



City of Fredericksburg

REGULAR CITY COUNCIL MEETING AGENDA MONDAY, FEBRUARY 21, 2022 ~ 6:00 P.M.

Charlie Kiehne, Mayor
Tom Musselman, Councilmember
Bobby Watson, Councilmember

Jerry Luckenbach, Councilmember
Kathy O'Neill, Councilmember
Kent Myers, City Manager

The City of Fredericksburg City Council will meet in a regular session on Monday, February 21, 2021 at 6:00 p.m. This meeting will be held in person and livestream on our YouTube Channel.

Link to City of Fredericksburg YouTube Channel [Fredericksburg, Texas USA - YouTube](https://www.youtube.com/c/FredericksburgTexasUSA)
(<https://www.youtube.com/c/FredericksburgTexasUSA>)

1. CALL TO ORDER

2. INVOCATION

(Dave White resident)

3. PLEDGE OF ALLEGIANCE

4. EMPLOYEE RECOGNITIONS

5. PUBLIC COMMENTS ON ITEMS ON THE AGENDA

The City Council welcomes citizen participation and comments at all City Council Regular Meeting.

A. Written Comments: to be submitted remotely:

- i. Must be received by 3 p.m. on February 21, 2022
- ii. Complete the Citizen Comment Form online at www.fbgtx.org; or
- iii. Email your comments to CitizenComments@fbgtx.org; or
- iv. Complete a Citizen Comment Form located inside the Public Access entrance at 126 W. Main Street, Fredericksburg, Texas, and place in the box marked Citizen Comment Form.

Copies of the submitted comments will be provided to the City Council and made public on the City website under the "February 21, 2022, City Council Regular Meeting" tab.

B. Verbal Comments:

- i. Sign up in-person between 5:30 p.m. and 6 p.m. at the Law Enforcement Center in order to comment.
- ii. You will be limited to 3 minutes to speak.
- iii. If any citizen has handouts for these should be provided to the City Secretary prior to speaking. If you wish the City Council to receive your handouts for the meeting, please provide 10 copies, if not the City Council will receive your handouts the following day.

6. CONSENT

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS PULLED AT THE REQUEST OF A MEMBER OF CITY COUNCIL.

A. Consider approval of City Council Minutes:

- i. January 31, 2022 Special Meeting
(Agenda Packet Pages 5-8)
- ii. February 7, 2022 Regular Meeting
(Agenda Packet Pages 9-16)

7. PUBLIC HEARINGS

**A. Consider holding a public hearing to receive comments for or against the voluntary annexation of approximately 21.46 acres of land and request for zoning of Single-Family Residential (R1) Zoning District located at 668 Pyka (Z-2112) (Jason Lutz, Development Services Director)
(Agenda Packet Pages 17- 38)**

**B. Consider holding a public hearing to receive comments for or against changes to 1100 Friendship Lane (Z-2202) (Jason Lutz, Development Services Director)
(Agenda Packet Pages 39-48)**

- i. Change in the Comprehensive Plan of the City, specifically in the Land Use Map, as to approximately 14.28 acres of land, being a portion of W.H. Anderson #197, Abstract No. 2; changing said property from Mixed Use Corridor (MU) to Commercial (C); providing that the change become a part of the Comprehensive Plan
- ii. Change in the Zoning Ordinance of the City and changing the Zoning District as to approximately 14.28 acres of land, being a portion of W.H. Anderson #197, Abstract No. 2, situated in the City; changing said property from Industrial Park (M-3) to Commercial (C-2)

**C. Consider holding a public hearing to receive comments for or against amending the Zoning Ordinance of the City to approve an amendment to the Planned Unit Development (PUD), to allow a land use of "Hotel-Motel", pertaining to 10.98 acres of land being described as lots 1, 2, and 3 of the Feller Subdivision, Phase 1, located at 1511 and 1565 E. Main Street, situated in the City (Z-2201) (Jason Lutz, Development Services)
(Agenda Packet Pages 49-54)**

8. ORDINANCES AND RESOLUTIONS

**A. Consider the approval of Ordinance 2022-09 annexing to the City approximately 21.46 acres of land out of Outlot 165, Outlot 170, and part of an Outlot Street, as shown on the map of Fredericksburg and environs by the German Emigration Company in Gillespie County, Texas, located at 668 Pyka Road; extending the corporate limits of the City so as to include said territory; granting to all inhabitants and future inhabitants of said territory all of the rights and privileges of other citizens of the City; binding the inhabitants and future inhabitants of said territory by any and all acts, Ordinances, Resolutions and Regulations of said City; and amending the Zoning Ordinance of the City to establish the Zoning District of said territory as R-1: Single Family Residential. (City Council may waive second reading) (Jason Lutz, Development Services Director)
(Agenda Packet Pages 17-38, Ordinance page 31)**

**B. Consider the approval of changes to 1100 Friendship Lane (Jason Lutz, Development Services Director):
(Agenda Packet Pages 39-48)**

- i. Ordinance 2022-10 adopting a change in the Comprehensive Plan of the City, specifically in the Land Use Map, as to approximately 14.28 acres of land, being a portion of W.H. Anderson #197, Abstract No. 2, located at 1100 Friendship Lane; changing said property from Mixed Use Corridor (MU) to Commercial (C); providing that the change become a part of the Comprehensive Plan, and providing for an effective date. (City Council may waive second reading) (Ordinance page 43)
 - ii. Ordinance 2022-11 amending the Zoning Ordinance of the City and changing the Zoning District as to approximately 14.28 acres of land, being a portion of W.H. Anderson #197, Abstract No. 2, located at 1100 Friendship Lane, situated in the City; changing said property from Industrial Park (M-3) to Commercial (C-2); and providing for an effective date (City Council may waive second reading) (Ordinance page 46)
- C.** Consider the approval of Ordinance 2022-12 amending the Zoning Ordinance of the City to approve an amendment to the Planned Unit Development (PUD), to allow a land use of “Hotel-Motel”, pertaining to 10.98 acres of land being described as lots 1, 2, and 3 of the Feller Subdivision, Phase 1, located at 1511 and 1565 E. Main Street, situated in the City of Fredericksburg, Texas. (Jason Lutz, Development Services) (City Council may waive second reading).
(Agenda Packet Pages 49-54, Ordinance page 52)
- D.** Consider the approval of Resolution 2022-03R appointing Early Voting Clerk, Deputy Early Voting Clerks, Judges and Alternate Judge and adding provisions for the conduct of such election and resolving other matters related to the conduct of such election for the May 7, 2022 General Election (Shelley Goodwin, City Secretary)
(Agenda Packet Pages 55-58)

9. OTHER ACTION ITEMS AND UPDATES

- A.** Consider approval of a Voluntary Annexation Agreement of approximately 21,46 acres of land to construct a Single-Family Subdivision along Pyka Road (to be considered before Agenda Item 8.A.) (Jason Lutz, Development Services)
(Agenda Packet Pages 17-38; Agreement page 21)
- B.** Consider approval of SKT Architects as the design consultant for Phase 2 and contract for professional services related to the Fredericksburg Visitor Information Center expansion (Evan Williamson, Staff Engineer)
(Agenda Packet Pages 59-88)
- C.** Consider approval of the issuance of the Requests for Proposals and Qualifications for the Hotel/Conference Center Project (Kent Myers, City Manager)
(Agenda Packet Pages 89-102)
- D.** Consider approval of the City Manager Performance Goals for 2022 (Kent Myers, City Manager).
(Agenda Packet Pages 103-106)
- E.** Consider the approval of the 2022 Hotel Occupancy Tax (HOT) Funding Process and documents (Shelley Goodwin, City Secretary).
(Agenda Packet Pages 107-118)
- F.** Consider the reconsideration of July 19, 2021 City Council Regular Meeting Minutes, previously amended at the February 7, 2022 Regular Meeting (Shelley Goodwin, City Secretary).

10. PUBLIC COMMENTS ON ITEMS NOT LISTED ON THE AGENDA.

11. CITY MANAGER'S REPORT

- A. Introduction of New Housing Coordinator
- B. TXDOT Meeting
- C. Comprehensive Plan
- D. Transition to Granicus for STR Permitting and HOT Collections
- E. Police Chief recruitment process

12. COUNCIL COMMENTS

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

13. ITEMS FOR FUTURE AGENDA

(Agenda Packet Page 113)

14. EXECUTIVE SESSION

The City Council will recess its open meeting and reconvene in Executive Session pursuant to Texas Government Code Section 551.074 (Personnel Matters):

- A. Consider and discuss the appointment, evaluation, and/or duties of a public officer or employee, specifically the City Manager (Section 551.074).

15. BUSINESS ITEM

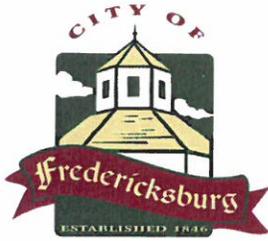
The City Council will reconvene into Regular Session upon the conclusion of the Executive Session, the City Council may take action on any item posted in Executive Session, as necessary.

16. ADJOURN

This is to certify that I, Shelley Goodwin, posted this Agenda at 3:45 p.m. on February 16, 2022, on the bulletin board of the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.



Shelley Goodwin, TRMC
City Secretary



CITY OF FREDERICKSBURG

MINUTES OF CITY COUNCIL SPECIAL MEETING

January 31, 2022

The City of Fredericksburg City Council held their special session on Monday, January 31, 2022 at 1 p.m. This meeting was held in person at the Lady Bird Golf Course-Cardinal Room, 341 Golfers Loop, Fredericksburg, Texas.

Members Present:

Mayor Charlie Kiehne
Councilmember Jerry Luckenbach
Councilmember Tom Musselman
Councilmember Kathy O'Neill
Councilmember Bobby Watson

Members Absent:

None

City Staff Present:

Kent Myers, City Manager
Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities
Daniel Jones, City Attorney
Steve Wetz, Police Chief
Braxton Roemer, Police Lt.
Eric Whiting, Information Technology Director
Lea Feuge, Public Information Officer
Jason Lutz, Development Services Director
Leslie Ball- Embrey, Administrative Assistant
Shelley Goodwin, City Secretary

1. CALL TO ORDER

Mayor Kiehne called the special meeting of the Fredericksburg City Council to order at 1:00 p.m. on Monday, January 31, 2022.

2. PLEDGE OF ALLEGIANCE

Gary Saucier led the Pledge of Allegiance.

3. PUBLIC COMMENTS

Gary Saucier spoke regarding the Relief Route and the duties of the Relief Route Task Force.

4. DISCUSSIONS, APPROVALS AND AUTHORIZATIONS

The following items will be to consider, discuss, and take appropriate action on:

A. Joint City/County Draft Resolution on the Relief Route

Kent Myers, City Manager, reviewed the history of the Relief Route Project and the Feasibility Study. He noted the Relief Route Task Force has completed their research and presented information on the proposed Relief Route. He stated the Mayor and County Judge met and agreed to create a draft Resolution for the City Council and Gillespie County Commissioners to consider.

The City Council reviewed the proposed Resolution and discussed the last Whereas. They also agreed to move forward with the Resolution.

B. The need for new Municipal Court space

Kent Myers, City Manager, reviewed some previous discussions regarding the current Municipal Court lease.

Shelley Becker, Municipal Judge, reviewed the need for additional space and the lack of an area to hold confidential discussions.

The City Council discussed the need for additional space and recommended staff to look at other options.

C. Conference Center Hotel Feasibility Study and issuance of Request for Proposals for Hotel/Conference Center Project.

Kent Myers, City Manager, stated he had been approached by several development teams expressing an interest in the Hotel/Conference Center Project. The Convention and Visitor Bureau has retained HVS Consulting to update their previous Conference Center Feasibility Study. He also noted that the State had approved specific incentives for one conference center project in Fredericksburg, including the rebate of the 6% State HOT tax revenues and State Sales Taxes generated by the adjacent hotel for ten years.

Scott Larson, Dave Jobe, Thomas Perterson, Ken Carr, and Skip Preble all introduced themselves and spoke regarding the proposed Conference Center and the benefits for the City of Fredericksburg.

The City Council discussed the Feasibility Study and provided directions for Staff to move forward with a Request for Proposals for this Project.

D. Future Debt Financing for Street Improvements and Construction of Public Safety Building.

Dan Wegmiller, Specialized Public Finance, Inc., reviewed the preliminary Capital Improvement Plan Scenarios for debt financing in 2022 for major street improvements and construction of a new Public Safety Building. He also reviewed the process for General Obligation Bonds for debt financing.

The City Council reviewed the different scenarios and the cost of the different projects. It was a consensus to look closer at the street projects and the Public Service Building.

E. Annexation Priorities for 2022

Kent Myers, City Manager, stated the City Council adopted an Annexation Plan before new legislative changes. He noted the different reasons to annex land into the City and the areas the City Council initially approved to annex:

- Area 1-West of Seven Hill (1651 acres)
- Area 3-East of Morish Street (1,139.8 acres)
- Area 4A- 290 East (248.8 acres)

- Area 5- past dealership (220.8 areas)
- Area 6-completed
- Area 6A-discuss in executive session
- Area 6B-discuss in executive session

The City Council discussed waiting on the results of the other annexations pending litigations. They also discussed the timeline for services to the remaining different areas.

5. EXECUTIVE SESSION

The City Council will recess its open meeting and reconvene in Executive Session pursuant to Texas Government Code Section 551.071 (Consultation with Attorney) and 551.074 (Personnel Matters):

- Consider and discuss Coalition of Post Oak Property Owners, an Unincorporated Nonprofit Association v. The City of Fredericksburg, pending in the 216th District Court [551.071(1)], and**
- Consider and discuss E. 290 Owners Coalition vs. City of Fredericksburg, Texas, pending in the Supreme Court of Texas [551.071(1)],**
- Consider and discuss the appointment, evaluation, and/or duties of a public officer or employee, specifically the City Manager (Section 551.074)**

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Watson, to go out of the Regular Meeting and into Executive Session at 3:26 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Watson, to go out of the Executive Session and into the Regular Meeting at 4:32 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

6. BUSINESS ITEM

Motion: A motion was made by Councilmember Watson, seconded by Councilmember O'Neill, to increase the annual salary of the City Manager to \$195,000 effective February 1, 2022. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

7. ADJOURN

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to adjourn the Monday, January 31, 2022, City Council Special Meeting at 4:35 p.m. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

Charlie Kiehne
Mayor

Shelley Goodwin, TRMC
City Secretary



CITY OF FREDERICKSBURG

MINUTES OF CITY COUNCIL REGULAR MEETING FEBRUARY 7, 2022

The City of Fredericksburg City Council held their regular session on Monday, February 7, 2022 at 6 p.m. This meeting was held in person at the Law Enforcement Center and live streamed on the Fredericksburg YouTube Channel.

Members Present:

Mayor Charlie Kiehne
Councilmember Jerry Luckenbach
Councilmember Tom Musselman
Councilmember Bobby Watson
Councilmember Kathy O'Neill

Members Absent:

No one was absent.

City Staff Present:

Kent Myers, City Manager
Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities
Daniel Jones, City Attorney
Steve Wetz, Police Chief
Brian Vorauer, Patrol Lieutenant
Eric Whiting, Information Technology Director
Lea Feuge, Public Information Officer
Jason Lutz, Development Services Director
Leslie Ball- Embrey, Administrative Assistant
Shelley Goodwin, City Secretary

1. CALL TO ORDER

Mayor Kiehne called the regular meeting of the Fredericksburg City Council to order at 6:00 p.m. on Monday, February 7, 2022.

2. INVOCATION

Pastor Cody Carnett, Fredericksburg Christian Fellowship, led the Invocation.

3. PLEDGE OF ALLEGIANCE

Wes Pack led the Pledge of Allegiance.

4. EMPLOYEE RECOGNITIONS

Kent Myers, City Manager, announced the following recognitions:

- Daryl Kott for going above and beyond with assisting a senior citizen with their trash can.
- Margie Rivera for assisting Development Services with their recent mailouts.

5. PUBLIC COMMENTS ON ITEMS ON THE AGENDA.

Mayor Kiehne stated the City Council receive 1 written comment.

Randy Briley, City resident, spoke regarding the proposed Noise Ordinance (2022-02).

Michael Manning, Harper resident, spoke regarding the proposed Noise Ordinance (2022-02).

Moses Sanchez, City resident, spoke regarding the proposed Noise Ordinance (2022-02).

Elvis Flores, City resident, spoke regarding the proposed Noise Ordinance (2022-02).

Qutemo Flores, City resident, spoke regarding the proposed Noise Ordinance (2022-02).

Leslie Spraggins, City resident, spoke regarding the proposed Noise Ordinance (2022-02).

Jeffery Morin, City resident, spoke regarding the approval of Granicus and using a decimal reader.

Bill Synder, City resident, spoke regarding the proposed Noise Ordinance (2022-02).

Emily Reid, City resident, spoke regarding the proposed Noise Ordinance (2022-02).

