.4 Coordination w/ Subs (Access to Site/Review Submittals)				2	2			\$580.00		\$580.00
2.0 Develop Alternatives (3)										
2.1 Review/Cleanup Survey Data					2	4		\$780.00		\$780.00
2.2 Site Visit to confirm Survey Data & Document Conditions			2	2				\$680.00		\$680.00
2.3 Design Proposed Alternatives			2	6	8			\$2,360.00		\$2,360.00
2.4 Prepare Alternatives (Exhibits)			1	2	4	12		\$2,580.00		\$2,580.00
3.0 Produce Technical Memorandum										
3.1 Write Technical Memorandum w/ recommendation			2	4	2			\$1,260.00		\$1,260.00
3.2 Prepare Additional Exhibits (Location Map/Project Layout)					2	6		\$1,040.00		\$1,040.00
3.2 Prepare EOPCC for Each Alternative			1	2	2			\$760.00		\$760.00
4.0 Internal QC Review & Address Comments	1		1	1	2	4		\$1,370.00		\$1,370.00
5.0 Prepare Submittal					2			\$260.00		\$260.00
30% Design Phase Hours	1		14	23	26	26	2			
30% Design Phase Cost	\$250.00		\$2,520.00	\$3,680.00	\$3,380.00	\$3,380.00	\$170	\$13,380.00		\$13,380.00
90% Design Phase										
1.0 Project Management (2 month)										
1.1 Review Meeting w/ City			2	2				\$680.00		\$680.00
1.2 Invoicing			1				2	\$350.00		\$350.00
2.0 Preparation of Construction Drawings										
2.1 Cover Sheet, General Notes, Project Layout, Summary of Quantities			1	2	4	8		\$2,060.00		\$2,060.00
2.2 Selected Alternative Plan Sheet			2	4	6	24		\$4,900.00		\$4,900.00
2.3 Prepare Standard Details/Special Details			1	2	2	4		\$1,280.00		\$1,280.00
2.4 Cost Estimate			1	1	2			\$600.00		\$600.00
3.0 Prepare Specifications/Special Specifications			2	4	4		2	\$1,690.00		\$1,690.00
4.0 Internal QC Review & Address Comments	1		1	1	2	4		\$1,370.00		\$1,370.00
5.0 Prepare Submittal					2			\$260.00		\$260.00
90% Design Phase Hours	1		11	16	22	40	4			
90% Design Phase Cost	\$250.00		\$1,980.00	\$2,560.00	\$2,860.00	\$5,200.00	\$340	\$13,190.00		\$13,190.00
100% Design Phase										
1.0 Project Management (1 month)										
1.1 Review Meeting w/ City			2	2				\$680.00		\$680.00
1.2 Invoicing			1				1	\$265.00		\$265.00
2.0 Finalize Construction Drawings										
2.1 Cover Sheet, General Notes, Project Layout, Summary of Quantities				1	1	2		\$550.00		\$550.00
2.2 Finalize Alternative Plan Sheet			1	2	4	16		\$3,100.00		\$3,100.00
2.3 Finalize Standard Details/Special Details			1	1	1	1		\$600.00		\$600.00
2.4 Cost Estimate			1	1	1			\$470.00		\$470.00
3.0 Prepare Specifications/Special Specifications			2	4	4		2			
4.0 Internal QC Review & Address Comments	1		1	1	2	4		\$1,370.00		\$1,370.00
5.0 Prepare Submittal					2			\$260.00		\$260.00
100% Design Phase Hours	1		9	12	15	23	3			
100% Design Phase Cost	\$250.00		\$1,620.00	\$1,920.00	\$1,950.00	\$2,990.00	\$255	\$7,295.00		\$7,295.00

City of Fair Oaks Ranch
Water Main Improvements
Fee Breakdown
Garza EMC

ATTACHMENT A



Title	Senior VP	Senior PM	Project Manager	Professional Eng I	EIT	CAD Technician	Admin	Labor	Expenses	Total
Rate	\$ 250.00	\$ 190.00	\$ 180.00	\$ 160.00	\$ 130.00	\$ 130.00	\$ 85.00			
Bid Phase										
1.0 Prepare Project Manual/Bid Documents			2	2	4		6	\$1,710.00		\$1,710.00
2.0 Pre-Bid Meeting			2	2				\$680.00		\$680.00
3.0 Open Bids/Evaluate Bids/Recommendation of Contract			2	2	2			\$940.00		\$940.00
Bid Phase Hours			6	6	6		6			
Bid Phase Cost			\$1,080.00	\$960.00	\$780.00		\$510	\$3,330.00		\$3,330.00
Construction Phase										
1.0 Pre-Construction Meeting			2	2				\$680.00		\$680.00
2.0 Review Submittals			1	2	8			\$1,540.00		\$1,540.00
3.0 Respond to RFI's			1	2	2			\$760.00		\$760.00
4.0 Site Visits/Pay Apps (Estimate 2 months)			4	8	4			\$2,520.00		\$2,520.00
5.0 Substantial Completion Walk-Through/Punchlist			2	2	2			\$940.00		\$940.00
6.0 Final Completion Walk-Through			2	2				\$680.00		\$680.00
Construction Phase Hours			8	18	16					
Construction Phase Cost			\$1,440.00	\$2,880.00	\$2,080.00			\$7,120.00		\$7,120.00
Reimbursables										
1. Reimbursables (Mileage, Parking, Reprographics, & Delivery Services)									\$300.00	\$300.00
Reimbursables Cost									\$300.00	\$300.00
TOTAL BASIC SERVICES PROJECT HOURS	3		48	75	85	89	15			
TOTAL BASIC SERVICES PROJECT COST	\$750.00		\$8,640.00	\$12,000.00	\$11,050.00	\$11,570.00	\$1,275.00	\$44,315.00	\$300.00	\$44,615.00
SUPPLEMENTAL SERVICES										
Surveying Services										
1.0 Topographic Survey								\$5,400.00		\$5,400.00
2.0 Easement Preparation (Up to 2)(\$1,250.00 each)								\$2,500.00		\$2,500.00
Subsurface Utility Engineering										
1.0 Pothole North of Creek (Possibly Deep)								\$6,800.00		\$6,800.00
2.0 Pothole South of Creek (Anticipated to be Shallow)								\$3,650.00		\$3,650.00
Reimbursables										
1. Reimbursables (Mileage, Parking, Reprographics, & Delivery Services)									\$300.00	\$300.00
Reimbursables Cost									\$300.00	\$300.00
TOTAL SUPPLEMENTAL SERVICES PROJECT HOURS										
TOTAL SUPPLEMENTAL SERVICES PROJECT COST								\$18,350.00	\$300.00	\$18,650.00
TOTAL PROJECT COST								\$62,665.00	\$600.00	\$63,265.00

PROFESSIONAL SERVICES AGREEMENT

July 11, 2019

Garza EMC
Attn.: Mr. Brett Larson, PE
100 NE Loop 410, Suite 1090
San Antonio, Texas 78216

EMAIL: blarson@garzaemc.com

Dear Mr. Larson :

Thank you for your request for Professional Services. The following information is presented to confirm our assignment and provide information that you may find helpful.

Our Project Number:

Project Name: Fair Oaks Ranch WaterMain Relocation/Replacement

Assigned Project Manager: Paul A. Schroeder, PE, RPLS

Type Billing: Fixed Fee Plus Project Direct Costs

Fee:	Topographic Survey	\$	5,400
	Prepare Easement Documents (1,250/Each)	\$	<u>2,500</u>
	Total	\$	7,900

Project Direct Costs:

In addition, project direct costs including, but not limited to, travel and mileage, printing, photocopying, and survey fuel surcharge will be charged as incurred. All other project specific charges, consultant fees and other third party costs will be charged at cost plus ten percent (10%).

State, City and MTA Sales Tax (8.25%) will be charged on surveying fees, prints and reproductions when applicable, in accordance with State Law. The State Comptroller of Texas requires that taxes be charged on taxable services provided on contracts with non-exempt third parties, even if the services are being performed on behalf of a tax exempt entity/owner. The Client is responsible for any and all State sales taxes and associated costs and/or penalties that V&A may be required to pay by the State Comptroller's Office related to this project even if the appropriate sales taxes are not charged to the Client by V&A. Tax exempt certificates are required for work performed on behalf of a tax exempt entity.