Jeanette Hormuth, City resident, spoke regarding January 3, 2022, Minutes and proposed Noise Ordinance (2022-02).

Russ York, non-resident, spoke regarding the proposed annexation Ordinance (2022-06).

6. CONSENT

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS PULLED AT THE REQUEST OF A MEMBER OF CITY COUNCIL.

A. Consider approval of the City Council Minutes(Shelley Goodwin, City Secretary)

i. **January 3, 2022 Regular Meeting.**

ii. **January 18, 2022 Regular Meeting**

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to approve Consent Agenda items 6.A ii. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Councilmember Musselman o pull 6.A.i. January 3, 2022, Regular Meeting Minutes. He noted Bobby Vitek was missed spelled on Agenda Packer page 8 under D.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to approve Consent Agenda items 6.A i. with corrections. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

7. ORDINANCES AND RESOLUTIONS

A. Consider the approval of Ordinance 2022-02 on second reading to amending Article VI. - Noise and Sound Level Regulation, of Chapter 20 of the Code of Ordinances, by making revisions for clarity, by establishing different distances for measurements of sound in residential zoning districts, and by repealing the sunset provision; and providing for an effective date (Brian Vorauer, Patrol Lieutenant).

Brian Vorauer, Patrol Lieutenant, reviewed the Noise and Sound Level Regulation history and the process used when going to a call related to noise and sound. He reviewed the process that was used for the City Council field trip.

The City Council discussed the residential nighttime hours. They also discussed the process for habitual STR violators.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Watson, to approve Ordinance 2022-02 on second reading to amend Article VI. - Noise and Sound Level Regulation, of Chapter 20 of the Code of Ordinances, by making revisions for clarity, by establishing different distances for measurements of sound in residential zoning districts, and by repealing the sunset provision; and providing for an effective date. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

- B. Consider the approval of Ordinance 2022-06 annexing to the City approximately 72.50 acres of land, located on the west and east sides of Post Oak Road, from W. Live Oak to 2,800 feet north of S. Bowie Street, Gillespie County, Texas; extending the Corporate Limits of the City, so as to include said territory; granting to all inhabitants and future inhabitants of said territory all of the rights and privileges of other citizens of the City; binding the inhabitants and future inhabitants of said territory by any and all acts, ordinances, resolutions and regulations of said City; and adopting an Annexation Service Plan for the extension of municipal services into said territory and the construction and maintenance of public utilities related to such annexation (City Council may waive the second reading) (Jason Lutz, Development Services Director).**

This item was discussed in Executive Session and voted on as Agenda Item 14.

- C. Consider the approval of Ordinance 2022-07 adopting a change in the Comprehensive Plan of the City, specifically in the Land Use Map, as to approximately 72.50 acres of land, generally located on the west and east sides of Post Oak Road, from W. Live Oak to 2,800 feet north of S. Bowie Street; changing said property from Rural Residential (RR), Low Density Residential (LDR), Parks and Open Space (POS), and Commercial (C) to Low Density Residential (LDR), Medium Density Residential (MDR), and Commercial (C); providing that the change become a part of the Comprehensive Plan, and providing for an effective date (City Council may waive the second reading) (Jason Lutz, Development Services Director).**

This item was discussed in Executive Session and voted on as Agenda Item 14.

- D. Consider the approval of Ordinance 2022-08 amending the Zoning Ordinance of the City and establishing the Zoning District as to approximately 72.50 acres of land, generally located on the west and east sides of Post Oak Road, from W. Live Oak to 2,800 feet north of S. Bowie Street, situated in the City; establishing said property as Single-Family Residential (R1), Mixed Residential (R2), and Neighborhood Commercial (C1); and providing for an effective date (City Council may waive the second reading) (Jason Lutz, Development Services Director).**

This item was discussed in Executive Session and voted on as Agenda Item 14.

- E. Consider the approval of a Resolution 2022-02R relating to establishing the City's intention to reimburse itself for the prior lawful expenditure of funds relating to constructing various city improvements from the proceeds of Tax-Exempt Obligations to be issued by the City for authorized purposes; authorizing other matters incident and related thereto; and providing an effective date (Kent Myers, City Manager).**

Kent Myers, City Manager, stated this Resolution would allow the City to charge the costs for the architectural services to the bond in the future if the Council uses General Obligation bonds for the Public Safety building.

Daniel Jones, City Attorney, read the correct wording for the motion to be made.

Motion: A motion was made by Councilmember O'Neill, I move the City Council adopt a Resolution 2022-02R relating to establishing the City's intention to reimburse itself for the prior lawful expenditure of funds relating to constructing various city improvements from the proceeds of Tax-Exempt Obligations to be issued by the City for authorized purposes; authorizing other matters incident and related thereto; and providing an effective date, seconded by Councilmember Watson, to. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

8. OTHER ACTION ITEMS AND UPDATES

- A. Consider the approval of an Order calling the May 7, 2022 General Election for the purpose of electing a Mayor and two Councilmembers (Shelley Goodwin, City Secretary)**

Shelley Goodwin, City Secretary, reviewed the recent Legislative changes in calling the May 7, 2022, General Election. She noted the purpose of the Election is to elect a Mayor and two Councilmembers. She reviewed the Early Voting and Election Day Voting dates, times, and locations.

The City Council discussed the additional wording they wanted in the Order (City of Fredericksburg Precincts 1- 4).

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Watson, approval of an Order calling the May 7, 2022, General Election for the purpose of electing a Mayor and two Councilmembers, with corrections. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

B. Consider the reconsideration of the July 19, 2021 City Council Regular Meeting Minutes (Shelley Goodwin, City Secretary)

Motion: A motion to reconsider was made by Councilmember Musselman, seconded by Councilmember O'Neill, the July 19, 2021 City Council Regular Meeting Minutes. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

The City Council discussed the wording provided by Tom Marschall and the transcript provided by City Staff.

Motion: A motion was made by Councilmember Musselman, seconded by Luckenbach, to amend the July 19, 2021 City Council Regular Meeting Minutes to read Tom Marschall spoke about the State Constitution and his belief that the provision contained therein when laws or directives are null and void if they impact negatively on constitutional rights. The City Council voted four (4) for, and one (1) opposed (Mayor Kiehne). The motion carried.

C. Consider the approval of a Master Agreement for the handling of Short-Term Rental permitting and related Hotel Occupancy Tax collection with Granicus (Kent Myers, City Manager)

Kent Myers, City Manager, reviewed the need for the change in services for handling STR and HOT collection. He also reviewed the bid process used. He noted the option of the 24/7 hotline. He also read some of the concerns that have been expressed regarding the hotline. He also noticed the effective date to release Granicus is April 1, 2022.

The City Council discussed the need for the hotline and data collection. They also discussed how the hotline would work and the communication efforts for getting the hotline information out to the public.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Luckenbach, approval of a Master Agreement for the handling of Short-Term Rental permitting and related Hotel Occupancy Tax collection with Granicus and including the hotline. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

D. Consider the approval of a contract for the Architect Services for the Police and Municipal Court Project to Lopez Salas Architects (Braxton Roemer, Police Lieutenant)

Braxton Roemer, Police Lieutenant for Special Services, reviewed the history of the bid process. He also reviewed the PowerPoint presentation regarding the Preliminary Design Contract.

The City Council the elevation of the property, possible drainage issues and the firm's specialization.

Lopez Salas, Architect, stated that the proposal included site engineering.

Motion: A motion was made by Councilmember O'Neill, seconded by Councilmember Luckenbach, approval of a contract for the Architect Services for the Police and Municipal Court Project to Lopez Salas Architects. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

E. Consider the approval of the execution of the Endo Subdivision Release Form for an Opioid Settlement (Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities).

Clinton Bailey reviewed the process for the Opioid Settlement with Johnson and Johnson and Endo Settlement is for additional two distributors.

Daniel Jones, City Attorney, reviewed what it meant to sign the settlement.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Luckenbach, the approval of the execution of the Endo Subdivision Release Form for an Opioid Settlement. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

F. Consider awarding a Construction Contract for the Heritage Hill Country Pressure Reducing Valve Project (Kris Kneese, Assistant Public Works Director).

Kris Kneese, Assistant Public Works Director, reviewed the Hill Country Pressure Reducing Valve Project and bid process. He also reviewed the need for the material purchase and noted that Staff will install the valves.

The City Council discussed the other areas of the City that have the same issues. They And future developments will need to address their own issues.

Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities, discussed the topography's effects on water pressure.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Watson, awarding a Construction Contract for the Heritage Hill Country Pressure Reducing Valve Project for \$118,115 to Park USA. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

G. Consider awarding a Construction Contract for the Friendship Lane Sanitary Sewer Expansion Project (Kris Kneese, Assistant Public Works Director).

Kris Kneese, Assistant Public Works Director, reviewed the bid process and the need for increasing the existing 12' line to a 16" line by using the pipe bursting method. He noted Impact Fees will be used on this project and encouraged the City Council to award the bid to Vortex Services, LLC in the amount not to exceed \$1,436,975.

The City Council discussed the process used for pipe bursting.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to award the Construction Contract for the Friendship Lane Sanitary Sewer Expansion Project to Vortex Services, LLC in the amount not to exceed \$1,436,975. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

H. Consider the approval of a Professional Services Agreement for East Main Street Water Rehabilitation Project (Kris Kneese, Assistant Public Works Director).

Kris Kneese, Assistant Public Works Director, reviewed the bid process and recommended approval of the Professional Services Agreement with HDR Engineering, Inc. to perform design professional services and construction of the project. He also reviewed the funding and the timeline for the construction.

The City Council discussed the project and the construction timeline.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to approve the Professional Services Agreement for East Main Street Water Rehabilitation Project with HDR Engineering, Inc. to preform services outlined in Task Order No. 10. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

I. Consider awarding a Professional Services Contract for the S. Llano Shared-Use

Bridge & Ufer St. Sidewalk Project (Garret Bonn, Assistant Engineer).

Garret Bonn, Assistant Engineer, reviewed the project and the bid processed used. He noted Staff recommends awarding a professional services contract to Kimley-Horn and Associates, Inc for the project and not to exceed \$373,207.63

The City Council discussed the need for this project.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Musselman, to award a professional services contract to Kimley-Horn and Associates, Inc for the S. Llano Shared-Use Bridge & Ufer St. Sidewalk Project and not to exceed \$373,207.63. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

9. PUBLIC COMMENTS ON ITEMS NOT LISTED ON THE AGENDA

Ruben Aguilar, City resident, spoke about the crime in Gillespie County.

Jerry McCorkle, City resident, spoke regarding expenditures.

Debra Hollbecker, City resident, spoke regarding We The People pay the taxes.

Jeanette Hormuth, City resident, spoke regarding the constitution.

Marylee Marschall, City resident, read a section of a book from Robert F. Kennedy, Jr.

Tom Marschall, City resident, spoke regarding the July 19, 2021 Regular Meeting Minutes.

Tracy Knudson, City resident, spoke regarding 5G and Wireless Harms (provided copies to the City Council).

10. CITY MANAGER REPORT

A. Action Items-January 31 Special City Council Meeting

Kent Myers, City Manager, provided a review of the five agenda items discussed at this meeting.

B. Housing Coordinator Position

Kent Myers, City Manager, reviewed the names of the organizations who assisted with the funding of \$103,000. The Advisory Committee voted unanimously to hire Vince Michelle for the position.

C. Joint City Council/Planning and Zoning Commission Meeting-February 10

Kent Myers, City Manager, reminded the public of the Special Meeting scheduled on February 10, 2022, at 10 a.m. at the University Center. He noted Clinton Bailey will be facilitating the meeting.

D. Retirement Plans

Kent Myers, City Manager, read a statement regarding his retirement from the City of Fredericksburg after the adoption of the FY 2023 Budget September 30, 2022.

11. CITY. COUNCIL COMMENTS

Councilmember Musselman spoke regarding the letter Development Services sent out a letter to all City of residents. He also spoke regarding need to ask voters to approve Public Safety Facilities.

Councilmember O'Neill thanked the City Manager for all he has done. She stated she feels the City Council should bring back the July 19, 2021 Minutes for additional consideration.

Councilmember Watson thanked the City Manager for all he has done and for his service.

Councilmember Luckenbach thanked Kent Myers for all he has done. He also reminded everyone that it is Black History Month and the upcoming events.

Mayor Kiehne thanked Kent Myers for all he has done.

12. ITEMS FOR FUTURE AGENDA

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

13. EXECUTIVE SESSION

The City Council will recess its open meeting and reconvene in Executive Session pursuant to Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations Regarding Real Property), 551.074 (Personnel Matters), and 551.087 (Deliberation Regarding Economic Development):

- A. Consider and discuss the lease or value of real property, located at 2818 US-290, in the City of Fredericksburg, Texas (551.072), and consider and discuss the commercial or financial information the City Council has received from a prospect seeking to develop a wine and culinary arts center located at 2818 US-290 in the City; and to deliberate the possible offer of financial or other incentive to the prospect (551.087), and**
- B. Consider and discuss the appointment, evaluation, and/or duties of a public officer or employee, specifically the City Manager (Section 551.074), and**
- C. Consider and discuss Coalition of Post Oak Property Owners, an Unincorporated Nonprofit Association v. The City of Fredericksburg, pending in the 216th District Court [551.071(1)].**

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember O'Neill, to go out of the Regular Meeting and into Executive Session at 9:07 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Watson, to go out of the Executive Session and into the Regular Meeting at 10:37 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

14. BUSINESS ITEM

Agenda Item 7. B.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Watson, to approve Ordinance 2022-06 annexing to the City approximately 72.50 acres of land, located on the west and east sides of Post Oak Road, from W. Live Oak to 2,800 feet north of S. Bowie Street, Gillespie County, Texas; extending the Corporate Limits of the City, so as to include said territory; granting to all inhabitants and future inhabitants of said territory all of the rights and privileges of other citizens of the City; binding the inhabitants and future inhabitants of said territory by any and all acts, ordinances, resolutions and regulations of said City; and adopting an Annexation Service Plan for the extension of municipal services into said territory and the construction and maintenance of public utilities related to such annexation, and providing for an effective date and waive the second reading. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Agenda Item 7. C.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Watson, to approve Ordinance 2022-07 adopting a change in the Comprehensive Plan of the City, specifically in the Land Use Map, as to approximately 72.50 acres of land, generally located on the west and east sides of Post Oak Road, from W. Live Oak to 2,800 feet north of S. Bowie Street; changing said property from Rural Residential (RR), Low Density Residential (LDR), Parks and

Open Space (POS), and Commercial (C) to Low Density Residential (LDR), Medium Density Residential (MDR), and Commercial (C); providing that the change become a part of the Comprehensive Plan, and providing for an effective date , and providing for an effective date and waive the second reading. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Agenda Item 7. D,

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Watson, to approve Ordinance 2022-08 amending the Zoning Ordinance of the City and establishing the Zoning District as to approximately 72.50 acres of land, generally located on the west and east sides of Post Oak Road, from W. Live Oak to 2,800 feet north of S. Bowie Street, situated in the City; establishing said property as Single-Family Residential (R1), Mixed Residential (R2), and Neighborhood Commercial (C1); and providing for an effective date and waive the second reading. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

15. ADJOURN

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to adjourn the Monday, February 7, 2022, City Council Regular Meeting at 10:41 p.m. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

Charlie Kiehne
Mayor

Shelley Goodwin, TRMC
City Secretary



CITY COUNCIL MEMO

DATE: February 21, 2022

TO: Mayor and City Council Members

FROM: Jason Lutz

SUBJECT: Z-2112 – PUBLIC HEARING, CONSIDERATION, AND ACTION REGARDING A REQUESTED ANNEXATION AGREEMENT, ANNEXATION, AND REQUESTED ZONING OF SINGLE-FAMILY RESIDENTIAL (R1) ZONING DISTRICT.

Summary:

The property owner has requested voluntary annexation of approximately 21.46 acres of land to construct a single-family subdivision along Pyka Road. The requested zoning of the property is R1.

The Future Land Use Plan calls this area as Low Density Residential and the requested zoning of R1 meets the requirements of the Future Land Use Plan.

The property is located at 668 Pyka Rd, located approximately 1,500 ft east of the intersection of Kerr Rd. and Pyka Rd.

The property would be required to extend utilities to serve their property and then be required to extend utilities to adjacent landowners as part of the platting/subdivision process. The applicant is currently working with City staff to finalize a utility plan for the area.

Recommendation:

P&Z held a public hearing on February 9, 2022, and recommended approval of the requested annexation and requested zoning of "Single-family Residential" (R1).

Staff recommends approval of the requested annexation agreement and proposed zoning of R1, as presented.

Attachments: Future land Use Map, Location/Zoning Map, Draft Annexation Agreement, and Draft Annexation/Zoning Ordinance.