The fee estimate provided is in accordance with the Terms & Conditions set forth in Attachment I. Fees are subject to renegotiation if separate contract terms and conditions are required.

SERVICES TO BE PERFORMED

PROJECT AND PROPERTY DESCRIPTION

Lot P-100, CB 4708C, Black Jack Oaks Unit-3C, Fair Oaks Ranch, Bexar County, Texas.

SERVICES TO BE PROVIDED

TOPOGRAPHIC SURVEY

Topographic survey of pipeline route 50 feet wide, to include trees and two (2) “pot hole” locations. Recover west limits of the Lot P-100, CB 4708C and the Fair Oaks Golf and Country Club tract in Kendall County.

PREPARE EASEMENT DOCUMENTS

Prepare metes and bounds for a new pipeline route within said two tracts.

This agreement does not include services required for unusual boundary research beyond that furnished by Clients title company and additional field services related thereto, extensive analysis that may be required due to discrepancies in descriptions of subject tract boundary and/or adjoining deeds or where insufficient monumentation exists, to meet mandated standards for boundary resolution, tracts for which gaps and gores or gradient boundary line determinations are required and; determinations of applicability of archaic, vague or poorly documented easements as identified by Clients title company or others. This agreement does not include any governmental agency survey-related requirements; such as HUD surveys and Bureau of Land Management lands. These survey requirements may be negotiated at an additional cost to the client and will be billed as a supplemental service and at an hourly rate.

ASSUMPTIONS AND EXCLUDED SERVICES

- This proposal does not include creek cross sections within the limits of the stream flow.
- This proposal assumes the zoning for this lot is suitable for the proposed use, and no rezoning is required. This proposal does not include any rezoning of the property.
- This proposal assumes that the site is on a legal lot and part of an existing subdivision and that no platting will be required.
- It is assumed that the layout will not change after engineering design has begun. Changes made to the site plan after design has begun will constitute a change of scope and supplemental fees will be required.
- This proposal does not include any environmental site assessments or environmental reports for endangered species or habitat. It is assumed that Client will contract separately for this item if required.
- This proposal does not include any geo-technical site investigations. It is assumed that Client will contract separately for this item if required. Pavement types and design will be by others and will be supplied to V&A.

Brett Larson
July 11, 2019

- This proposal only includes those items specifically identified in the scope of services above. Items not specifically identified will be performed as a supplemental service if requested by Client.
- Supplemental services required by the Client that may arise and are not outlined above shall be compensated for on an hourly basis or negotiated to a lump sum fee. Revisions to construction plans, site plan, and/or subdivision plat, after calculations are complete due to a redirection by the Client, shall be considered a supplemental service.

ITEMS TO BE PERFORMED BY OR PROVIDED BY CLIENT

- Right of Entry documents
- Schematic of prepared alignment within limits of survey.

All listed services to be performed in accordance with the attached Standard Terms & Conditions.

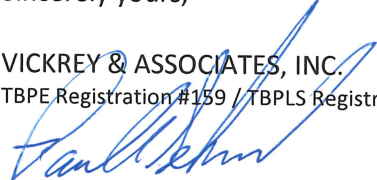
You should review this information and advise our office of any corrections that are needed.

Please complete the following information and return one executed agreement by email within ten (10) days and one executed original within thirty (30) days. Receipt of properly executed agreement will constitute your authorization for V&A to commence work on these Professional Services. This agreement is void if not signed and returned within thirty (30) days.

Should you need further information, please do not hesitate to call. We look forward to your reply and authorization to proceed.

Sincerely yours,

VICKREY & ASSOCIATES, INC.
TBPE Registration #159 / TBPLS Registration #10004100



Paul A. Schroeder
Residential Division Manager

PAS/ksh

Reviewed and Approved by:



Robert Anguiano
Vice President



Initial Here

TO BE COMPLETED BY CLIENT: (Please Type or Print Below)

CLIENT:

This agreement is between Vickrey & Associates, Inc. and CLIENT. The CLIENT is identified as follows and is to be completed by the CLIENT:

_____ is the responsible party for
(Printed Name of Company Representative) (Client Company Name) (Tax ID No.)
all fees incurred under this Agreement and I am authorized to sign this Agreement on _____'s
behalf. (Company's)

Address: _____

Email: _____ Phone: _____

CLIENT'S SIGNATURE _____ (ALSO INITIAL AT BOTTOM OF PAGE)

PRINTED NAME: _____

TITLE: _____

DATE: _____

AUTHORIZED CLIENT CONTACT:

If different from above, designate the person to act with authority on Client's behalf regarding all matters in the performance of this contract:

Company Name: _____

Authorized Contact Name: _____

Address: _____

Email: _____ Phone: _____

AUTHORIZED PARTY'S SIGNATURE _____ DATE _____

PRINTED NAME: _____

TITLE: _____

BILLING CONTACT:

All invoices to be issued in CLIENT COMPANY NAME as stated above; however, if the billing contact name or mailing address is different from the CLIENT information above, please provide a BILLING CONTACT NAME and c/o mailing address where invoices are to be sent.

Billing Contact Name: _____

c/o Company Name: _____

Address: _____

Email: _____ Phone: _____

Terms and conditions of this Agreement are set forth in Attachment I attached hereto and made a part hereof. By execution of this agreement Client acknowledges that it has been informed and has read and fully understands and consents to them.

Period of Service: The compensation amount stipulated is conditioned on a period of service not exceeding **6** months for design and **12** months for construction OR **180** days. If such period of service is extended, the compensation amount for V&A's services shall be appropriately adjusted.

CONSULTANT SERVICES:

Vickrey & Associates, Inc. (V&A) is being engaged by CLIENT to render professional engineering or surveying services in connection with CLIENT's project. V&A agrees to perform such services in conformance with the descriptions, definitions and conditions as set forth herein and as attached hereto.

V&A will perform its services in a professional manner in accordance with the standard of care and diligence normally practiced by recognized professional engineering firms in performing services of a similar nature, in the same locality of the project site, under similar circumstances. V&A makes no other warranties or guarantees, expressed or implied.

V&A agrees to comply with all Federal, State and local laws and ordinances applicable to the services being provided hereunder on this project. V&A shall perform the services within a timely manner consistent with sound professional practices.

Many permitting agencies provide specified review time lines that are often not met by the review agencies. As a result, V&A makes no warranties as to time frames required or the ability to obtain permits or approvals. V&A can assist CLIENT in expediting the review processes as an additional service billed on an hourly basis. Occasionally new or revised policies or procedures are established by review agencies. Any work required to resolve contested issues resulting from new regulations, new interpretations of existing regulations or changes in in-house agency policy and procedures shall be considered additional services billed on an hourly basis. CLIENT requested site plan or design changes after the submittal of civil plans for permits shall also be additional services to be billed on an hourly basis.

CLIENT RESPONSIBILITY:

- CLIENT shall provide V&A the following:
- a) CLIENT's criteria and requirements for the project;
 - b) Right-of-entry and access for V&A to enter upon the project site whether upon Public or private property;
 - c) All information available to or known by CLIENT which may be required by V&A in performing our services; and
 - d) Timely examination and response to Engineer's submittals.

CHANGES IN SCOPE OF SERVICES:

If CLIENT makes changes to the scope of services shown in the Professional Services Agreement attached hereto, and/or if unknown or unforeseen conditions are encountered in the field, which causes an increase in the cost for performance of the services hereunder, then a mutually agreed upon adjustment in fee should be made and reflected in an "Amendment," to be executed and/or authorized by CLIENT.

In the event there are modifications and/or additions to Regulatory Requirements or agency review processes related to the services performed under this Agreement after the date of its execution which cause an increase in the cost required of V&A for performance of the services hereunder, then a mutually agreed upon adjustment in fee shall be made and reflected in an "Amendment," to be executed and/or authorized by CLIENT.

In the event work is ordered verbally by CLIENT or his representative or agent and/or if immediate services are required to respond to construction issues, permitting, or required design changes on behalf of CLIENT or the project, additions will be considered authorized and will be billed on a time basis and CLIENT will be responsible for payment.

GENERAL CONDITIONS:

- OWNERSHIP & REUSE OF DOCUMENTS
All documents including the original drawings, estimates, specifications, field notes and data, will remain the property of V&A as instruments of service. However, contingent upon payment in full for all services rendered, it is to be understood that CLIENT shall have access to all such information with the right to make and retain copies of drawings. Any reuse without specific written verification or adaptation by V&A will be at CLIENT's sole risk and without liability or legal exposure to V&A. Any such verification or adaptation may entitle V&A to further compensation at rates to be agreed upon by CLIENT and V&A.
- CERTIFICATIONS, GUARANTEES AND WARRANTIES
V&A shall not be required to execute any document that would result in certifying, guaranteeing or warranting the existence or non-existence of conditions that V&A cannot ascertain or has not been engaged to ascertain.
In the event a certification is provided it is understood that any "certification" is to be an expression of professional opinion by a Registered Engineer in the State of Texas and is based on the Engineer's best knowledge, information, and belief, and that it constitutes neither a guarantee nor a warranty.
- INSURANCE
V&A shall secure and maintain throughout the full period of this Agreement sufficient insurance to protect it adequately from claims under applicable Worker's Compensation Acts and from claims for bodily injury, death or property damage as may arise from the performance of services under this Agreement. V&A will, upon request, file certification of such insurance coverage with CLIENT or his authorized representative.
No insurance of whatever kind or type which may be carried by V&A is to be considered in any way limiting the contractor's or subcontractor's responsibility for damages resulting from his operations or for furnishing work and material to the Project.

CLIENT agrees to include, or cause to be included, in the Project's construction contract requirements for insurance coverage and performance bonds to be secured and maintained by the Project contractor as CLIENT deems adequate to indemnify CLIENT, V&A, and other concerned parties, against claims for damages and to insure compliance of work performance and materials with Project requirements.

PLEASE CHOOSE OPTION A OR B:

- OPTION A: LIMITATION OF LIABILITY CLAUSE:
In recognition of the relative risks, rewards and benefits of the Project to both CLIENT and the Firm, the risks have been allocated such that CLIENT agrees that, to the fullest extent permitted by law, the Firm's total liability to CLIENT for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this Agreement from any cause or causes shall not exceed the amount of compensation received by V&A for services performed under this Agreement. Such causes include, but are not limited to, the Firm's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.
Option A (initial here) _____(Client) _____(V&A)
- OPTION B: WAIVER OF LIMITATION OF LIABILITY:
In the event CLIENT is unwilling or unable to limit liability for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this Agreement to a maximum of the amount of compensation received by V&A for services performed under this Agreement in accordance with the provisions set forth in the Option A paragraph above, then it is agreed that CLIENT will pay V&A a fee to be called, "Waiver of Limitation of Liability Charge." The fee shall be established as four percent (4%) for projects with fees less than \$50,000.00, three percent (3%) for projects with fees between \$50,000.00 and \$100,000.00, and two percent (2%) for projects with fees over \$100,000.00.
Option B (initial here) _____(Client) _____(V&A)

CLIENT	
By:	Title
*	V&A shall not be held liable under any circumstances for damages or consequential damages for inadequate value, costs of repair, and/or replacement of an alleged defective installation or loss of profits without a claim for personal injury or damage to property. V&A shall not be held liable for "benefit of the bargain" damages by parties with whom V&A is not contracted.
*	ASSIGNMENT CLIENT may not delegate, assign, sublet or transfer its duties or interest in this Agreement without the written consent of V&A. V&A may delegate, assign, sublet or transfer its duties hereunder without the written consent of CLIENT, but V&A shall be made responsible for the completion of its duties. V&A may not delegate, assign or transfer its interest in this Agreement without the written consent of CLIENT.
*	TERMINATION This Agreement may be terminated by either party on receipt of written notice or by mutual agreement. If this Agreement is terminated by either party, V&A shall be paid in full for all services performed through the termination date, and the CLIENT shall then be provided with a statement of all services provided prior to termination.

PAYMENT

CLIENT will pay V&A in accordance with Vickrey & Associates, Inc. current Fee Schedule and the Professional Service Agreement attached hereto.
Invoices will be submitted in our standard format on a monthly basis or at the completion of work.
Payments for services rendered are due and payable upon receipt of our invoice. Thereafter V&A reserves the right to include an amount up to the maximum allowed by law for interest charges. If for any reason we are forced to turn your account over for collection, to an attorney or collection agency, or if collected through legal proceedings, then you will be obligated to pay any and all costs of collection, including agency fees, attorney fees, and court costs.
If Invoices are not paid within 30 days of receipt, V&A may terminate performance of services without liability whatsoever to CLIENT.
Preparation of customized invoice formats will be charged on a time basis in accordance with V&A's current fees.
Vickrey & Associates, Inc. accepts MasterCard and Visa. A six percent (6%) fee will be added for any payment made by credit card.

APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Texas, County of Bexar.
Any complaints regarding surveying services may be forwarded to: Texas Board of Professional Land Surveying, Building A, Suite 156, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-5263.

RATES EFFECTIVE JULY 2018**PERSONNEL RATES:****PRINCIPALS & PROFESSIONAL**

Principals/Associates/Dept. VP/Admin. Mgmt. -----	\$175.00 - \$295.00
Senior Project Manager-----	\$150.00 - \$280.00
Project Manager-----	\$140.00 - \$215.00
Professional Engineers-----	\$120.00 - \$200.00
Engineers -----	\$ 80.00 - \$155.00
Sr. Technicians/Designers-----	\$ 60.00 - \$155.00
Engineering CAD Technicians -----	\$ 60.00 - \$120.00
Construction Representative-----	\$ 60.00 - \$115.00
Engineering CAD Draftsman -----	\$ 55.00 - \$ 95.00

SURVEY TIME

Registered Professional Land Surveyor-----	\$120.00 - \$235.00
Survey Manager & Survey Coordinator -----	\$110.00 - \$220.00
SIT, Sr. Survey Tech, Survey Tech -----	\$ 50.00 - \$145.00
Sr. LiDAR Specialist-----	\$120.00 - \$155.00
Party Chief Time Basis -----	\$110.00
One Person Survey Crew -----	\$105.00
Two Person Survey Crew -----	\$175.00
Three Person Survey Crew -----	\$200.00 - \$250.00
Four Person Survey Crew-----	\$275.00
Abstractor -----	\$ 75.00
Flag Person-----	\$ 45.00

LANDSCAPE ARCHITECTURE TIME

Director of Landscape Architecture -----	\$160.00 - \$170.00
Project Manager – Landscape Architecture -----	\$100.00 - \$110.00

CLERICAL & WORD PROCESSOR ----- \$ 65.00 - \$ 120.00**DIRECT PROJECT COSTS:**

Robotic Survey Equipment-----	\$20.00/hour
GPS Equipment-----	\$20.00/receiver/hour
LiDAR Terrestrial Scanner -----	\$95.00/hour
LiDAR Scanner –High Def-----	\$110.00/hour
ATV -----	\$100.00/day
Survey Fuel Surcharge-----	\$15.00/trip
Terrasolid/Cyclone -----	\$20.00/hour
Engineering CPM, Modeling, CADD Functions -----	\$20.00/hour
Mobile LiDAR Pegasus Scanner-----	\$10,000.00/Mob.

OTHER EXPENSES:

Computer Generated Plots	
Bond-----	\$.15 per square foot
Vellum-----	\$1.00 per square foot
Color-----	\$1.00 per square foot
Mylar -----	\$2.00 per square foot
Special Exhibits (color) -----	\$5.00 per square foot
Scans	
Black & White-----	\$0.50 - \$1.00 square foot
Color-----	\$1.25 - \$1.50 square foot
Large Format – Black & White-----	\$5.00 per square foot
Large Format – Color-----	\$10.00 per square foot
Courier Service -----	\$15.00/\$40.00 per trip
Mileage -----	GSA Standard Rate

CONDITIONS: Services will be performed in accordance with Attachment I - Standard Terms & Conditions attached hereto and made a part hereof. All other project specific charges, consultant fees and other third-party costs will be charged at cost plus ten (10) percent.

Rates are subject to adjustment July 2019.