The City of Fredericksburg

Jason Lutz

Department Approval

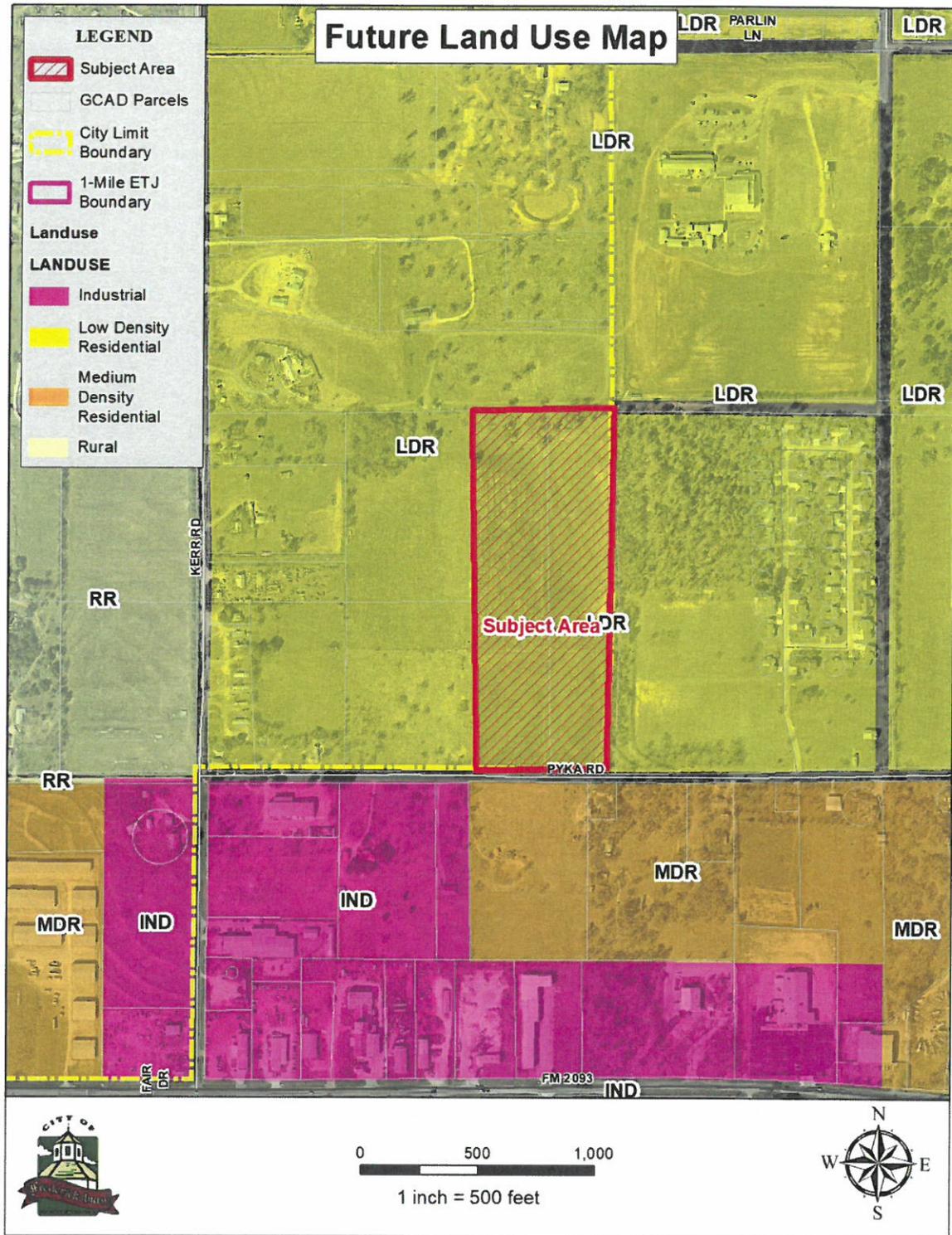
[Signature]

City Attorney Approval

[Signature]

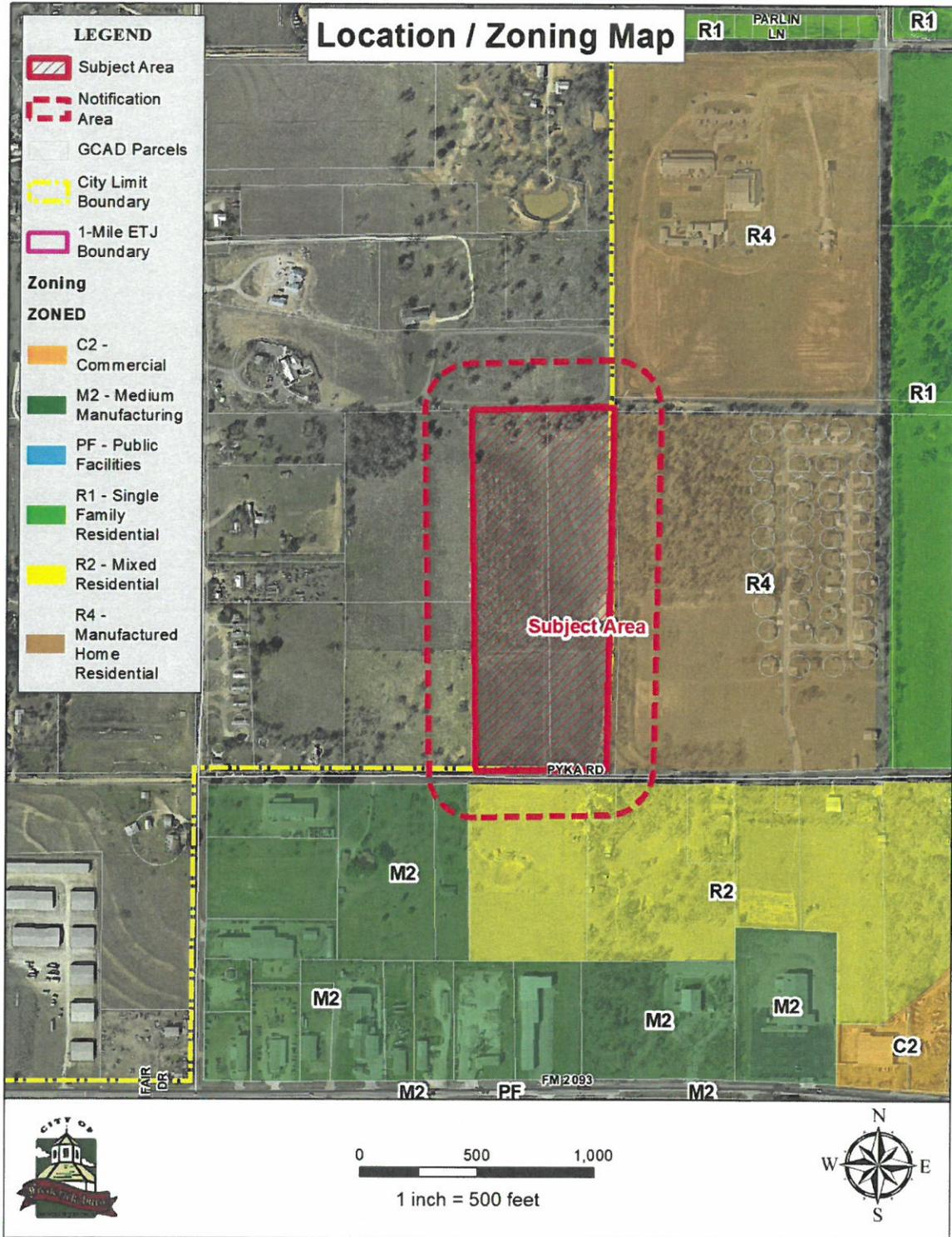
City Manager Approval

The City of Fredericksburg



The City of Fredericksburg

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



The City of Fredericksburg

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

ANNEXATION AGREEMENT
FOR “668 Pyka Road”

This Annexation Agreement ("Agreement"), made and entered into this 21st day of February, 2022, by and between the City of Fredericksburg ("City"), with an address of 126 W. Main Street, Fredericksburg, Texas, 78624, and 668 Pyka Road, LLC, a Texas limited liability company ("Developer"), with an address of 103B North Llano, Fredericksburg, Texas, 78624.

RECITALS

WHEREAS, the Developer is the owner of record of certain real estate ("Subdivision Tract") legally described as follows:

Being 21.446 acres of land out of Outlots 165, 170, and an Unnumbered Outlot Strip as shown on the map of Fredericksburg and Environs by the German Emigration Company in Gillespie County, Texas and being all of that certain 10.78 acre tract described in Instrument No. 20219175 of the Official Public Records of Gillespie County, Texas and all of that certain 10.78 acre tract described in Instrument No. 20219177 of said Official Public Records, and more particularly and separately described in the attached Exhibit “A”; and

WHEREAS, the Developer desires to have the entirety of said Subdivision Tract annexed into the City, and the agreements contained herein are made in anticipation of the annexation of said 21.446 acres; and

WHEREAS, the City Council, after due and careful consideration, finds that the annexation of said 21.446 acres into the City will promote economic development and further the growth of the City, promote affordable and attainable housing in the City, enable the City to control the development of the area, and serves the best interests of the City.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, the Parties agree as follows:

AGREEMENT

1. The Parties acknowledge and agree that the said 21.446 acres of the Subdivision Tract is presently located outside the city limits of the City (the "Annexation Tract") but is located within the extra territorial jurisdiction of the City. The Annexation Tract is more particularly described in Exhibit "A", a copy of which is attached hereto and made a part hereof. At a public City Council meeting, the City Council shall duly consider enacting an ordinance annexing the Annexation Tract, pursuant to a Petition for Annexation filed by Developer.
2. Contemporaneously with the annexation of the Annexation Tract under Paragraph 1 of this Agreement, the City Council shall also duly consider enacting an ordinance amending the

Zoning Ordinance of the City, to designate the zoning districts of the Subdivision Tract as R-1 Single Family Residential. The designation of the Subdivision Tract shall be carried out in accordance with the provisions and proceedings of the City of Fredericksburg Zoning Ordinance and City of Fredericksburg Comprehensive Plan. Any subsequent zoning amendments related to the Subdivision Tract and requested by the Developer shall be subject to the rules, regulations, and procedures set forth in the City of Fredericksburg Zoning Ordinance, and the same must be in conformity with the Comprehensive Plan for the City in effect at the time of the request.

3. Subsequent to the execution of this Agreement, the Developer may submit to the City a preliminary plat for the Subdivision Tract. Any preliminary plat submitted by Developer under this Agreement shall be processed by the City under the applicable City procedures and Ordinances existing at the time of submission of the plat to the City. The Parties acknowledge and agree that the Subdivision Tract shall be developed in accordance with said preliminary plat, and the dedications and easements shown thereon. The Developer shall be permitted a reasonable degree of flexibility with respect to changes or modifications of said preliminary plat due to engineering considerations, as is permitted by the Ordinances of the City. The Parties acknowledge and agree that all Exhibits attached to this Agreement are attached hereto solely for the purposes of clarification of the provisions of this Agreement, and the attachment of said Exhibits shall not be considered as an approval by the City of the plat or design of the Subdivision Tract.
4. In consideration of the open space and internal parkland to be provided to the residents of the Subdivision Tract, the Developer shall pay to the City a fee in lieu of park land dedication and a park development fee, as set forth in Section 6.15 (Park Land Dedication) of Chapter 38 (Subdivisions) of the City Code of Ordinances.
5. Utility Improvements.
 - a. Utility plan. Developer shall, at Developer's expense, have a utility infrastructure master plan for streets, electric, water, sewer and drainage prepared by a Texas registered professional engineer and approved by the City, Central Texas Electric Cooperative, and other utility service provider as applicable for the entire Subdivision Tract. Such plan will be based on fully developed conditions, and shall incorporate the City's available engineering data and comply with the City of Fredericksburg Construction Standards and Specifications. Developer will incorporate such plan and improvements in each Phase as it is approved. All utilities will be required to be provided to the boundary of the Subdivision Tract to permit future extensions at locations shown on the approved utility infrastructure master plan. If Developer changes the layout of subsequent Phases which necessitate relocation of such mains or other utilities, the same, including the cost of replacing any City upsizing paid for by the City, shall be at Developer's expense, and will

- require subsequent City approval in accordance with the City's usual development regulations notwithstanding any agreements herein.
- b. Drainage. The Developer agrees to design and construct, at Developer's sole expense, all remaining external and internal lines and drainage infrastructure to connect the Subdivision Tract to City's drainage utility system, constructed in conformance with the utility infrastructure master plan, all City ordinances, and the Minimum Standards for street and utility design and the materials and specifications on file with the City Engineer.
 - c. Sewer. In order to minimize ongoing maintenance costs to the City, whenever possible the Subdivision Tract will be served through a sanitary sewer gravity flow collection system as described in the development plans submitted to the City by the Developer's engineering consultants. Installation and maintenance of individual household sanitary sewer grinder lift stations, if necessary, serving single lots will be the responsibility of the individual lot owner, not the City, and shall be shown in the City-approved construction plans.
 - d. Oversizing. Subject to the terms hereof, the City may elect to oversize any or all of the public infrastructure to be constructed. For purposes hereof, oversize means that the City may require an increase in the size of any utility infrastructure beyond what is required to serve the Subdivision Tract pursuant to the applicable codes. The City, if it desires, may require oversizing in connection with the various phases. In order to make an election to oversize any or all of the utility infrastructure, the City must send written notice to Developer on or before the date that is thirty (30) days after the date the relevant utility construction plans are submitted to the City for review prior to approval of the preliminary plat for the applicable Phase or section being platted. If the City makes an oversizing request, then Developer shall obtain bids for the construction of the applicable oversizing as an alternate bid based on construction plans approved by the City. It is understood that the Developer's responsibility for obtaining bids at its expense is for add alternates for upsizing, and not for major re-engineering expense. Developer will send written notice to City setting forth both the base bid Developer has received for its infrastructure and for the alternate bid. No more than thirty (30) days after receipt of this notice, the City shall provide written notice to Developer of its intention to pursue and pay all costs associated with the oversizing. Upon making such election, the Developer shall construct the improvements set out in the alternate bid, and City shall be obligated to reimburse Developer for 100% of the difference between the base bid and the alternate bid.
 - e. The Developer agrees to design and construct, at Developer's sole expense, all remaining external and internal lines and taps to connect the Subdivision Tract to City's water and sewer system, constructed in conformance with the utility infrastructure master plan, all City ordinances, and the Minimum Standards for

street and utility design and the materials and specifications on file with the City Engineer. It is further understood and agreed by the Parties that each lot in the Subdivision Tract shall be subject to the impact fees of the City in effect at the time of required payment with regard to water and sewer, unless said lot is exempt from payment of impact fees pursuant to a City ordinance in effect at the time of required payment, related to affordable or attainable housing. Impact fees shall become due and payable to the City for each lot in the Subdivision Tract at the time of issuance of a building permit for said lot.

6. Roadways and easements.

- a. It is agreed and understood that all roadway easements, utility easements, drainage easements, and any other public or private dedications or easements shown on the Subdivision Tract plat shall be acquired and constructed by Developer at Developer's sole cost, and in conformance with all City ordinances and the Minimum Standards for street and utility design and the materials and specifications on file with the City Engineer. Following construction, dedication, completion of the maintenance assurance period, and acceptance by the City, the public roadways shall be conveyed to the City and shall be maintained by the City as public roadways. All easements other than public roadways shall be maintained by the Parties in accordance with the City Subdivision Ordinance and City Storm Water Control and Detention Ordinance, and as set forth in Paragraph 8 of this Agreement.
 - b. All roadways will be designed and constructed as set out in a geotechnical report/study, to be conducted by a Texas Registered Professional Engineer, provided by Developer approved by the City, but shall be constructed at least to minimum City standards for street and utility design and the materials and specifications on file with the City Engineering Department for the type of street being constructed.
 - c. The Developer agrees to prepare and provide a Traffic Impact Analysis, at Developer's sole expense, when required by Section 6.04 (Access Management) of the City's Subdivision Ordinance.
 - d. Developer shall be solely responsible for coordinating with the United States Postal Service concerning the establishment and provision of U.S. Mail delivery to the Subdivision Tract.
7. The Developer shall coordinate and install (through CTEC) all street lights as required by City ordinances in effect at the time of development.
8. The City agrees to provide for the maintenance of all public streets, storm water and drainage system, sanitary sewer and water main, and public rights-of-way in the

development, following conveyance to the City and acceptance by City, as shown on the approved final plat of the Subdivision Tract and in accordance with the City Subdivision Ordinance and City Storm Water Control and Detention Ordinance.

9. The Parties acknowledge and agree that this Agreement shall not bind either party hereto until an annexation ordinance has been duly enacted and adopted by the City, as set forth in Paragraph 1 of this Agreement. The Parties acknowledge and agree that this Agreement shall not bind or hinder the independent or legislative powers of any City boards or commissions, and this Agreement shall be effective only if and upon adoption of the ordinance contemplated and as set forth in Paragraph 1 of this Agreement, the same to be completed on or before 90 days from the date of institution of Annexation proceedings by the City.
10. It is hereby agreed that if the Annexation Tract is annexed into the City under Paragraph 1 of this Agreement, and if any of the terms of this Agreement are not met by the Developer within five years from the date of said annexation, then any commitments on the part of the City for construction of infrastructure or for development approvals shall be automatically terminated, and the Subdivision Tract shall then be subject to the development ordinances then in effect.
11. The effective date of this Agreement shall be the date of annexation of the Subdivision Tract to the City, as set forth in Paragraph 1 of this Agreement. This Agreement shall be binding upon the parties to it, their respective grantees, successors, assigns or lessees for a full term of thirty (30) years, commencing as of the effective date of this Agreement, subject to limitations provided by law and to the extent permitted thereby, and for such further term as may subsequently be agreed to by the parties. It is hereby agreed that if the Subdivision Tract (or any portion of the Subdivision Tract) is annexed to the City of Fredericksburg, and if any the City does not grant the requested zoning set forth in this Agreement, or if the City does not perform its obligations hereunder, then Developer may petition for disannexation and/or the City may disannex.
12. It is understood and agreed by the Parties hereto that time is of the essence of this Agreement, and that all of the parties will make every reasonable effort to expedite the subject matters hereof.
13. The Parties mutually represent that they have taken and will take action as may be required to bring about the annexation of Annexation Tract and the amendments, exceptions, and variances, as may be necessary or proper in order to zone and classify the Subdivision Tract so as to enable the same to be developed and used in the manner anticipated in this Agreement, and such other action as to enable the parties to execute this Agreement and to fully carry out all other covenants, agreements, duties and other obligations created and imposed by the terms and conditions of this Agreement.

14. This Agreement shall be binding upon the parties to it, their respective grantees, successors, assigns or lessees, subject to limitations provided by law.
15. The Parties agree that this Agreement and any exhibits attached to it may be amended only by the mutual written consent of all parties.
16. The Developer covenants and agrees to fully indemnify, hold harmless and defend the City, its officers, agents, servants, and employees, from all claims, suits or causes of action of any nature whatsoever, whether real or asserted, brought for or on account of any injuries or damages to persons or property including death, resulting from or in any way connected with this Agreement or the construction of the improvements or facilities described herein; and in addition, the Developer covenants to indemnify, hold harmless and defend the City, its officers, agents, servants and employees, from and against any and all claims, suits or cause of action of any nature whatsoever, brought for or on account of any injuries or damages to persons or property, including death, resulting from any failure to properly safeguard the work, or on account of any act, intentional or otherwise, neglect or misconduct of the Developer, its contractors, agents, servants or employees.
17. Approval by the City of any plans, designs, or specifications submitted by the Developer pursuant to this Agreement shall not constitute or be deemed to be release of the responsibility and liability of the Developer or its engineers, employees, officers or agents for the accuracy and competency of their design and specifications. The Parties acknowledge and agree that the approval of any plans, designs, or specifications by the City signifies the City's approval on only the general design concept of the improvements to be constructed as the same relates to conformance with City ordinances.

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement, or caused the same to be executed by its duly authorized representative.

DEVELOPER

668 Pyka Road, LLC
a Texas limited liability company

By: _____ Date: _____
Jacob Grant, Member

CITY OF FREDERICKSBURG, TEXAS ("CITY")

By: _____ Date: _____
Kent Myers, City Manager



LEGAL DESCRIPTION: Being 21.446 acres of land out of Outlots 165, 170, and an Unnumbered Outlot Strip as shown on the map of Fredericksburg and Environs by the German Emigration Company in Gillespie County, Texas and being all of that certain 10.78 acre tract described in Instrument No. 20219175 of the Official Public Records of Gillespie County, Texas and all of that certain 10.78 acre tract described in Instrument No. 20219177 of said Official Public Records; Said 21.446 acre tract being more particularly described as follows and as surveyed under the supervision of Searchers Surveying & Engineering LLC in February 2022:

BEGINNING at a 1/2 inch iron rod found in the north line of Pyka Road, for the southeast corner of Outlot 166 of said map of Fredericksburg and Environs, the southwest corner of said Outlot 165, the southeast corner of that certain 20.13 acre tract recorded in Volume 146, Page 940 of the Deed Records of Gillespie County, Texas, the southwest corner of said 10.78 acre tract described in Instrument No. 20219175, and the southwest corner hereof;

THENCE North 01°04'14" West a distance of 1551.00 feet along the east line of said Outlot 166, the east line of Outlot 169 of said map of Fredericksburg and Environs, the west line of said Outlot 165, the west line of said Outlot 170, the east line of said 20.13 acre tract, and the west line of said 10.78 acre tract described in Instrument No. 20219175 to a 2.5 inch pipe fence end post found in the south line of that certain 15.00 acre tract described in Instrument No. 20161649 of said Official Public Records, for the northeast corner of said 20.13 acre tract, the northwest corner of said 10.78 acre tract described in Instrument No. 20219175, and the northwest corner hereof;

THENCE North 88°28'46" East a distance of 609.52 feet along the south line of said 15.00 acre tract, the north line of said 10.78 acre tract described in Instrument No. 20219175,

and the north line of said 10.78 acre tract described in 20219177 to a 1/2 inch iron rod set in the west line of that certain 1.55 acre tract described in Volume 399, Page 302 of the Real Property Records of Gillespie County, Texas, for the northeast corner of said 10.78 acre tract described in Instrument No. 20219177, and from which a 1/2 inch iron rod found for the southeast corner of said 15.00 acre tract bears North 88°28'46" East a distance of 2.65 feet;

THENCE South 05°15'45" West a distance of 42.11 feet along the west line of said 1.55 acre tract, the west line of Tract 2 of Windmill Oaks as shown on the plat recorded in Volume 3, Page 56 of the Plat Records of Gillespie County, Texas, and the east line of said 10.78 acre tract described in Instrument No. 20219177 to a 1/2 inch iron rod set for a corner of said Tract 2 and a corner of said 10.78 acre tract described in Instrument No. 20219177;

THENCE South 01°11'05" East a distance of 883.97 feet along the west line of said Tract 2 and the east line of said 10.78 acre tract described in Instrument No. 20219177 to a 27 inch post oak tree found for a corner of said Tract 2 and a corner of said 10.78 acre tract described in Instrument No. 20219177;

THENCE South 01°14'55" West along the west line of said Tract 2 and the east line of said 10.78 acre tract described in Instrument No. 20219177, at a distance of 638.33 feet pass a 1/2 inch iron rod with a cap marked "Bonn 4447" found for the southwest corner of said Tract 2 and the northwest corner of that certain strip of land dedicated as road right-of-way as shown on said plat recorded in Volume 3, Page 56, continuing along the west line of said strip of land and the east line of said 10.78 acre tract described in Instrument No. 20219177 in all for a total distance of 645.93 feet to a 1/2 inch iron set in the north line of said Pyka Road and the south line of said Outlot 165, for the southwest corner of said strip of land and the southeast corner hereof;

THENCE North 89°32'53" West along the north line of said Pyka Road, the south line of said Outlot 165, the south line of said 10.78 acre tract described in Instrument No. 20219177, at a distance of 278.88 feet pass a 1/2 inch iron rod with a cap marked "Bonn 4447" found for the southwest corner of said 10.78 acre tract described in Instrument

No. 20219177 and the southeast corner of said 10.78 acre tract described in Instrument No. 20219175, continuing along the north line of Pyka Road, the south line of said Outlot 165, and the south line of said 10.78 acre tract described in Instrument No. 20219175 for a total distance of 580.69 feet to a to the POINT OF BEGINNING containing 21.534 acres of land, more or less, with exception to the "SAVE AND EXCEPT" described in said Instrument No. 20219175 and in said Instrument No. 20219177, and as shown on certified plat herewith.

Note: Bearings, distances and acreage shown hereon are Grid, NAD 83, Texas Central Zone 4203 and are derived from GPS techniques. A "1/2 inch iron rod set" is a 1/2 inch rebar with plastic cap marked "Searchers RPLS 6275".

Surveyed by;



Franklin A. Leamons
Registered Professional Land Surveyor #6889
Date: February 16, 2022
Job# 21-5598



ORDINANCE NO. 2022-09

AN ORDINANCE ANNEXING TO THE CITY OF FREDERICKSBURG, TEXAS APPROXIMATELY 21.46 ACRES OF LAND OUT OF OUTLOT 165, OUTLOT 170, AND PART OF AN OUTLOT STREET, AS SHOWN ON THE MAP OF FREDERICKSBURG AND ENVIRONS BY THE GERMAN EMIGRATION COMPANY IN GILLESPIE COUNTY, TEXAS, LOCATED AT 668 PYKA ROAD; EXTENDING THE CORPORATE LIMITS OF THE CITY OF FREDERICKSBURG, TEXAS, SO AS TO INCLUDE SAID TERRITORY; GRANTING TO ALL INHABITANTS AND FUTURE INHABITANTS OF SAID TERRITORY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS OF THE CITY OF FREDERICKSBURG, TEXAS; BINDING THE INHABITANTS AND FUTURE INHABITANTS OF SAID TERRITORY BY ANY AND ALL ACTS, ORDINANCES, RESOLUTIONS AND REGULATIONS OF SAID CITY OF FREDERICKSBURG, TEXAS; AND AMENDING THE ZONING ORDINANCE OF THE CITY TO ESTABLISH THE ZONING DISTRICT OF SAID TERRITORY AS R-1: SINGLE FAMILY RESIDENTIAL.

WHEREAS, the City of Fredericksburg has received a written request for voluntary annexation for the following tracts or parcels of land (the "Property") situated in Gillespie County, Texas, to-wit:

Being APPROXIMATELY 21.46 ACRES OF LAND OUT OF OUTLOT 165, OUTLOT 170, AND PART OF AN OUTLOT STREET, AS SHOWN ON THE MAP OF FREDERICKSBURG AND ENVIRONS BY THE GERMAN EMIGRATION COMPANY IN GILLESPIE COUNTY, TEXAS, LOCATED AT 668 PYKA ROAD, and more particularly and separately described in the attached Exhibit "A"; and

WHEREAS, the City Council of the City of Fredericksburg, Texas has heard arguments for and against the annexation of such Property at a public hearing in accordance with the Local Government Code of the State of Texas and after having been requested to annex such Property by the owners thereof; and

WHEREAS, the City Council of the City of Fredericksburg, Texas has determined that said Property is contiguous and adjacent to the limits of the City of Fredericksburg, Texas; that said Property meets all requisites of law for annexation, and that such Property should be annexed to the City of Fredericksburg, Texas, and the corporate limits of the City of Fredericksburg, Texas should be extended so as to include such territory; and that the City Council of the City of Fredericksburg, Texas, by the provisions of the Local Government Code of the State of Texas, and the Charter of the City of Fredericksburg, has the power to annex such Property; and

WHEREAS, a request has been submitted by the owner of the Property to establish R-1: Single Family Residential zoning upon said Property; and

WHEREAS, public hearings before the Planning and Zoning Commission and the City Council of the City of Fredericksburg have been duly noticed and held regarding such application, as required by the City of Fredericksburg Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission has determined that such zoning change is in conformity with the uses established by the Comprehensive Land Use Plan of the City of Fredericksburg and is consistent with the objectives of the City of Fredericksburg Zoning Ordinance, and has recommended to the City Council of the City of Fredericksburg, based upon positive findings under the review and evaluation criteria established by such ordinance, that the zoning be enacted; and

WHEREAS, the City Council has specifically found, following public hearing, that such change is consistent with the objectives of the City of Fredericksburg Zoning Ordinance and Comprehensive Land Use Plan of the City of Fredericksburg and there has not been a protest against the zoning signed by owners of twenty per cent (20%) or more of the area of the property included in the zoning request, or of the area of the property immediately adjoining the same and extending two hundred feet (200') therefrom.

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

Section 1. That the Property is hereby annexed to the City of Fredericksburg, Texas; that the corporate limits of the City of Fredericksburg, Texas, be and they are hereby extended so as to include such Property within the city limits of the City of Fredericksburg, Texas; and that said Property shall hereafter be included within the territorial limits of the City of Fredericksburg, Texas.

Section 2. That the present and future inhabitants of such Property shall hereafter be entitled to all the rights and privileges of other citizens of the City of Fredericksburg, Texas; and that the inhabitants of such Property shall be bound by any and all the acts, ordinances, resolutions and regulations of the City of Fredericksburg, Texas. Pursuant to Texas Local Government Code Sec. 43.0672, the City has entered into a written agreement with the owners of Property, related to the provision of City services in the area, and the City is not required to provide a service that is not included in said agreement.

Section 3. That the zoning ordinance of the City of Fredericksburg is hereby amended to incorporate the certain change in zoning district as follows:

The Property is hereby zoned and designated as R-1: Single Family Residential.

Section 4. That all references in City of Fredericksburg Code of Ordinances to the Zoning Ordinance shall henceforth refer to such as is amended hereby.

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

Charlie Kiehne, Mayor
City of Fredericksburg, Texas

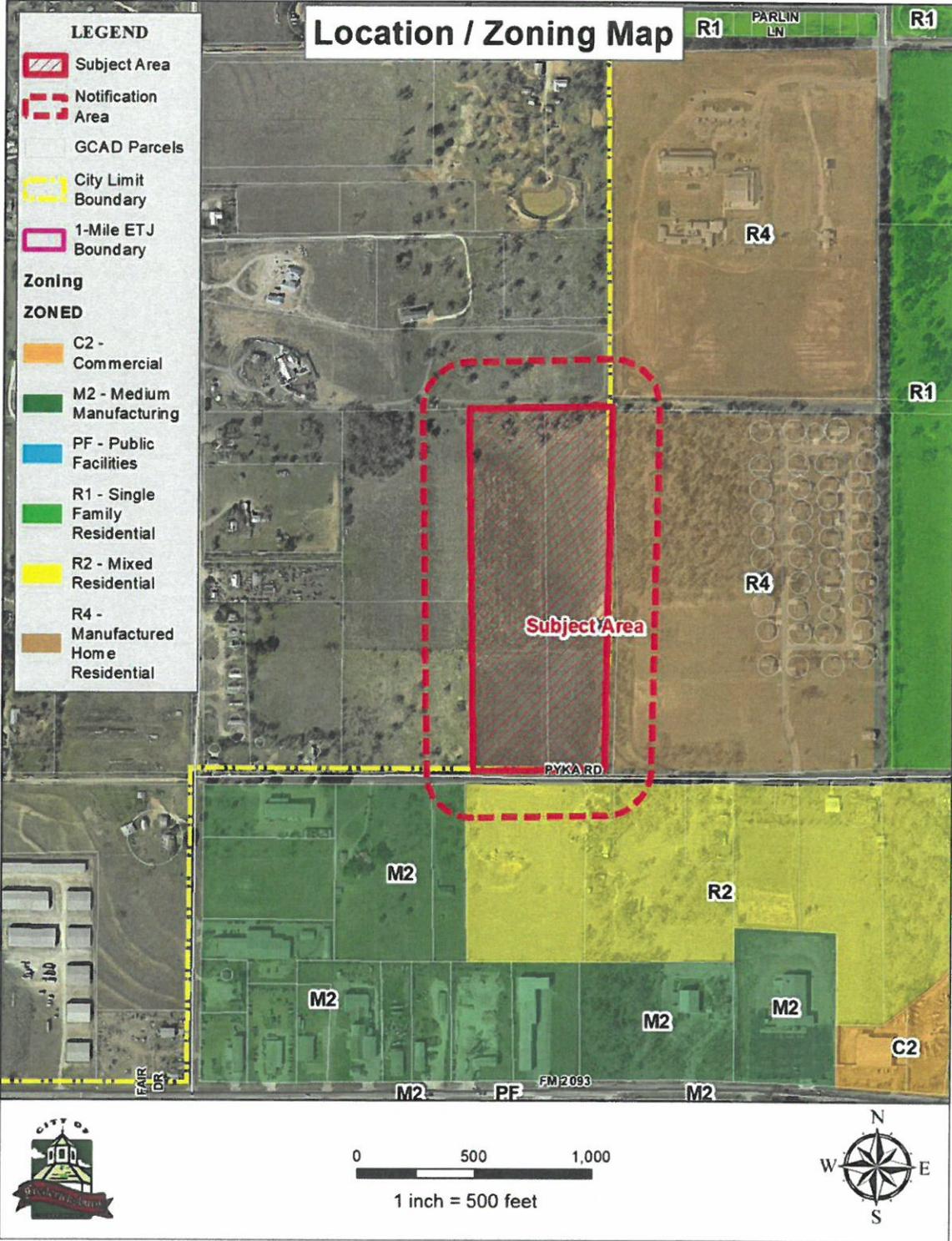
ATTEST:

Shelley Goodwin, TRMC
City Secretary

APPROVED AS TO FORM:

Daniel Jones, City Attorney

EXHIBIT "A"





SEARCHERS

SURVEYING & ENGINEERING LLC

MASON | FREDERICKSBURG

P.O. Box 528 Mason, TX 76856 | P.O. Box 1504 Fredericksburg, TX 78624

830-383-1211 | Firm #10193966

www.searchersls.com

LEGAL DESCRIPTION: Being 21.446 acres of land out of Outlots 165, 170, and an Unnumbered Outlot Strip as shown on the map of Fredericksburg and Environs by the German Emigration Company in Gillespie County, Texas and being all of that certain 10.78 acre tract described in Instrument No. 20219175 of the Official Public Records of Gillespie County, Texas and all of that certain 10.78 acre tract described in Instrument No. 20219177 of said Official Public Records; Said 21.446 acre tract being more particularly described as follows and as surveyed under the supervision of Searchers Surveying & Engineering LLC in February 2022:

BEGINNING at a 1/2 inch iron rod found in the north line of Pyka Road, for the southeast corner of Outlot 166 of said map of Fredericksburg and Environs, the southwest corner of said Outlot 165, the southeast corner of that certain 20.13 acre tract recorded in Volume 146, Page 940 of the Deed Records of Gillespie County, Texas, the southwest corner of said 10.78 acre tract described in Instrument No. 20219175, and the southwest corner hereof;

THENCE North 01°04'14" West a distance of 1551.00 feet along the east line of said Outlot 166, the east line of Outlot 169 of said map of Fredericksburg and Environs, the west line of said Outlot 165, the west line of said Outlot 170, the east line of said 20.13 acre tract, and the west line of said 10.78 acre tract described in Instrument No. 20219175 to a 2.5 inch pipe fence end post found in the south line of that certain 15.00 acre tract described in Instrument No. 20161649 of said Official Public Records, for the northeast corner of said 20.13 acre tract, the northwest corner of said 10.78 acre tract described in Instrument No. 20219175, and the northwest corner hereof;

THENCE North 88°28'46" East a distance of 609.52 feet along the south line of said 15.00 acre tract, the north line of said 10.78 acre tract described in Instrument No. 20219175,

Page 3 of 3

No. 20219177 and the southeast corner of said 10.78 acre tract described in Instrument No. 20219175, continuing along the north line of Pyka Road, the south line of said Outlot 165, and the south line of said 10.78 acre tract described in Instrument No. 20219175 for a total distance of 580.69 feet to a to the POINT OF BEGINNING containing 21.534 acres of land, more or less, with exception to the "SAVE AND EXCEPT" described in said Instrument No. 20219175 and in said Instrument No. 20219177, and as shown on certified plat herewith.