July 12, 2019

Brett Larson, P.E.
GarzaEMC
100 NE Loop 410, Suite 1090
San Antonio, TX 78216
210.526.0286 office
blarson@garzaemc.com

**RE: Subsurface Utility Engineering
Fair Oaks Ranch Water Main**

Dear Mr. Larson:

The Rios Group, Inc. (TRG) is pleased to submit a cost proposal for Subsurface Utility Engineering (SUE) for the above referenced project. This proposal is based on information provided via email on July 8, 2019.

Introduction

TRG will perform SUE services for this project in general accordance with the recommended practices and procedures described in ASCE publication CI/ASCE 38-02 "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data." As described in the publication, four levels have been established to describe and depict the quality of subsurface utility information. The four quality levels are as follows:

- Quality Level D (QL"D") – Information obtained from existing utility records.
- Quality Level C (QL"C") – Surveyed data depicting visible above-ground features supplemented with QL"D" information.
- Quality Level B (QL"B") – Two-dimensional horizontal information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as "designating," this level incorporates QL"C" information and provides horizontal positioning of subsurface utilities to within approximately 1.0 foot.
- Quality Level A (QL"A") – Three-dimensional horizontal and vertical information obtained through non-destructive vacuum excavation equipment to expose utilities at critical points. Also known as "locating," this level incorporates QL"B" information and provides horizontal and vertical positioning of subsurface utilities to within approximately 0.05 feet.

Scope of Work

Based on information provided by GarzaEMC (Client), TRG has developed a proposed scope for SUE services on this project. This scope may be modified, with Client and TRG concurrence, during the performance of work if warranted by changing or unexpected field conditions.

In general, SUE services are requested on the Fair Oaks Ranch Water Main Project in Fair Oaks, TX. This proposal includes **two (2) QL"A" SUE test holes** on the existing 15" PVC water main

as shown with yellow callouts on Exhibit B to this proposal. To layout the test hole locations, TRG will perform QL”B” SUE designating in accordance with QL”B – Designating procedures described below. TRG will attempt to designate the requested utility for 10 feet on each side of the test hole locations. Proposed test hole locations are identified in yellow as shown on Exhibit B to this proposal.

*The survey of QL “B” and QL “A” SUE information is **not** included in this scope of work. It is assumed that the Client will provide survey of TRG’s paint and test hole monuments.*

Any necessary Right-of-Entry (ROE) permits and Right-of-Way (ROW) permits from the City of Fair Oaks will be provided by the Client prior to the start of TRG field work.

TRG Procedures

QL “D” and “C” – Records Research and Surface Feature Survey

It is the responsibility of the SUE provider to perform due-diligence with regard to records research and the acquisition of available utility records. The due-diligence provided for this project will consist of contacting the applicable One Call agency and associated utility owners/municipalities, visually inspecting the work area for evidence of utilities, and reviewing available utility record information. Additional utilities not identified through these efforts will be referred to as Unknown utilities.

QL “B” – Designating

Following a review of the project scope and available utility records with the project manager, TRG field personnel will begin designating the approximate horizontal position of known subsurface utilities within the project area. A suite of geophysical equipment that includes magnetic and electromagnetic induction will be used to designate conductive utilities. Where access is available, a sonde will be inserted into non-conductive utilities to provide a medium for transmission which can then be designated using geophysical equipment. Non-conductive utilities can also be designated using other proven methods, such as rodding and probing. TRG will make a reasonable attempt to designate Unknown utilities identified during field work; however, no guarantee is made that all Unknown utilities will be designated. Utilities will be marked and labeled to distinguish type and ownership. Field data depicting the designated utilities, as well as relevant surface features, will be produced to ensure accuracy and completeness of subsequent survey data. The TRG project manager will review the collected survey data, field data, and utility records for accuracy and completeness.

QL “A” – Locating

TRG will utilize non-destructive vacuum excavation equipment to excavate test holes at the requested locations. To layout the test holes, TRG will follow the QL “B” – Designating procedures described above. Once each utility is located, TRG will record the size, type, material, and depth. Test holes will be uniquely marked. Excavations will be backfilled by mechanical means with the appropriate material, and the original surface will be restored. If necessary, TRG can core pavement up to a depth of 12 inches. Asphalt surfaces will be repaired

with an asphalt cold patch, and concrete cores will be epoxied in place, flush with the surrounding surface. TRG assumes that flowable fill will not be required when backfilling test holes and that full-section pavement repair (including sidewalks) will not be required to restore the original pavement surface. If requested, these services can be provided at an additional cost.

TRG will establish any necessary routine traffic control measures at no additional cost. However, if non-routine traffic control measures (lane closures, traffic detours, flagpersons, etc.) are required, this service will be invoiced as a direct expense. Due to the risk of damage, TRG will not attempt to probe or excavate test holes on AC water lines unless approval is obtained from the owner in advance. Additionally, excavation in rock, or to a depth greater than 18 feet, is considered beyond the scope of this proposal.

TRG has made the following assumptions with regard to the test holes on this project:

- All test holes will be accessible to truck-mounted vacuum excavation equipment.
- Right-Of-Way (ROW) permits from the City of Fair Oaks Ranch (COFOR) will be required. TRG understands GarzaEMC will obtain all required City permits and ensure that coordination and compliance with the City is provided.
- Designed traffic control plans will **not** be required.
- Non-routine traffic control measures will **not** be required.
- The coring of pavement will **not** be required.

Deliverables

TRG will provide the following as a final deliverable to the Client:

- A utility file in CAD format depicting all designated and located utilities. The Client will provide TRG with any necessary background files for use in completing the final deliverables.
- A summary sheet of all test hole coordinate data and depth information.

Schedule

TRG can mobilize within three (3) weeks of receiving Notice-To-Proceed (NTP). TRG estimates that this Scope of work can be completed in eleven (11) working days, broken down as follows:

- Test Hole Setup – 1 day
- QL“A” field work – 3 days (After approval of COFOR permits)
- QL“A” deliverable preparation – 7 days (after receipt of survey data)

Estimated Fee

The total estimated cost to complete the test hole on the north side of the creek for the work described herein is **Six Thousand Eight Hundred Dollars and 00/100 (\$6,800.00)**. An itemized breakdown of cost is provided in Exhibit A-1.

The total estimated cost to complete the test hole on the south side of the creek for the work described herein is **Three Thousand Six Hundred Fifty Dollars and 00/100 (\$3,650.00)**. An itemized breakdown of cost is provided in Exhibit A-2.

Please note that these pricings are based on an assumption of quantities, and that only actual quantities will be invoiced – up to the total Contract amount. We look forward to working with you on this project. If there are any questions, please do not hesitate to call at 210.364.8422.

Respectfully,

The Rios Group, Inc.



Thomas W. Franke III

Senior Project Manager

Estimate for Subsurface Utility Engineering
Fair Oaks Ranch
15" Water Main - North Side of Creek

EXHIBIT A-1

Direct Expenses	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit of Measure</i>	<i>Sub-Total</i>
Deliverable preparation	\$ 500.00	1	LS	\$ 500.00
Sub-Total				\$ 500.00
QL"B" SUE Designating	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit of Measure</i>	<i>Sub-Total</i>
Designating Crew/ TH Setup	\$ 255.00	4	HR	\$ 1,020.00
Sub-Total				\$ 1,020.00
QL"A" SUE Test Holes				
Hourly Rate	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit Of Measure</i>	<i>Sub-Total</i>
QL"A" Hourly	\$ 330.00	16	HR	\$ 5,280.00
Sub-Total				\$ 5,280.00
Total Estimated Cost				\$ 6,800.00

Estimate for Subsurface Utility Engineering
Fair Oaks Ranch
15" Water Main - South Side of Creek

EXHIBIT A-2

Direct Expenses	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit of Measure</i>	<i>Sub-Total</i>
Deliverable preparation	\$ 500.00	1	LS	\$ 500.00
Sub-Total				\$ 500.00
QL"B" SUE Designating	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit of Measure</i>	<i>Sub-Total</i>
Designating Crew/ TH Setup	\$ 255.00	2	HR	\$ 510.00
Sub-Total				\$ 510.00
QL"A" SUE Test Holes				
Hourly Rate	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit Of Measure</i>	<i>Sub-Total</i>
QL"A" Hourly	\$ 330.00	8	HR	\$ 2,640.00
Sub-Total				\$ 2,640.00
Total Estimated Cost				\$ 3,650.00

EXHIBIT B

May be access through the golf course.