Note: Bearings, distances and acreage shown hereon are Grid, NAD 83, Texas Central Zone 4203 and are derived from GPS techniques. A "1/2 inch iron rod set" is a 1/2 inch rebar with plastic cap marked "Searchers RPLS 6275".

Surveyed by;



Franklin A. Leamons
Registered Professional Land Surveyor #6889
Date: February 16, 2022
Job# 21-5598





CITY COUNCIL MEMO

DATE: February 21, 2022

TO: Mayor and City Council Members

FROM: Jason Lutz

SUBJECT: Z-2202 – REQUEST BY KEVIN SPRAGGINS, APPLICANT, TO CONSIDER A REQUEST FOR REQUEST FOR A FUTURE LAND USE CHANGE FROM “MIXED-USE CORRIDOR” (MU) TO A FUTURE LAND USE CLASSIFICATION OF “COMMERCIAL” (C) AND A REQUEST FOR A ZONING CHANGE FROM “INDUSTRIAL PARK” (M3) TO A ZONING CLASSIFICATION OF “COMMERCIAL” (C2) FOR APPROXIMATELY 14.28 ACRES OF LAND OUT OF THE ABS A0002 W H ANDERSON #197, TRACT III, 22.28 ACRES, LOCATED AT 1100 FRIENDSHIP LANE.

Summary:

The applicant is seeking a future land use classification change from “Mixed-Use Corridor” (MU) to “Commercial” (C) and zoning change from “Industrial Park” (M3) to “Commercial” C2 to bring the entire tract under the same land use and zoning as the remainder of the property.

Background: On January 18, 2022 Council approved a future land use change from “Mixed-Use Corridor” (MU) to “Commercial” (C) and zoning change from “Industrial Park” (M3) to “Commercial” C2 for a portion of the property (approximately 8 acres).

This request will bring the remaining portion of the property (14.28 acres) under the same land use and zoning previously approved by Council.

Analysis:

The property is currently vacant undeveloped land located on the south side of Friendship Lane behind the existing Sutherlands facility.

Land uses surrounding this property include intense retail to the to the east and north (Sutherlands & Walmart), vacant land and multi-family to the west, and an RV Park and single-family residential (ETJ) to the south.

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Surrounding zoning is Industrial Park (M3) to the west, Planned Unit Developments (PUDS) to the north and east, Medium Manufacturing (M2) to the southeast, and unzoned property (ETJ) to the southwest.

The Future Land Use Plan identifies the subject area as a "Mixed Use Corridor", but the property is not currently in the City's Entry Corridor Overlay District.

The Future Land Use Describes the "Mixed Use Corridor" classification as a district that would be generally applicable along major roadways, such as US Highway 290 and 87, and State Highway 16. The City's present C-1 and C-2 zoning districts allow residential uses only by CUP (conditional use permit), but in this district residential uses would be permitted by right. Although uses could be mixed, there would be no requirement that they be "integrated" into a project or within the same building. This new district should incorporate many of the new TND (Traditional Neighborhood Design) and New Urbanism concepts that are being developed in many parts of the country today. These design concepts could be incorporated through a zoning overlay district for these areas. In this district, commercial uses should be limited, and retail, office, hospitality, and institutional uses should be encouraged. This district will ultimately encourage a better image of Fredericksburg along these major roadways.

The current zoning of Industrial Park (M3) is not compatible with the existing zoning and land uses in the area and staff supports a change from M3 to any other Commercial zoning category within the city.

Recommendation:

P&Z held a public hearing on February 9, 2021, and recommended approval of the requested Land Use and Zoning change.

Staff recommends approval of the requested Land Use and Zoning change, as presented.

Attachments:

Future Land Use Map & Location/Zoning Map, Draft Land Use Ordinance, and Draft Zoning Ordinance



Department Approval



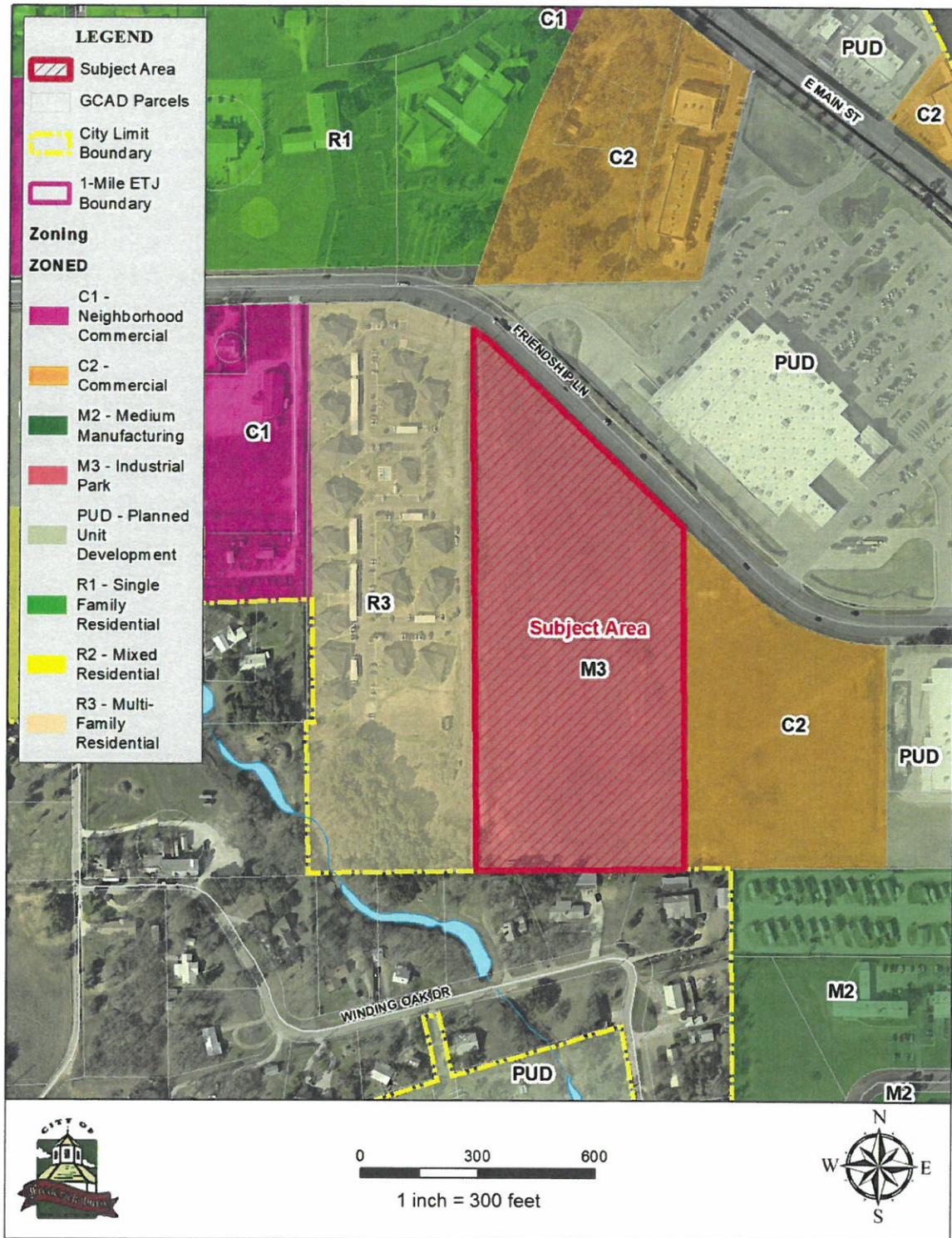
City Attorney Approval



City Manager Approval

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ORDINANCE NO. 2022-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, ADOPTING A CHANGE IN THE COMPREHENSIVE PLAN OF THE CITY OF FREDERICKSBURG, SPECIFICALLY IN THE LAND USE MAP, AS TO APPROXIMATELY 14.28 ACRES OF LAND, BEING A PORTION OF W.H. ANDERSON #197, ABSTRACT NO. 2, LOCATED AT 1100 FRIENDSHIP LANE; CHANGING SAID PROPERTY FROM MIXED USE CORRIDOR (MU) TO COMMERCIAL (C); PROVIDING THAT THE CHANGE BECOME A PART OF THE COMPREHENSIVE PLAN, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, upon adoption of the Comprehensive Plan for the City of Fredericksburg, the City Council recognized, as is required by such Plan, that such Plan is not static but must be re-evaluated in terms of physical, environmental, social, economic and public value factors which have occurred since the adoption of the Plan; and

WHEREAS, the Planning and Zoning Commission of the City of Fredericksburg has re-evaluated such Plan and has recommended that such Plan be changed, and that the Land Use Plan be amended to reflect such changes in land use; and

WHEREAS, public hearings before the Planning and Zoning Commission and the City Council have been duly noticed and held regarding such proposed change as required by the City of Fredericksburg Zoning Ordinance; and

WHEREAS, the City Council has specifically found, following the public hearing, that such change is consistent with the objectives of the Comprehensive Plan of the City of Fredericksburg and that it would be in the best interests of the public that such change be made.

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

Section 1. That the Comprehensive Plan of the City of Fredericksburg is hereby amended to incorporate the certain change to the Land Use Plan as follows:

All of those certain lots, tracts or parcels of land situated in the City of Fredericksburg, Gillespie County, Texas, said land being known as APPROXIMATELY 14.28 ACRES OF LAND, BEING A PORTION OF W.H. ANDERSON #197, ABSTRACT NO. 2, LOCATED AT 1100 FRIENDSHIP LANE, and as additionally shown and designated on the map attached hereto as Exhibit A, are hereby designated as COMMERCIAL (C).

Section 2. That all references in City of Fredericksburg Code of Ordinances to the Comprehensive Plan or to the Land Use Map shall henceforth refer to such as are amended hereby.

Section 3. That this Ordinance shall take effect upon the date of its passage.

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

Charlie Kiehne, Mayor
City of Fredericksburg, Texas

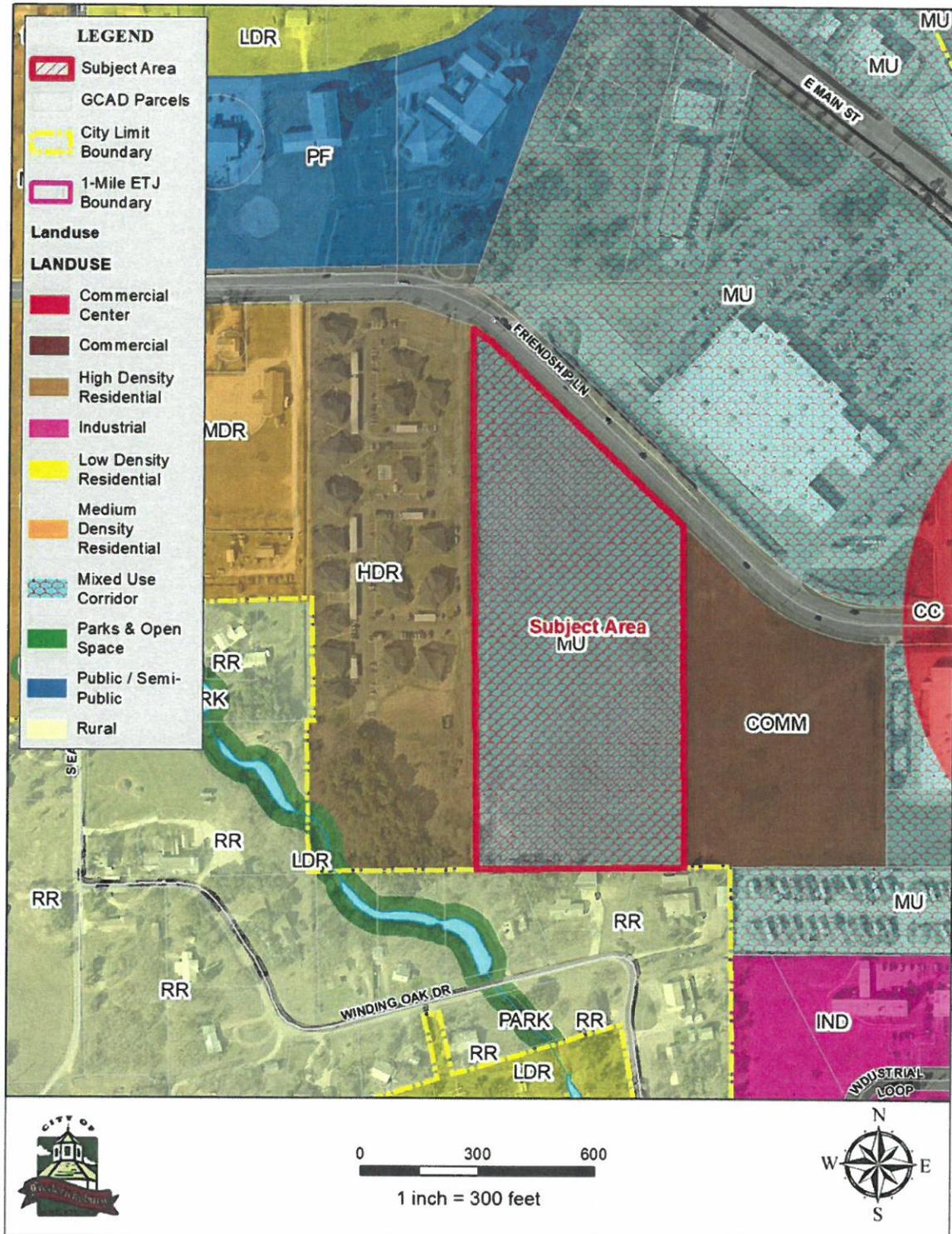
ATTEST:

Shelley Goodwin, City Secretary, TRMC

APPROVED AS TO FORM:

Daniel D. Jones, City Attorney

EXHIBIT "A"



ORDINANCE NO. 2022-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY AND CHANGING THE ZONING DISTRICT AS TO APPROXIMATELY 14.28 ACRES OF LAND, BEING A PORTION OF W.H. ANDERSON #197, ABSTRACT NO. 2, LOCATED AT 1100 FRIENDSHIP LANE, SITUATED IN THE CITY OF FREDERICKSBURG, TEXAS; CHANGING SAID PROPERTY FROM INDUSTRIAL PARK (M-3) TO COMMERCIAL (C-2); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an Application for Rezoning has been submitted by the owners of lots described as APPROXIMATELY 14.28 ACRES OF LAND, BEING A PORTION OF W.H. ANDERSON #197, ABSTRACT NO. 2, LOCATED AT 1100 FRIENDSHIP LANE in the City of Fredericksburg, Texas, to change the present zoning district of said lots from INDUSTRIAL PARK (M-3) TO COMMERCIAL (C-2); and

WHEREAS, public hearings before the Planning and Zoning Commission and the City Council of the City of Fredericksburg have been duly noticed and held regarding such application, as required by the City of Fredericksburg Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission has determined that such zoning change is in conformity with the uses established by the Comprehensive Land Use Plan of the City of Fredericksburg and is consistent with the objectives of the City of Fredericksburg Zoning Ordinance, and has recommended to the City Council of the City of Fredericksburg, based upon positive findings under the review and evaluation criteria established by such ordinance, that the rezoning be enacted; and

WHEREAS, the City Council has specifically found, following public hearing, that such change is consistent with the objectives of the City of Fredericksburg Zoning Ordinance and Comprehensive Land Use Plan of the City of Fredericksburg and there has not been a protest against rezoning signed by owners of twenty per cent (20%) or more either of the area of the property included in the zoning request, or of the area of the property immediately adjoining the same and extending two hundred feet (200') therefrom.