Existing 15" Water Main

Location for possible pothole. Waterline may be ~20' deep here.

Water main is exposed in this location.

Location for possible pothole. Water line ~5' deep.

Will need to work with City for access. Easement is vegetated with washouts.



CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
August 15, 2019

AGENDA TOPIC: Consideration and possible action of the first reading of an Ordinance approving Fiscal Year 2018-19 budget amendments

DATE: August 15, 2019

DEPARTMENT: Finance

PRESENTED BY: Sarah Buckelew

INTRODUCTION/BACKGROUND:

The purpose of this agenda item is to bring forward for consideration and possible approval two budget amendments for Fiscal Year 2018-19. This represents the first reading of a proposed ordinance approving the two budget amendments as discussed further below:

Proposed Budget Adjustment #1 – Usage of General Fund Surplus

As of July 31st, the General Fund is projected to have approximately \$690k of budget surplus. The surplus is due primarily to a savings in personnel cost due to the delay in the renovations of City Hall. Other factors leading to the surplus include the following:

Revenues Projected to Exceed Budget

Local Sales tax	\$50,000
Franchise Fees	\$45,000
Interest Earnings	\$50,000

Expenses projected below budget

Personnel	\$440,000
Professional Services	\$50,000

Staff has recommended the use of \$174,860 of the budget surplus for the road maintenance, road construction, and IT architecture upgrades listed below. Per City Council guidance during the budget workshop on August 8th, any remaining general governmental surplus would be closed out to the 6-month operating reserve account after the year-end close process.

Budget Adjustments Pending Approval		
Current projected surplus		691,052
<u>Potential Budget Adjustments:</u>		
1) Remaining Road Maintenance		
Saddle Song	40,512	
Dietz (in progress)	13,025	
PD chip seal	10,000	
Street signs	5,000	
Prep for Chip Seal	5,000	
Ammann Road	8,000	
Remaining general maintenance	3,000	
		84,537
2) Bond Roadwork in excess of bond surplus		30,323
3) IT Server Upgrade in excess of budget		60,000
Projected Surplus remaining after proposed budget adjustments		516,192

Proposed Budget Adjustment #2 – Utility Fund, Creek Crossing West Waterline

With the budget year three-fourths through, the Finance Director met with all budget owners to discuss the state of their budgets, and whether adjustments were needed. One requested budget adjustment required movement of amounts between budget funds. Ordinance 2018-09, which adopted the Fiscal Year 18-19 budget, stated that the City Manager may move amounts within the same fund, but budget amendments between funds must be approved by City Council Ordinance.

The exposed waterline at Creek Crossing West will likely not be completed during the budget year 18-19. Staff recommends that the budget of \$400,000, which represents a full funding of the project, be moved from the Water Operational Budget to the Water Strategic Action Plan Fund so that the project can be better managed across budget years. Once the budget is moved to the Capital Improvement Fund, any unspent budget from fiscal year 18-19 will be allocated in future years to the completion of the pipeline project rather than closed out to Fund Balance in the Utility operational fund balance.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Continued funding of the exposed waterline across budget years will help this project advance towards completion rather than be delayed during the 2019-20 financial close process.

Funding the upgraded IT infrastructure components will advance other priority projects that have been on hold or delayed due to insufficient IT infrastructure and storage capacity.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

See attachments to the Budget Amendment Ordinance

LEGAL ANALYSIS:

Not applicable.

RECOMMENDATION/PROPOSED MOTION:

Staff recommends the approval of the first reading of the budget amendment ordinance.

AN ORDINANCE

AMENDING THE BUDGET OF THE CITY OF FAIR OAKS RANCH, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019

WHEREAS, the budget for the City of Fair Oaks Ranch, Texas for FY 2018- 2019 has heretofore been approved as provided by law and filed with the City Secretary under Ordinance 2018-09

WHEREAS, per above said Ordinance 2018-09 The City Manager may move amounts within the same fund but budget amendments between funds must be approved by City Council by ordinance; and,

WHEREAS, pursuant to Texas LGC §102.010, budget amendments shall be passed and approved by City Council; and,

WHEREAS, staff recommends making the attached budget amendments as shown in Exhibit A; and,

WHEREAS, the City Council finds the budget amendments as detailed in the attachment are warranted

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

1. That the City Secretary is hereby directed to file this ordinance as an Amendment to the original budget.
2. That the Finance Director is hereby directed to amend the original budget with the amendments listed in the attachment Exhibit A.

PASSED and APPROVED on first reading the 15th day of August, 2019.

PASSED, APPROVED AND ADOPTED on second reading this 5th day of September, 2019

Garry Manitzas, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

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

EXHIBIT A

PROPOSED BUDGET AMENDMENTS CITY OF FAIR OAKS RANCH FISCAL YEAR 10/1/2018-9/30/2019

Proposed Increases to Budgeted Expenditures

<u>Dep't</u>	<u>Acct #</u>	<u>Acct Name</u>	<u>Item</u>	<u>Amount</u>
GF Capital	02-509-302	Infrastructure	Remaining FY 18-19 projects	\$ 84,537
Shared Services	01-690-701	Tech/Internet/Software	Server and IT upgrades	\$ 60,000
GF Capital	02-509-302	Infrastructure	Remaining Road Bond Work	\$ 30,323
Water Capital	22-504-103	Water Capital Projects	Exposed Creekcrossing West Waterline Project	\$ 400,000
Total Proposed Expenditure Increases				\$ 574,860

Proposed Decreases to Budgeted Expenditures

	<u>Acct #</u>	<u>Acct Name</u>	<u>Reason for Budget Surplus</u>	<u>Amount</u>
Administration	01-611-101	Salaries	Delay in Hiring FTE's due to city hall renovations	\$ 30,000
Finance	01-614-101	Salaries	Delay in Hiring FTE's due to city hall renovations	\$ 50,000
Public Safety	01-630-101	Salaries	Staff Vacancies	\$ 60,860
Engineering	01-642-101	Salaries	Delay in Hiring FTE's due to city hall renovations	\$ 10,213
Maintenance	01-640-255	Drainage Work	Work pending road repair	\$ 23,787
Water Operations	05-501-150	Water Operations	Exposed Creekcrossing West Waterline Project	\$ 400,000
Total Proposed Revenue Increases/Expenditure Decreases				\$ 574,860

Transfers Required Between Funds

	<u>Acct #</u>	<u>Acct Name</u>	<u>Item</u>	<u>Amount</u>
General Fund	01-690-805	Transfer to GF Capital	For Remaining Bond Roadwork	\$ (114,860)
GF Capital Fund	02-400-986	Transfer From General Fund	For Remaining Bond Roadwork	\$ 114,860
Water Operations	05-501-988	Transfer to Water Capital Fund	For Exposed Creek Crossing Waterline Project	\$ (400,000)
Water Capital	22-400-986	Transfer from Water Operations	For Exposed Creek Crossing Waterline Project	\$ 400,000
Total Net Transfers between Funds				\$ -



CITY COUNCIL CONSIDERATION ITEM

CITY OF FAIR OAKS RANCH, TEXAS

August 15, 2019

AGENDA TOPIC: Consideration and possible action setting the proposed Fiscal Year 2019-2020 property tax rate, setting September 5, 2019, 9:30 AM and September 12, 2019, 6:30 PM as Public Hearings on the proposed FY 2019-2020 municipal budget and 2019 tax rate, and to adopt said budget and property tax rate September 19, 2019, 6:30 PM

DATE: August 15, 2019

DEPARTMENT: Finance

PRESENTED BY: Sarah Buckelew, Finance Director

INTRODUCTION/BACKGROUND:

Budget: City Charter Section 5.01 C8 mandates the City Manager shall prepare and administer the municipal budget in accordance with state law. Local Government Code Chapter 102 states the budget officer shall prepare, each year, a municipal budget to cover the proposed expenditures of the city for the succeeding year and to file the proposed budget with the City Secretary before the 30th day before the date the City Council adopts the tax levy for the succeeding year.