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

Section 1. That the zoning ordinance of the City of Fredericksburg is hereby amended to incorporate the certain change in zoning district as follows:

All of those certain lots, tracts or parcels of land situated in the City of Fredericksburg, Gillespie County, Texas, said lots being described as APPROXIMATELY 14.28 ACRES OF

LAND, BEING A PORTION OF W.H. ANDERSON #197, ABSTRACT NO. 2, LOCATED AT 1100 FRIENDSHIP LANE in the City of Fredericksburg, Texas, and as additionally shown and designated on the map attached hereto as Exhibit A, to be and are hereby rezoned and designated as COMMERCIAL (C-2).

Section 2. That all references in City of Fredericksburg Code of Ordinances to the Zoning Ordinance shall henceforth refer to such as is amended hereby.

Section 3. That this Ordinance shall take effect upon the date of its passage.

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

Charlie Kiehne, Mayor
City of Fredericksburg, Texas

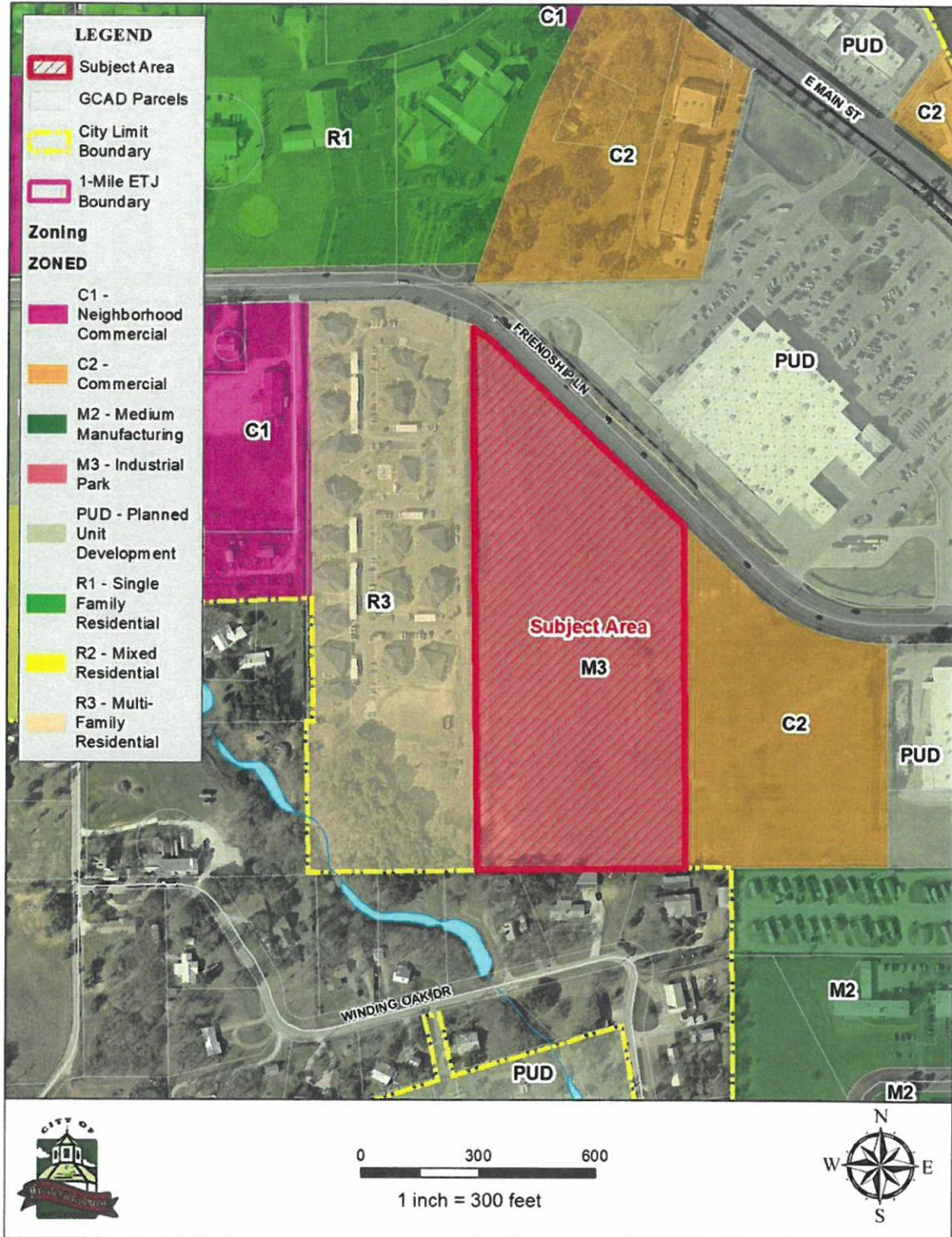
ATTEST:

Shelley Goodwin, TRMC
City Secretary

APPROVED AS TO FORM:

Daniel D. Jones, City Attorney

Exhibit A





CITY COUNCIL MEMO

DATE: February 21, 2022

TO: Mayor and City Council Members

FROM: Jason Lutz

SUBJECT: Z-2201 – REQUEST BY KEVIN SPRAGGINS, APPLICANT, TO CONSIDER AN AMENDMENT TO AN EXISTING “PLANNED UNIT DEVELOPMENT” (PUD), TO ALLOW A LAND USE OF “HOTEL-MOTEL” FOR APPROXIMATELY 10.98 ACRES OF LAND, DESCRIBED AS, LOTS 1, 2, AND 3 OF THE FELLER, PHASE I, SUBDIVISION, LOCATED AT 1511 AND 1565 E. MAIN STREET.

Summary:

The applicant is seeking to amend an existing Planned Unit Development (PUD) to allow the land use of “Hotel-Motel” on the property.

Background: The subject tract is currently zoned Planned Unit Development (PUD). This zoning was established in 1981 to allow construction of the original Walmart store. The PUD was filed as a plat showing certain uses, access, and buildings.

Analysis:

The property is currently home to the Sutherlands retail facility and vacant and undeveloped tracts. The applicant is seeking to amend the PUD to allow construction of a hotel on the vacant land to the south of Sutherlands.

Land uses surrounding this property include intense retail to the north (Sutherlands & Walmart), vacant land to the west, and an RV Park to the south.

Surrounding zoning is Commercial (C2) to the west, Planned Unit Developments (PUDS) to the north, Public Facilities to the east, and Medium Manufacturing (M2) to the south. The subject tract is also within the City’s Entry Corridor Overlay district.

The Future Land Use Plan bisects the property, with “Mixed Use Corridor” and “Commercial Center”.

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The current PUD is more in line with those land uses found in the City's Commercial (C2) zoning district. This district would allow Hotel-Motel as a use that would be permitted, by right.

Recommendation:

P&Z held a public hearing on February 9, 2021 and recommended approval of the requested amendment with the following conditions:

1. That the property be replatted and updated with the new PUD information.
2. That the Hotel-Motel land use be developed in accordance with all current and applicable City Codes including, but not limited to, signs, parking, access, easements, and setbacks.

Staff recommends approval of the requested amendment with the conditions listed by P&Z.

Attachments:

Future Land Use Location/Zoning Map & Draft Ordinance



Department Approval



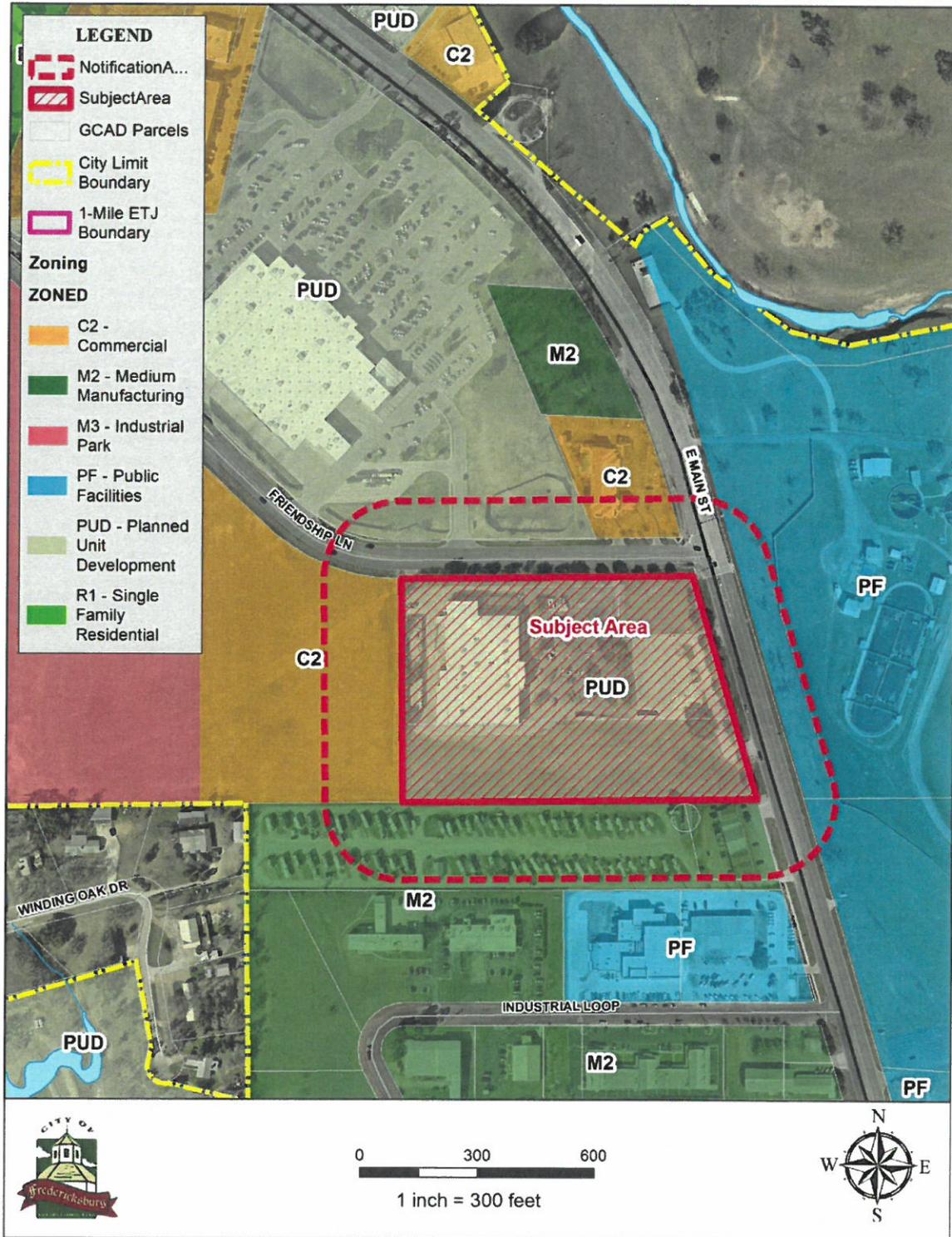
City Attorney Approval



City Manager Approval

The City of Fredericksburg

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The City of Fredericksburg

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ORDINANCE NO. 2022-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY TO APPROVE AN AMENDMENT TO THE PLANNED UNIT DEVELOPMENT (PUD), TO ALLOW A LAND USE OF “HOTEL-MOTEL”, PERTAINING TO 10.98 ACRES OF LAND BEING DESCRIBED AS LOTS 1, 2, AND 3 OF THE FELLER SUBDIVISION, PHASE 1, LOCATED AT 1511 AND 1565 E. MAIN STREET, SITUATED IN THE CITY OF FREDERICKSBURG, TEXAS.

WHEREAS, an Application for Rezoning to amend the Planned Unit Development (PUD) Zoning which currently exists on the property which is described as 10.98 acres of land, being all of that certain tract of land as is shown on the PUD site plan for 1511 and 1565 E. Main Street, has been submitted by the owner of the property to maintain the present zoning classification of PUD but to amend one or more of the conditions of said PUD; specifically to amend the provisions to permit a use of Hotel-Motel; and

WHEREAS, public hearings before the Planning and Zoning Commission and the City Council of the City of Fredericksburg have been duly noticed and held regarding such application, as required by the City of Fredericksburg Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission has determined that such zoning change is in conformity with the uses established by the Comprehensive Land Use Plan of the City of Fredericksburg and is consistent with the objectives of the City of Fredericksburg Zoning Ordinance, and has recommended to the City Council of the City of Fredericksburg, based upon positive findings under the review and evaluation criteria established by such ordinance, that the amendment to the PUD be enacted; and

WHEREAS, the City Council has specifically found, following public hearing, that such change is consistent with the objectives of the City of Fredericksburg Zoning Ordinance and Comprehensive Land Use Plan of the City of Fredericksburg and there has not been a protest against such amendment signed by owners of twenty percent (20%) or more either of the area of the property included in the zoning request, or of the area of the property immediately adjoining the same and extending two hundred feet (200') therefrom.

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

Section 1. That the zoning ordinance of the City of Fredericksburg is hereby amended to incorporate the certain change as follows:

That the zoning classification of the PLANNED UNIT DEVELOPMENT (PUD) for 10.98 ACRES OF LAND BEING DESCRIBED AS LOTS 1, 2, AND 3 OF THE FELLER SUBDIVISION, PHASE 1, LOCATED AT 1511 AND 1565 E. MAIN STREET, SITUATED IN THE CITY OF FREDERICKSBURG, TEXAS, as shown on Exhibit A attached hereto, is hereby amended to permit the additional land use of Hotel-Motel on the vacant land to the south of the existing structure on the property, provided that:

i. the property be replatted and updated with the new PUD information; and

ii. the Hotel-Motel land use be developed in accordance with all current and applicable City codes and development regulations, including but not limited to, signs, parking, access, easements, and setbacks.

Section 2. Other than as hereby amended, the conditions of the original PUD are ratified and confirmed, and incorporated herein for all purposes.

Section 3. That this Ordinance shall take effect upon the date of its passage.