City Council shall set a public hearing on the proposed budget for a date occurring after the 15th day after the date the proposed budget is filed with the City Secretary. To meet these requirements, during the past few months, city council workshops have been held with the staff to review, discuss and obtain guidance on a proposed Fiscal Year 2019-20 budget.

Tax Rate: Truth-in-taxation is a concept embodied in the Texas Constitution (art VIII § 21a) that requires taxing units to make taxpayers aware of property tax rate proposals. Pursuant to this and state law, following are required steps in adopting a property tax rate that exceeds the lower of the rollback rate or the effective rate:

1. City Council must propose, by **record vote**, an ad valorem tax rate to be used to support the upcoming fiscal year general fund and debt fund budgets.
2. City Council must schedule two public hearings on the proposed tax rate, and schedule the tax rate adoption date.
3. City Council must adopt a property tax rate before September 30 or by the 60th day after the City received the certified appraisal roll, whichever is later.

Attached is the Fiscal Year 2019-2020 Budget and Tax Rate calendar that complies with the requirements of adopting the succeeding municipal budget and tax rate.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Follows state statute on proposing a property tax rate higher than effective/rollback rate, setting public hearing dates, and setting adoption date of the municipal budget and tax rates.
2. Offers one additional budget public hearing.

3. Public hearings will assure taxpayers the opportunity to be heard and will provide staff adequate time to notify appraisal districts of the adopted tax rates to ensure timely delivery of tax statements.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

N/A

RECOMMENDATION/PROPOSED MOTION:

I move to propose using a total property tax rate of \$.3735 per \$100, to hold the proposed Fiscal Year 2019-20 Budget and 2019 tax rate public hearings on September 5 at 9:30 AM and on September 12 at 6:30 PM., and to adopt said budget and tax rate on September 19 at 6:30 PM.

RECORD VOTE IS REQUIRED – EACH COUNCIL MEMBER SHALL STATE AYE OR NAY

FY 2019-20 BUDGET CALENDAR

Budget Presentation, Consideration, and Adoption	✓	July 25	Deadline for chief appraiser to certify rolls to taxing units and certification of anticipated collection rate by tax collector.
	✓	July 26	Calculation of effective and rollback rates.
	✓	July 26	Finance Director delivers proposed budget City Manager
	✓	July 29	City Manager delivers proposed budget to Council
	✓	August 8	Final Budget workshop with Council to present proposed budget; submit effective and rollback tax rates; and to propose tax rate to support the budget.
		August 15	At regular City Council meeting, City Council confirms proposed tax rate. If exceeds the rollback rate or the effective tax rate (whichever is lower), Council takes record vote and schedules two public hearings (September 5 and 12) and adoption date (September 19).
		August 19	City Manager files budget with City Secretary (LGC102.005).
		August 23	Finance Director publishes <i>Notice of Proposed Property Tax Rate</i> in August 23rd edition of Boerne Star and posts on the City's website (LGC 140.010e). City Secretary publishes <i>Notice of Budget Availability</i> and <i>Notice of Public Hearing</i> in the August 23rd edition of Boerne Star and posts on city's website (LGC 102.0065 and Tax Code)
		September 5 9:30 am	City Council holds 1st Public Hearing and 1st reading of Budget and Tax Rate ordinances; announces 2nd Public Hearing date (September 12) and Adoption date of Budget and Tax Rate (September 19). (LGC 102.007)
		September 12 6:30 pm	City Council holds 2nd Public Hearing (may not be earlier than 3 days after first public hearing) and 2nd reading of Budget and Tax Rate ordinances; announces September 19 as adoption date to adopt budget and tax rate (LGC 102.007 - must be 3-14 days from this date)
		September 19 6:30 pm	City Council adopts tax rate before the later of September 30 or the 60th day after the date the certified appraisal roll was received (Tax Code 26.05).



CITY COUNCIL CONSIDERATION ITEM

CITY OF FAIR OAKS RANCH, TEXAS

August 15, 2019

AGENDA TOPIC: Consideration and possible action on the first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 8 "Offenses and Nuisance" by creating an Article for violations of the City Charter

DATE: August 15, 2019

DEPARTMENT: Administration

PRESENTED BY: Carole Vanzant, Assistant City Manager

INTRODUCTION/BACKGROUND:

On May 2 of this year, City Council appointed members to the Home Rule Charter Penalty Clause Committee to:

1. Discuss criminal penalties for charter violations in relation to the US Constitution, Texas Statutes, and the City Charter and,
2. To advance an actionable recommendation to the Council no later than October 30.

On July 8, the Committee reviewed and determined the inclusion or exclusion of City Charter prohibitions and, changes or no changes to the Charter Penalty Clause. At the August 1, 2019 City Council meeting, the Committee's final report was filed with the City Council which included a proposed ordinance incorporating their recommendations:

Include, in the Ordinance, the following prohibitions and penalty clause from the City Charter:

Prohibitions

Holding other office. Except where authorized by law, no Member of City Council shall hold any other City office or employment by the City during the term for which he was elected to the City Council, and no former Member of City Council shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which he was elected to the City Council.

Appointments and Removals. Neither the City Council nor any City Council Member shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in the City Charter.

Exception. The City Council may, at a properly noticed meeting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

Interference with Administration. Except for the purpose of inquiries, unless otherwise provided for in the City Charter, City Council Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor City Council Members shall give orders to any such officer or employee, either publicly or privately.

Penalty Clause

Any individual who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a class C misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

B. Exclude, from the Ordinance, the following prohibitions from the City Charter; and,

Conflict of Interest Prohibition - For purposes of this Section the term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171. It is hereby prohibited for Members of City Council or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code, Chapter 171.

General Prohibitions -

1. In appointments to and removal from any City office or employment, persons shall not be favored or discriminated against because of race, sex, political or religious opinions, or religious affiliations.
2. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
3. No City official or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate city official or employee holding any compensated City position.
4. No person who holds any compensated City position shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.

Admission of liability. Neither the City Council nor Members of City Council shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

Staff was directed to place the proposed ordinance on a future City Council meeting agenda for consideration and possible action.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Complies with the requirement of the City Charter, Section 7.15A in developing an ordinance to enforce a criminal penalty for violation of provisions of the City Charter.
2. Complied with the City Council's desire to have a citizen review committee in the process.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

City Attorney Zech was a participant of the July 8 Committee meeting. The proposed Ordinance was reviewed and approved as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 8 "Offenses and Nuisance" by creating an Article for violations of the City Charter.

AN ORDINANCE

OF THE CITY OF FAIR OAKS RANCH AMENDING THE CITY OF FAIR OAKS RANCH CODE OF ORDINANCES CHAPTER 8 “OFFENSES AND NUISANCES” BY ADDING ARTICLE 8.04 “VIOLATIONS OF THE CITY CHARTER”; AND PROVIDING FOR A PENALTY OF UP TO \$500.00 PER VIOLATION

WHEREAS, on May 6, 2017 the City of Fair Oaks Ranch held an election on the adoption of a Home Rule Charter and the Home Rule Charter was adopted by the citizens of the City of Fair Oaks Ranch; and

WHEREAS, the City Charter includes a criminal provision for violation of any provision of the Charter;

WHEREAS, the Texas Government Code Section 29.003 provides for the original and concurrent jurisdiction of municipal courts; and

WHEREAS, the original and concurrent jurisdiction of a municipal court does not include violations of a City’s Charter; and

WHEREAS, the City’s municipal court does have original jurisdiction over ordinances adopted by the municipality punishable consistent with Section 29.003; and

WHEREAS, on February 7, 2019, the City Council established a citizen advisory committee to review the criminal penalties for city charter violations in relation to the U.S. Constitution, Texas Statutes, and provisions of the Home Rule City Charter; and

WHEREAS, on July 8, 2019, the Home Rule Charter Penalty Clause Committee met to review the matter and on August 1, 2019, advanced their recommendations to City Council; and,

WHEREAS, the City Council hereby finds and deems it necessary to adopt an ordinance to enforce certain provisions of the City Charter consistent with the City Charter and Texas and federal law.

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

Section 1. The City of Fair Oaks Ranch Code of Ordinances Chapter 8 is amended as follows:

Article 8.04 Violations of the City Charter

Sec. 8.04.001 – Definitions

1. “City Council Member” and “Member of City Council” means the Mayor and Council Members.
2. The gender of the wording throughout this Article shall always be interpreted to mean either sex.

Sec. 8.04.002 – Specific Acts Prohibited

The following acts are specifically prohibited from being intentionally and knowingly violated:

1. Holding other office. Except where authorized by law, no Member of City Council shall hold any other City office or employment by the City during the term for which he was elected to the City Council, and no former Member of City Council shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which he was elected to the City Council.
2. Appointments and Removals. Neither the City Council nor any City Council Member shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in the City Charter.
 - a. Exception. The City Council may, at a properly noticed meeting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
3. Interference with Administration. Except for the purpose of inquiries, unless otherwise provided for in the City Charter, City Council Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor City Council Members shall give orders to any such officer or employee, either publicly or privately.

Sec. 8.04.003 – Penalties

1. Any individual who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a class C misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

Section 2. 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 Council.

Section 3. All ordinances and codes, 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 resolved herein.

Section 4. That all rights and privileges of the City are expressly saved as to any and all violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 5. 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 hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. 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 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED and APPROVED on the first reading this 15th day of August, 2019.

PASSED, APPROVED and ADOPTED on the second reading this 5th day of September, 2019.

CITY OF FAIR OAKS RANCH, TEXAS

Garry Manitzas, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

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



CITY COUNCIL DISCUSSION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
August 15, 2019

AGENDA TOPIC: Discussion of a proposed Ordinance establishing City Council Meeting Rules of Procedure

DATE: August 15, 2019

DEPARTMENT: Administration

PRESENTED BY: Assistant City Manager

INTRODUCTION/BACKGROUND

In 2013, by resolution, City Council adopted rules of procedures for all City Council meetings. Subsequent amending Resolutions were adopted in 2015 and in 2017.

In May 2017, voters approved, by election, to adopt the city's Home Rule Charter. Section 3.06.E. of the Charter states, "*City Council shall, except as otherwise provided for in this Charter, create rules of procedure for all City Council workshops, regular and special meetings and public hearings by ordinance*".

In September 2018, prior to completing the conversion process from a resolution to an ordinance, a request was made of staff and city council members to review the current procedures and provide the Assistant City Manager with any recommendations, individually.

For your discussion tonight, attached is a proposed ordinance that incorporates all the recommendations received from city council and staff. Crossed-out items indicate removal while underlined items indicate additions.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS

1. Complies with the requirement of the City Charter, Section 3.06.E in creating a rules of procedure for all City Council workshops, regular and special meetings and public hearings by ordinance.
2. Provided City Council and staff the opportunity to review and recommend enhancements to the current City Council Meeting Rules of Procedures
3. Provides transparency.

LONGTERM FINANCIAL & BUDGETARY IMPACT

N/A

LEGAL ANALYSIS

Legal reviewed and approved as to form.

RECOMMENDATION/PROPOSED MOTION

Provide staff with direction on placing the proposed ordinance on a future City Council meeting agenda for consideration and action.

AN ORDINANCE

ESTABLISHING CITY COUNCIL MEETING RULES OF PROCEDURE AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of Fair Oaks Ranch adopted Resolution 2013-17 in November 2013 and subsequent amending resolutions in 2015 and 2017 establishing City Council rules of procedures; and,

WHEREAS, City Charter, Section 3.06 (e), adopted May 2017 states the City Council shall create rules of procedure for all City Council workshops, regular and special meetings, and public hearings by ordinance; and,

WHEREAS, the Fair Oaks Ranch City Council, the governing body for the City of Fair Oaks Ranch, Texas, finds establishing the city council meeting rules of procedure by ordinance is required; and,

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

PART 1. The City Council Meeting Rules of Procedures attached hereto as Exhibit A are hereby adopted.

PART 2. The City Secretary shall ensure codification of this Ordinance upon its passage and approval.

PART 3. That the recitals contain 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 4. 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 5. 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 6. This ordinance shall take effect immediately from and after its second reading, 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 this the xxx day of xxxx, 2019

PASSED, APPROVED and ADOPTED on this the xxxst day xxxx, 2019

Garry Manitzas, Mayor

ATTEST:

Christina Picioccio, City Secretary

APPROVED AS TO FORM:

Denton, Navarro, Rocha, Bernal and Zech

EXHIBIT A

CITY COUNCIL MEETING RULES OF PROCEDURE

General Provisions

Rule 1. Scope of Rules. These rules shall govern the conduct of the Council and shall be interpreted to ensure fair and open deliberations and decision making.

Rule 2. Rulings; Matters Not Covered. The presiding officer shall rule, initially, on all questions of procedure. Robert's Rules of Order 10th Edition be referred to for any matter or order or procedure not covered by these rules. Newly Revised shall, to the extent feasible, govern the proceedings of meetings. The City Secretary shall act as Parliamentarian for Council meetings.

Rule 3. Interpretation. These rules are intended to supplement and shall be interpreted to conform with the statutes of the State of Texas and the ordinances of the City of Fair Oaks Ranch. In general, these rules shall be interpreted to allow the majority to prevail but preserve the right of the minority to be heard.

Time and Place of Meetings

Rule 4. Regular Meetings. The City Council shall meet in regular session on each first Thursday in each calendar month beginning at 9:30 a.m. and the third Thursday in each calendar month beginning at 6:30 PM unless rescheduled or cancelled, for valid reason(s), in the Fair Oaks Ranch Council Chambers or other appropriately posted location. The City Council, by a majority vote, may reschedule or cancel a future regular meeting, with proper and timely notice.

Rule 5. Special Meetings. A special meeting is any meeting, other than a regular meeting, where a quorum of council members is present to deliberate public business that the City Council has supervision or control over the topic being deliberated.

- A. Special meetings may be called at the request of the Mayor or City Manager and shall be called on the written application of three council members. Said meetings will be held at the time and place as posted on the meeting agenda.
- B. ~~The city issued application, including supporting documentation of the item(s) to be considered shall be submitted to the Mayor.~~
- C. Each member of the council, the city secretary, city manager, and the city attorney shall be notified of the special called meeting. ~~personally or left at the person's usual place of residence, by the Maintenance or Police Department.~~

Rule 6. Executive Sessions. The City Council may meet in executive session in compliance with the Texas Open Meetings Act. A vote, if needed, on a matter ~~deliberated~~ discussed in an executive session will be made in an open meeting for which proper notice is provided.

Rule 7. Quorum; Majority Vote. A majority of the members of Council shall constitute a quorum at all meetings, unless provided differently by state law or *City Charter*, for the transaction of business, and ~~shall be of any effect unless it is adopted by the favorable vote of a majority of Council present~~ no action of the City Council, except as specifically provided in the City Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the City Council.

City Council Agenda

Rule 8. Agenda Packet. The City Manager shall supervise the preparation of agenda packets for all meetings of the City Council. The packets shall be prepared in accordance with these Rules and Procedures and as provided for in the City Charter. The agenda packet includes the meeting notice ("agenda") and any supporting documentation for agenda items. The City Manager's office is responsible for assembling and reviewing for accuracy the proposed agenda packet for each meeting. If requested by the Mayor or by a councilman, the City Manager shall place the requested subject on the agenda. The Mayor shall approve the final agenda packet prior to posting. Agenda packets shall be delivered to Council members by the Maintenance or Police Department. Upon preparation completion, agenda packets will be sent electronically, by the City Secretary's Office, to Council members and the City Attorney and, can be picked up at City Hall during normal business hours.

- A. A member of City Council may place an item on an agenda. The City Council member desiring to place an item on an agenda shall submit, in writing, the request along with the appropriate supporting documentation of the agenda item, to the City Secretary. The item shall be placed on the next City Council meeting occurring on or after the 5th calendar day after receiving the request.
- B. At a meeting of City Council a member of City Council may place an item on an agenda by making a request to place the item on a future agenda. No discussion shall occur at the meeting regarding the placement of the item on a future agenda.
- C. The City Manager may place any item on any City Council agenda.
- D. When possible, City Council agenda item requests will be processed in accordance with the annual schedule on file in the City Secretary's office.
- E. Items previously considered and acted upon or placed on an agenda by a Council member for discussion purposes only may not be placed on any future agenda for a period of 180 days from the date of consideration or discussion. Except:
 - a. Within 180 days, a request for re-consideration or further discussion may be placed on a City Council agenda for Council's consideration and possible action of the request:
 - 1. If the request is supported by an affirmative vote of at least four council members, the consideration or discussion item will be placed on a future agenda upon receipt of appropriate supporting documentation (see A above).
 - 2. If the request does not receive the required support, the request cannot be raised again for another 180 days.