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

Charlie Kiehne, Mayor
City of Fredericksburg, Texas

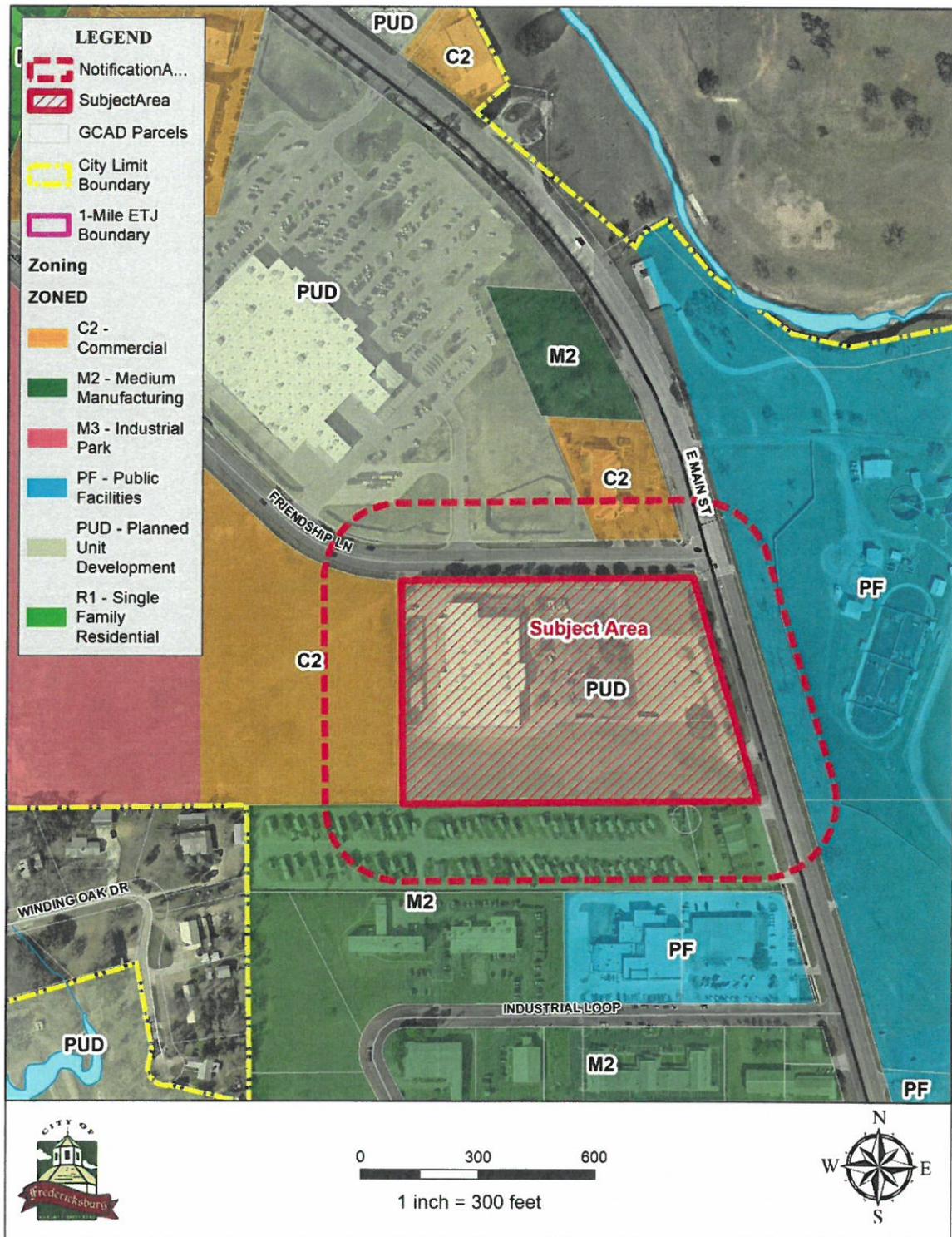
ATTEST:

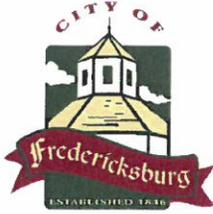
Shelley Goodwin, TRMC
City Secretary

APPROVED AS TO FORM:

Daniel D. Jones, City Attorney

EXHIBIT "A"





CITY COUNCIL MEMO

DATE: February 14, 2022
TO: Mayor and City Council
FROM: Shelley Goodwin, City Secretary
SUBJECT: Appointment of May 7, 2022 Election Judges

Summary:

The City Council is required to appoint the Election Judges for the May 7, 2022 General Election.

Recommendation:

Approve the Election Judges and set the pay.

Background / Analysis:

This Resolution includes the appointments of Judges, Alternate Judges, and setting the pay. With the changes with the Ballot By Mails, I am recommending a Signature Verification Committee. I believe this Committee will be beneficial to the Early Voting Ballot Board.

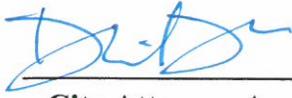
Attachments:

- Resolution
 - Explanation of the duties of the Signature Verification Committee
-


Department Approval


City Manager Approval

The City of Fredericksburg



City Attorney Approval

The City of Fredericksburg

RESOLUTION 2022-03R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, APPOINTING THE EARLY VOTING CLERK, DEPUTY EARLY VOTING CLERKS, JUDGES AND ALTERNATE JUDGE AND ADDING THE PROVISIONS FOR THE CONDUCT OF SUCH ELECTION AND RESOLVING OTHER MATTERS RELATED TO THE CONDUCT OF SUCH ELECTION.

WHEREAS, State Law has established the first Saturday in May as a uniform election day for municipal elections; and

WHEREAS, on February 7, 2022, the City Council previously ordered a General Election for May 7, 2022, for the purpose of electing a Mayor and two (2) Councilmembers; and

WHEREAS, by this Resolution, it is the intention of the City Council to designate Presiding Judges and Alternate Judges for Election Date, Early Ballot Board, and Signature Verification Committee, and to establish and set procedures for conducting the election.

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

Section One - Order of Election. The May 7, 2022, General Election was previously Ordered on February 1, 2021 in order to meet the deadlines set out in the Election Code.

Section Two - Judge Appointments, Notice and Training. The City of Fredericksburg Charter Section 6.08 requires that the City Council appoint all Election Judges, as follows:

Early Voting	Early Voting Clerk Deputy Early Voting Clerks	Shelley Goodwin Leslie Ball Rebekka Goff
Election Day Pct.1-Pct. 4	Presiding Judge Alternate Presiding Judge	James Gordan Browning Jr. Joseph Yonke
Early Voting Ballot Board	Presiding Judge Alternate Presiding Judge	Lorrie Hess Melynn Williams
Signature Verification	Presiding Judge	David Roberts

The Presiding Judge and Alternate Presiding Judge shall be qualified voters of the City. The City Secretary shall , in accordance with Section 32.009 of the Election Code, deliver to the Judges and Alternate Judges notice of their appointments. The City Secretary, in accordance with the Election Code, shall provide training for Election Workers before April 22, 2022. The fee for Presiding Judges shall be at \$15.00 an hour, Alternate Judge at \$14.50 an hour, and the other workers at a rate of \$14.00an hour.

Section Three - Governing Law and Qualified Voters. The election shall be held in accordance with the Constitution of the State of Texas and the Election Code, and all resident qualified voters of the City shall be eligible to vote at the election.

Section Four - Publication and Posting of Election. Notice of the election shall be given as required by Chapter 4 of the Election Code and the City Secretary is hereby directed and instructed to post an executed copy of this Notice at City Hall and on the City website before April 14, 2022. The City Secretary must publish the Notice of Election at least once, not earlier than April 7, 2022 or later than April 21, 2022 in a newspaper of general circulation in the City of Fredericksburg. All said notices shall be published in both English and Spanish. The City Secretary is also instructed to place an Election Notice at the poll sites and at the closest four Countywide Polling Place locations.

Section Five - Additional Required Notices. The City Secretary shall deliver notice of said election to the Voter Registrar, County Clerk and Elections Administrator not later than March 8, 2022. The City Secretary is required to provide the Election Administrator with the City website link to the City Election page and the City Secretary must meet the requirement of posting daily early voting roster as required in HB 1850 (20 19).

Section Six - Delivery of Returns. In accordance with the Election Code, immediately after the closing of the polls and counting on the day of the election, the City Secretary shall deliver the unofficial tabulations to the Mayor, City Council and City Manager of the City of Fredericksburg.

Section Seven - Finalizing the Election. The Early Ballot Board will convene no later than May 16, 2022, to count any provisional ballots or any by mail ballots timely and properly received after election day. The City Secretary shall post a notice 72 hours before the canvass; the official canvass period is May 10th through May 18, 2022.

Effective Date. This resolution shall be effective upon its adoption.

PASSED AND APPROVED this _____ day of _____ 2022.

Charlie Kiehne
Mayor

ATTEST:

Shelley Goodwin, TRMC
City Secretary



CITY COUNCIL MEMO

DATE: 2/15/2022

TO: Mayor and City Council

FROM: Evan Williamson, P.E. – Staff Engineer

SUBJECT: Fredericksburg Visitor Information Center expansion professional services contract

Summary:

A request for qualifications was issued for architectural services for the phase 2 expansion of the Fredericksburg Visitor Information Center. There were ten submittals of qualifications received. Each was review and scored by a team of five reviewers. The top two firms were identified and invited to interview with the review team. SKT Architects was selected by the team for recommendation to City Council for design services of the phase 2 expansion. SKT has submitted the contract for their services to be considered by Council.

Recommendation:

Approval of SKT Architects as the design consultant for Phase 2 expansion of the Fredericksburg Visitor Information Center and the contract for their services. .

Background / Analysis:

The initial design and construction of the Fredericksburg visitor information Center included a phase 2 expansion to be completed at a later date. Phase 2 would accommodate conference space, office, storage space and restrooms. The conference area will include an attached small meeting room, storage, catering kitchen, and restrooms. Office space will include a four to six office spaces. Supporting areas for this space will include general storage, janitorial, mechanical room, lobby area.

The City of Fredericksburg

A request for qualifications was posted for this project on October 27th, 2021. A pre submittal meeting was held at the Visitor Information Center was held on November 4th, 2021. Submittal of qualifications were due on November 16th, 2021. A team of five reviewers including Kent Myers (City Manager), Clinton Bailey (Assistant City Manager), Ernie Loeffler (Fredericksburg CVB President), Jason Lutz (Director of Development Services), Evan Williamson (Staff Engineer) reviewed and scored each submittal.

Scoring criteria for the submittals is as follows.

Cover Letter (5 points)

Signed and dated by authorized representative of the organization.

Basic Qualifications (10 points)

Information relative to the firm size, history, personnel, and areas of expertise.

Ability to Perform (15 points)

Provide an overview of the firm's specific experience on similar projects and how the firm will meet the project schedule.

Technical Capabilities (20 points)

Provide a narrative description of the firm's resources and ability to deliver services required for the project.

Performance History (20 points)

List of previous clients with similar projects.

Proposed Project Approach and Scope of Services to be Provided (20 points)

Provide a narrative that conveys an understanding of the project goals and objectives and how the consulting firm will meet them.

Geographic Proximity (10 points)

Consideration will be given to where the consulting firm's main office is located and how that may, or may not, affect the timely delivery of services.

The results of the scoring were as follows:

SKT Architects - 93.6

Mustard Design - 87.2

McLemore Luong - 83.4

Slay Architecture - 82.8

FGM Architects - 81.4

Sunland Group - 80.2

Smith Dish - 77.4

KGA - 74.8

Chapman Harvey Architects - 74

Reliance Architecture - 74

The two leading firms after scoring the submittal of qualifications were invited to interview with the review team. Ultimately SKT Architects was selected for the project.

The City of Fredericksburg

SKT Architects submitted a draft contract for their services. Services include schematic design, development of design documents including structural, MEP, civil engineering, landscaping, construction cost estimates, bidding phase services, and construction administration. Cost of these services is based on the initial estimated construction for the project, \$1,387,252, will be a percentage base of the construction cost at \$165,575.

Attachments:

Professional Services Contract with SKT Architects



Department Approval



City Manager Approval

The City of Fredericksburg

DRAFT AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the «ninth» day of «February» in the year «2022»
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

«City of Fredericksburg »« »
«126 West Main Street »
«Fredericksburg, Texas 78624 »
« »

and the Architect:
(Name, legal status, address and other information)

«Stehling, Klein, Thomas, Architects P.L.L.C. »« »
»
«300C West Main Street »
«Fredericksburg, Texas 78624 »

for the following Project:
(Name, location and detailed description)

«Visitor Information Center Expansion »
«302 East Austin Street »
«Fredericksburg, Texas 78624 »

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

«The Owner's program for the project is identified in article 1.1.2. The Owner's program will be reviewed with the Owner as part of the Architects basic services as defined in 3.2.1 of this Agreement.»

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

«The project will include an approximately 4,418 square foot addition to the existing Visitor Information Center building. The new addition will include new conference space, offices, storage, and restrooms. The conference area will include a small meeting room, storage, catering kitchen, and restrooms. Office space will include four to six offices. Supporting spaces will include general storage, janitorial, mechanical room and lobby area. Site work will include site grading, extension of and connection to existing utilities for support of the new addition, and new sidewalks and pathways as required to connect the building addition to existing pedestrian pathways and parking. The project will not include new parking areas or adjustments to existing parking facilities »

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

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«\$1,387,252.00 »

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:

«Completion of the design phase services to a degree sufficient in order to determine a preliminary estimate of the cost of the work by 6-30-22 and a final estimate of the cost of the work by 7-30-22 »

- .2 Construction commencement date:

« 2023 »

- .3 Substantial Completion date or dates:

«To Be determined »

- .4 Other milestone dates:

«None »

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

«The anticipated delivery method for this project shall be competitive bidding»

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

«None »

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

(List name, address, and other contact information.)

«Evan Williamson, Staff Engineer, City of Fredericksburg »

« »

« »

« »

« »

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

(List name, address, and other contact information.)

«None »

§ 1.1.9 The Owner shall retain the following consultants and contractors:

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User Notes:

(1783003704)

(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

«To be determined by mutual agreement between Owner and Architect »
« »
« »
« »
« »

.2 Civil Engineer:

«None»

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

»

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

«Randy Stehling, and »
«Brandon Weinheimer »
« »
« »
« »
« »

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

«Whit Smith »
«Smith Structural Engineers »
«9701, Brodie Lane, Suite 204 »
«Austin, Texas 78748 »
« »

.2 Mechanical Engineer:

«Todd Keener »
«Keener Engineering Services »
«1220 West Austin Street »
«Fredericksburg, Texas »
« »

.3 Electrical Engineer:

«Same as Mechanical Engineer »
« »
« »
« »

« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

«Civil Engineer:
Civil Engineering Consultants
11550 I.H. 10 West Suite 395
San Antonio, Texas 78230

Landscape Architect:
Bryan Mask
Dunaway Associates
118 Broadway, Suite 201
San Antonio, Texas 78205

Acoustician (acoustics & A/V):
Andy Miller
Bai
4006 Speedway
Austin, Texas 78751-4628 »

§ 1.1.12 Other Initial Information on which the Agreement is based:

«None»

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than «one million dollars» (\$ «1,000,000 ») for each occurrence and «one million dollars» (\$ «1,000,000 ») in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than « one million dollars» (\$ «1,000,000 ») per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than «five hundred thousand dollars» (\$ «500,000 ») each accident, «five hundred thousand dollars» (\$ «500,000 ») each employee, and «five hundred thousand dollars» (\$ « 500,000 ») policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than «one million dollars» (\$ «1,000,000 ») per claim and «one million dollars» (\$ « 1,000,000») in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;

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User Notes:

- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques,

sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Not Provided
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Architect
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Not Provided
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided

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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Service	Not Provided
4.1.1.31 Acoustic and A/V design services	Architect

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)

Civil Engineering services will include services from the civil engineer listed in this agreement. The scope of such services shall include services considered customary for this type project and as required by governing authorities or as requested by the Owner.

Interior Architectural Design services shall be limited to planning and specifying interior building finishes. Such services shall not include services as identified in 4.1.1.28.

Landscape design services will include services from the Landscape architect listed in this agreement. The scope of such services shall include services considered customary for this type project and as required by governing authorities or as requested by the Owner.

Acoustic / A/V design services will include services from the acoustician listed in this agreement. Such services shall include design and specification of acoustic treatments and A/V equipment for the conference / meeting areas of the building.»

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

(Describe in detail the Owner’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

«None »

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect’s Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect’s schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner’s written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or procurement or delivery method;

- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 «One » («1 ») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 «24 » («twenty-four ») visits to the site by the Architect during construction
- .3 «One » (« 1 ») inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 «One » (1 ») inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within «eighteen » («18 ») months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance

of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and the Architect's consultants and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1** give written approval of an increase in the budget for the Cost of the Work;
- .2** authorize rebidding or renegotiating of the Project within a reasonable time;
- .3** terminate in accordance with Section 9.5;
- .4** in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but

in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the

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User Notes:

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date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

«None »

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

«None »

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum
(Insert amount)

«NA »

- .2 Percentage Basis for services as described in articles 3.1, 3.2, 3.3, 3.4, and 3.5 of this agreement.
(Insert percentage value)

«Eight » («8 ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

For the purpose of calculating the Architect's compensation, the minimum cost of the work shall be the Owner's budget for the cost of the work as identified in article 1.1.3. Should the Owner authorize an increase in the Owner's budget for the cost of the work or accept a competitive bid or negotiated proposal for the work that exceeds the Owner's original budget for the cost of the work as identified in article 1.1.3, then the Architect's compensation shall be calculated based on such authorized or accepted increased cost of the work amount.

- .3 Other
(Describe the method of compensation)

«For Basic Services as described in Article 3.6 of this Agreement: Hourly per Attachment "A" of this Agreement

»

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

«Hourly per Attachment "A" of this Agreement. »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

«Hourly per Attachment "A" of this Agreement. »

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus «ten » percent («10 »%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

« »

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	«twelve and one-half »	percent («12.50 »	%)
Design Development Phase	«thirty-one and one-quarter »	percent («31.25 »	%)
Construction Documents Phase	« Fifty »	percent («50.00 »	%)
Procurement Phase	«Six and one-quarter »	percent («6.25 »	%)
Construction Phase	«NA – see article 11.2.3 »	percent («NA »	%)
Total Basic Compensation	one hundred	percent (100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. ~~Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.~~

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

«See Attachment "A" of this Agreement. »

Employee or Category

Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus **«ten »** percent (**«ten »** %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

« »

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of **«zero »** (\$ **« 0.00 »**) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of **« »** (\$ **« »**) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid **«thirty »** (**«30 »**) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

«3.25 » % **«per annum »**

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in

the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

- «
1. For site planning purposes the Owner shall provide the Architect a detailed topographical land survey of the property in electronic format either in or compatible with AutoCAD version 2012 or newer.
 2. This Agreement is based on the assumption that the existing portions of the building intended to remain are in good structural condition. If such assumptions are found to be inaccurate and structural repairs are required, services for the design and specification of such repairs shall be considered additional services.
 3. Revisions to the Architect's work when such revisions are inconsistent with directions and approvals previously given by the Owner, or additional work due to a change in the scope of the project, will be considered Additional Services.
 4. Revisions to the Architect's work when required due to inaccuracies in information provided by the Construction Manager (General Contractor) including estimated cost of the work will be considered Additional Services.
- »

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)

« »

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[« »] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

« »

[« »] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

« »

- 4 Other documents:
(List other documents, if any, forming part of the Agreement.)