Rule 9. Consent Agenda. The City Manager may designate items as routine items, including second readings of Ordinance, which shall be placed under Consent Agenda on the agenda and be acted upon, by the City Council, as a group without separate discussion. At the City Council meeting, an item may be pulled from the Consent Agenda and placed in the appropriate location of agenda at the request of any member of the city council.

Rule 10. Meeting Notice; Posting. The City Secretary's office is responsible for posting the notice for each meeting and, assisting the City Manager's office in assembling the agenda packet. The city's official posting location for the meeting notice is the bulletin board located at the front of City Hall and on the city's official website.

Rule 11. Withdrawal of Items. The City Manager and/or Mayor may withdraw an item on the meeting notice prior to the Council meeting, but in withdrawing an item that has been posted, shall state the reason therefore which reason shall be posted and transmitted to the Council. An item on the meeting notice proposed by a Council member may not be withdrawn without the Council member's consent.

Conduct of Meetings

Rule 12. Roll Call. Before proceeding with the business of the Council, the City Secretary determines the presence of a quorum as required by law and these rules by calling the roll of Members present, and entering those named in the minutes.

Rule 13. Call to Order. The presiding officer shall call the meeting to order.

Rule 14. Presiding Officer. The Mayor, or in the Mayor's absence or inability to perform, the Mayor Pro Tem, shall be the presiding officer at all Council meetings. The Mayor Pro Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election. If both the Mayor and Mayor Pro Tem are absent or unable to perform, the most senior Council member present shall preside. In the event two or more Members equally possess the greatest seniority, then the eldest person among them shall preside. For this purpose, seniority is measured by current, continuous service on the City Council. ~~At each new city council's first meeting or as soon as practicable, the City Council shall appoint one councilman to serve as Mayor Pro Tem for a term of one year.~~

Rule 15. Control of Discussion. The presiding officer shall moderate discussion of the Council on each agenda item to assure full participation in accordance with these rules. The presiding officer will preserve order and decorum, preventing the impugning of any member's motives or other personal comment not relevant to the orderly conduct of business. The presiding officer shall request all speakers to keep comments brief and relevant to the question before the Council. All persons present in the meeting room should refrain from abusive, rude or inappropriate conduct.

Rule 16. Consideration of Agenda Items. Except as otherwise provided in these rules, each agenda item ~~shall~~ should be considered in the numerical order as listed on the meeting notice. ~~Each agenda item shall be introduced by the presiding officer. After an item is introduced,~~ The standard procedure is as follows for consideration of agenda items:

- A. Reading of the agenda item by the presiding officer. A majority of the Council may require reading ordinances or resolutions by caption.
- B. The Mayor, City Manager or ~~his/her designee~~ appropriate agenda item owner may present a statement on the item.
- C. A Council member may request and receive information, explanations or the opinions of the presenter or City Manager.
- D. The presiding officer shall ask for a motion; if made, ask if there is a second. If seconded, proceed to next step. If no motion or second is made, item dies due to lack of motion.
- E. Discussion held amongst Council members on item motion.
- F. Ask for citizen comments and/or questions. Comments shall be no more than five minutes and may be terminated at the discretion of the presiding officer. Citizens may ask questions of the Mayor or any Council member. Any member of the Council may also ask questions of the citizen.
- G. Unless required by law or a Council member requests a roll call vote, informal voting (Rule 24) shall be used.

~~**Rule 17. Presiding Officer's Right to Enter into Discussion.** The presiding officer as a member of the Council may enter into any discussion.~~

Rule 17. Limit on Remarks. Each Council member shall limit their relevant remarks to a reasonable length.

Rule 18. Presiding Officer's Right to Speak Last. The presiding officer has the right to speak last on any item.

Rule 19. Closing Discussion. Discussion shall be closed on any item by the presiding officer with the concurrence of a majority of the Council present, or by an approved motion by a council member.

Council Action

Rule 20. Motion Required. All actions requiring a vote shall be moved by a council member. A council member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion. A motion may be withdrawn or modified by its mover without asking permission.

Rule 21. Recording Names of Moving Members. The City Secretary shall record the name of the council member making each motion and seconding each motion.

Rule 22. Call for Vote. At the conclusion of the discussion or when a Council member calls the question and is seconded, the presiding officer shall call for a vote by voice, show of hands or roll call. The presiding officer shall announce the results of the vote. Roll call votes ~~are called in alphabetical order with~~ are made by each Member responding in the affirmative or negative (aye, yes, nay or no). If a Member does not wish to vote, they answer abstain. ~~In case of a tie, the presiding officer votes. If the presiding officer cannot vote, the motion fails.~~

Rule 23. Voting Required. Each council member, including the Mayor, shall vote, unless abstaining, on every action taken by Council. When abstaining, the member shall state they are abstaining and, if they choose, provide reason as to the abstention. If a member has substantial interest in a business entity or in real property, the member shall file, with the City Secretary, before a vote or decision on any matter involving the business entity or the real property, the appropriate affidavit stating the nature and extent of the interest.

Any Council member prohibited from voting by personal interest shall announce at the commencement of consideration of the matter and shall not enter into discussion on any such matter. Any Council member refusing to vote shall be recorded in the minutes as voting in the negative.

Rule 24. Separate Consideration. Except as otherwise required by these rules, each agenda item shall be voted upon separately with the vote recorded by the City Secretary. City Council, by approval of a motion, reserves the right to group agenda items for consideration.

Rule 25. Action on Consent Agenda. Except as herein provided, the "Consent Agenda" shall be considered as a group (without separate discussion on each item). When the Consent Agenda is introduced any council member has the right to remove any item, in which case the item is handled under 16. After items are removed, the presiding officer shall ask for a motion on the remaining Consent Agenda items.

Rule 26. Consideration Out of Order. At the request of a council member and with the consent of the Council any agenda item may be considered out of order.

Rule 27. Council Action to Withdraw or Defer. A council member wishing to withdraw or defer an item may make a motion to that effect.

Citizen Participation

Rule 28. Public Participation during Citizens to be Heard. Comments and suggestions by the public are highly valued and encouraged during those parts of a meeting designated for public participation. The "Texas Open Meetings Act" requires the City to post a notice, in advance, listing every topic or subject to be considered by the Council. This law may prevent the Council from responding to and/or considering a subject raised by a member of the public.

Speakers shall sign in prior to the commencement of the meeting and limit their comments to five minutes each. Total time for Citizens to be Heard is limited to 60 minutes unless a majority vote of the Council extends the

allotted time. ~~Comments shall be limited to topics not on the meeting agenda.~~ Speakers should direct all remarks and questions to the Council. The presiding officer may refer a matter for investigation, response or other action.

When called forth, the speaker wishing to comment shall step to the lectern, state their name and address for the record, and then address the Council.

Rule 29. Public Participation during an Agenda Item. Speakers may sign in in advance but are not required to do so. Speakers who have signed in in advance will speak in the order of registration followed by those who have not registered. Refer to Rule 16 for complete procedure.

Total time for public comment on any subject under Council consideration can be limited to a fixed period by the presiding officer. A majority vote of the Council may extend the time limitations of this rule.

Rule 30. Remarks to be Germane. Public comments must be kept relevant to the subject before the Council. The presiding officer shall rule on the relevance of comments. ~~Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Council during the meeting.~~

Rule 31. Matters Not On the Agenda. Discussion of matters not on the agenda is governed by Section 551.042 of the Texas Government Code, which provides:

A. If, at a meeting of a governmental body, a member of the public or of the governmental body inquiries about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:

1. a statement of specific factual information given in response to the inquiry; or
2. a recitation of existing policy in response to the inquiry.

B. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Miscellaneous

Rule 32. Suspension of Rules. These rules or any part hereof may be suspended for a specific purpose, or any single meeting, by a majority vote of the councilmembers present.