«Attachment "A" – 2022 Standard Hourly Billing Rates
»

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

« »

(Printed name and title)

ARCHITECT (Signature)

«Randy Stehling »«Principal, Stehling, Klein,
Thomas Architects, License Number 14396 »

(Printed name, title, and license number, if required)



AIA Document B101 – 2017, Attachment A

2022 Standard Billing Rates

Architect – Stehling Klein Thomas Architects, P.L.L.C.

<u>Personnel Classification</u>	<u>Hourly Rate</u>
Principle / Architect	\$125.00
Interior Designer	\$100.00
Designer	\$85.00

Civil Engineer – Civil Engineering Consultants

<u>Personnel Classification</u>	<u>Hourly Rate</u>
Regional Practice Leader	\$300.00
Division Manager	\$220.00
Senior Project Manager	\$200.00
Project Manager 2	\$175.00
Professional Engineer 2	\$155.00
Engineer in Training 2	\$110.00
Design Tech 1	\$85.00
Design Tech 2	\$100.00
Administrative Assistant	\$72.00
Two Person Survey Crew	\$150.00
Three Person Survey Crew	\$180.00
Senior RPLS	\$190.00
RPLS	\$165.00
Senior Survey Tech	\$110.00
Survey Tech 1	\$90.00
Survey Tech 2	\$105.00

Structural Engineer – Smith Structural Engineers

<u>Personnel Classification</u>	<u>Hourly Rate</u>
Principle	\$150.00
Engineer (PE)	\$130.00
Graduate Engineer (E.I.T.)	\$110.00

Mechanical, Plumbing, & Electrical Engineers – Keener Engineering Services L.L.C.

<u>Personnel Classification</u>	<u>Hourly Rate</u>
Principle	\$200.00
Project Manager	\$180.00
Sr. Professional Engineer (P.E.)	\$160.00
Jr. Professional Engineer (P.E.)	\$130.00
Engineer-in-Training (E.I.T.) / Graduate Engineer	\$120.00
Certified Plumbing Designer (CPD)	\$120.00
Designer / Drafter / Technician	\$110.00
Construction Administrator	\$110.00
Engineering Intern	\$75.00
Clerical Staff	\$75.00

AIA Document B101 – 2017, Attachment A

Landscape Architect – Dunaway Associates

<u>Personnel Classification</u>	<u>Hourly Rate</u>
Regional Manager	\$215.00
Discipline Lead II	\$185.00
Discipline Lead	\$145.00
Landscape Architect I	\$120.00
Landscape Architectural Intern	\$110.00
Intern	\$75.00

Acoustician / AV – BAi

<u>Personnel Classification</u>	<u>Hourly Rate</u>
Principle Acoustician	\$200.00
Senior Acoustician	\$200.00
Director	\$200.00
Senior AV Consultant	\$175.00
Acoustician	\$150.00
AV Consultant	\$125.00



CITY COUNCIL MEMO

DATE: February 15, 2022

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Request for Qualifications and Proposals-Hotel/Conference Center

Summary:

The attached revised Request for Qualifications and Proposals was prepared following the City Council discussion at your January 31st special meeting. This document has been revised based upon recommendations from HVS Convention, Sports and Entertainment Facilities Consultants, as well as input from Ernie, Tim, and Clinton.

Recommendation:

It is recommended that the City Council approve the issuance of this Request for Proposals and Qualifications for the Hotel Conference Center project.

Background / Analysis:

At the January 31st special City Council meeting, HVS presented information on their revised feasibility study on a Hotel/Conference Center in Fredericksburg. In addition, several groups of develop teams were present at this meeting to indicate their interest in submitting a proposal for this project. At the end of the discussion, the Council provided direction for staff to prepare a revised Request for Qualifications and Proposals for this project.

Major changes from the previous proposal include the following:

- New proposal submission date of April 22, 2022

The City of Fredericksburg

- Updated information from the HVC study on the minimum size of the meeting facilities
- New section on staffing requirements including how employees will be recruited and hired as well as a any housing that will be available for the workers
- Verification of required financing

Attachments:

Request for Qualifications and Proposals-Hotel/Conference Center



Department Approval



City Manager Approval



City Attorney Approval

REQUEST FOR QUALIFICATIONS AND PROPOSALS

Development of a Hotel Conference Center
Fredericksburg, Texas



Issue Date: *February 22, 2022*

Proposal Due Date: *April 22, 2022*

Table of Contents

1. Introduction and Summary
2. Project Scope
3. Proposal Requirements
4. Selection Process
5. Other Conditions

APPENDIX A – Site Description

1. INTRODUCTION AND SUMMARY

The City of Fredericksburg, Texas ("City") invites written proposals for the development, financing, design, construction, and operation of a Hotel Conference Center in Fredericksburg, Texas. To attract new meeting and group business to Fredericksburg, the City seeks the development of a conference center ("Conference Center") and an upscale hotel ("Hotel") through a public-private partnership.

Proposals are solicited in accordance with the terms, conditions, and instructions as set forth in this Request for Qualifications and Proposals ("RFP").

The deadline for submitting the response to this RFP is 5pm (CST). (If mailed, the proposal must be received by the City by April 22, 2022.)

Proposals will be time stamped in and should be sent to:

Kent Myers, City Manager
Fredericksburg City Hall
126 West Main Street
Fredericksburg, Texas, 78624

Late proposals will not be accepted. Faxed or emailed proposals will not be accepted. The City is not responsible for submissions not properly identified.

Respondents to this RFP must submit an original and nine (9) copies of their Proposal in a sealed package labeled "HOTEL CONFERENCE CENTER DEVELOPMENT PROPOSAL."

Questions regarding this RFP must be submitted in writing to the City by March 22, 2022. Responses to respondent questions will be provided by March 25, 2022

The City reserves the right to reject any and all proposals or to accept any proposal deemed to be in its best interest. The City shall not be obligated to enter into any contract with any respondent on any terms or conditions. Questions regarding this RFP should be sent in writing or email per respondent to:

Kent Myers, City Manager
Fredericksburg City Hall
126 West Main Street
Fredericksburg, Texas, 78624
kmyers@fbgtx.org

Procurement Schedule

RFP Issued: February 22, 2022

Questions must be received by: March 22, 2022

Questions answered by: March 25, 2022

RFP Responses Due: April 22, 2022

2. PROJECT BACKGROUND AND SCOPE

2.1. Purpose and Overview

The City of Fredericksburg, Texas (the “City”) seeks a highly-qualified Development Partner to develop, construct, equip, and operate a Hotel Conference Center. The purposes of this project are to improve the ability of the City to attract conference and group meeting business and generate a positive economic impact on Fredericksburg.

The City envisions that the Development Partner would own and operate the Conference Center and the Hotel.

In 2015, the City engaged HVS Convention, Sports and Entertainment Facilities Consulting (“HVS”) to study the feasibility of conference center development in Fredericksburg. The HVS study, which can be found here, www.VisitFredericksburgTX.com/partners/CVB-visitor-research/, included a market area overview, projection of demand for and the financial operations of a conference center, an overview of the lodging market, and a discussion of approach to financing. Analysis of hotel demand revealed high room occupancy on weekends and during peak seasons, but low occupancies during mid-week. Surveys of event planners show a desire to place events in Fredericksburg, but a lack of facilities to accommodate them. Furthermore, many group meeting events would occur during mid-week periods. The study concluded that an integrated hotel conference center developed through a public-private partnership offers the best opportunity for success. Proposers are advised to carefully read this report in its entirety.

In 2017 the City issued an initial Request for Proposals (RFP) and received several proposals. These proposals were reviewed and eventually the City selected a firm to develop this project. However, this firm was not able to secure their financing and the City has cancelled their agreement with this firm.

In 2021 the Fredericksburg Convention and Visitor’s Bureau (CVB) retained HVS to update their previous study. This updated feasibility study is also available on the website reference above. Based upon this study and new interest expressed by potential project developers, the City has decided to issue this new RFP.

Although Proposals are expected to range in scope and scale, the Selection Committee will compare all Proposals according to the criteria described in this RFP.

The City seeks a proposal from a highly qualified and financially capable Development Partner for the design, financing, construction, and operation of the Hotel Conference Center which contains the following elements:

- a hotel with a minimum of 150 rooms,
- useable meeting space with a minimum of 12,000 square feet which would include a multipurpose ballroom with a minimum of 8,000 square feet (divisible into three rooms),

- a minimum of 4,000 square feet of meeting room space (four rooms of various sizes), and
- lobbies, pre-function areas, storage, production kitchen and other support spaces necessary for the successful operation of the facility.

Development Partner teams should include an architect, a builder, and equity investors. Developer Partners may recommend Hotel brands and operators, but final selections of a hotel flag and a hotel and conference center operator would occur after the selection of a Development Partner.

**2.2
Site Considerations**

The City will consider any sites within its municipal boundaries and outside municipal boundaries if an annexation plan is included in the proposal. Developers may offer alternative proposals for more than one site.

Site selection will be a key factor in evaluation of proposals. Sites will be evaluated based on their capacity to accommodate the recommended building program, accessibility, availability of related infrastructure, compliance with building and zoning requirements, proximity to tourist amenities, and impact on neighboring land uses. Additional consideration will be given to sites that allow for future expansion of the Conference Center.

**2.3
Public Investment and Resources**

The Development Partner should propose an approach to financing the project that is feasible and achievable within the specified project schedule. The City recognizes that some level of public participation may be necessary. The City intends to minimize the level of public participation in the Project while attaining the most distinctive, highest quality and marketable project possible. Preference will be given to those developers who minimize public participation and emphasize private sector financing and participation.

**2.4
Two Phased Selection Process**

Development Partner proposals will be considered in a two-phased selection process.

Phase 1 – Developer Partners should submit the qualifications of team members, proposed development site, provide a preliminary project concept, and identify an approach to financing and ownership of the project.

Phase 2 – The team of Development Partners initially approved will be asked to submit a business plan that includes: a development schedule, project cost estimates, a pro forma statement of operations, and a financing and ownership plan.

3. PROPOSAL REQUIREMENTS

**3.1
Submission
Requirements**

Submittals for both Phases shall be bound as single-sided pages and include the information set forth below. Failure to include any part listed below may disqualify a submission.

**3.2
Phase 1 Submission
Requirements**

Respondent shall provide the following information to the greatest extent possible, in their Phase 1 submittal in the order listed below.

A. Team Qualifications

- Respondents should propose a Development Partner team that includes an owner/developer, general contractor (optional), design team, and equity investors. The Development Partner may recommend other team members (such as hotel brands and operators) that may be required for completion of the Project.
- Describe your organization and management approach, including identifying the role of key personnel who will be involved in the implementation of the Project. Using an organizational chart, list proposed team's key personnel who will be directly involved with the Project. Personnel should include architects, general contractors, equity owners, and other team members.
- For each key person, please provide a summary of qualifications, which should include the following:
 - A resume with past relevant development experience, specifically addressing projects related to the hotel and conference center projects,
 - Location of key personnel (e.g. local office location, main headquarters, etc).
 - Describe each individual's respective role, responsibilities and amount of involvement in this project.
- Submit information on three (3) projects of similar scope and complexity that have been completed or substantially completed by members of the development team within the last ten (10) years. The information for each project shall include specific details on the extent to which services were provided.
- Provide the name, title, address, and phone number of three (3) references having first-hand experience of the Development Partner's performance on the projects listed above. Each reference should relate to a different project.

- Provide information on the Developer Partner's legal status and financial capabilities along with copies of financial statements for the previous two (2) years.

B. Development Site

- Identify the proposed site or sites. See Section 2.2 of this RFP for information on site.

C. Preliminary Project Concept

- A conceptual diagram of the Hotel Conference Center, parking, and related development and amenities. Please summarize the proposed building program including:
 - proposed site(s) location and dimensions,
 - the number of hotel guest rooms,
 - floor areas of function spaces,
 - description of food and beverage facilities,
 - on-site parking facilities, and
 - other amenities or collateral development that may be included in your plan.
- Please indicate your prior experience in branding or franchising hotels. Discuss hotel brands that may be appropriate for the proposed Hotel Conference Center.
- Discuss the visual and physical relationship with the surrounding neighborhood including commercial, residential, and recreational developments,
- Demonstrate transportation access to and within the site area, and
- Present other information related which may be helpful in explaining your project.

D. Approach to Financing and Ownership

- Please discuss your proposed approach to the ownership and operations of the project.
- Describe your approach to financing including identification of potential equity investors.

E. Approach to Staffing Operation of Both Conference Center and Hotel

- Please include number of full-time and part-time employees that are projected to staff both the conference center and hotel.

- Describe how these employees will be recruited to staff these positions.
- Indicate any inducements or incentives that would be offered to these employees include housing assistance and travel stipends.

Upon review of the Phase 1 submittals by the Selection Committee, the City will select a short list of no more than three potential Development Partners.

**3.3
Phase 2 Submission
Requirements**

The Development Partners initially selected will be asked to provide a detailed business plan for the Hotel Conference Center development. Phase 2 submittal requirements will include the following items as well as additional information that the City may deem necessary for selecting the best development team.

1. A detailed concept plan that includes a site plan, building floor plans, and sections as may be necessary to fully describe the project.
2. Development Schedule
 - A project schedule beginning with authorization to negotiate through opening of the project.
3. Project Cost Estimates
 - A comprehensive project budget including all land costs, construction costs broken down by building component, FF&E costs, pre-opening costs, permit and approval fees, legal costs, development fees and other soft costs. Escalation of costs for inflation should be included and identified in the projections.
4. Proforma Statement of Operations
 - A five-year pro forma operating statement for the proposed Hotel Conference Center.
5. Financing and Ownership Plan
 - The amounts of proposed debt financing and estimated cost of debt.
 - The amounts of proposed equity investment and anticipated return on equity.
 - Other third-party sources of funding, if any (e.g. EB5 funding, tax credits, hotel operator equity, etc.)
 - The anticipated amount of public participation in the project and proposed forms of public participation.

- A narrative description of the proposed approach to funding the proposed Project, clearly detailing any proposed financial responsibilities of the proposed Development Partner and/or operator.
- Plans for ownership and operation of the proposed Hotel Conference Center including identification of potential brands, franchise arrangement, and a Hotel Conference Center operator.
- Verifiable assurances that the proposed Development Partner has, or can obtain within time certain, the required financing to construct the project as proposed.

Upon review of the Phase 2 submittals and recommendation from the Selection Committee, the City will begin negotiations with the first ranked Development Partner of a development agreement and other related agreements. The selected Development Partner will be expected to provide the information and perform due diligence necessary to reach a development agreement with the City. If negotiations are not successfully concluded within a predetermined schedule, the City may terminate discussions and begin negotiations with the next ranked Development Partner.

**3.4
Confidential
Information**

Any information submitted by the respondents that is deemed proprietary and confidential should be submitted in a separate envelope and marked as such. The City will make efforts to protect the confidentiality of this information to the extent allowable by law.

**3.5
Insurance
Requirements**

Respondent agrees to always maintain during the life of the project applicable insurance. Upon selection, respondents will be required to provide a Certificate of Insurance coverage evidencing all coverage, limits and endorsements. If Respondent receives a non-renewal or cancellation notice from an insurance carrier affording coverage, Respondent agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice.

4. SELECTION PROCESS

4.1 Selection Process

The selection process will begin with a review of the Proposals submitted, a ranking of the Proposals by the Selection Committee, followed by interviews of the respondents that are initially deemed to be qualified. The Selection Committee will then recommend a short list of Development Partners to the City. With City approval, the short-listed teams will be asked to submit additional information.

After review of the Phase 2 submittals, the Selection Committee will rank the Development Teams. Upon approval of the Selection Committee's recommendations by the City Council, the City will begin to negotiate a Development Agreement and other related agreements with the first ranked Development Partner. The Development Partner and the City will agree on a schedule for conclusion of such negotiations. If an agreement is not reached within the agreed upon time-frame, the City may terminate discussions and begin negotiations with the second ranked team.

Throughout the selection and negotiation process, the City may reasonably request additional information from the Developer Partners as may be necessary to select a team and negotiate the necessary agreements.

4.2 Selection Criteria

The evaluation criteria shown below will give favorable consideration to Development Partners with significant experience in developments similar in scope and quality to the proposed Project. Preferred Development Partners should demonstrate they have sufficient financial resources and experience to finance and complete the Project in accordance with a fixed schedule.

The Development Partner's qualifications will be evaluated using the following criteria:

- Ability to secure project financing and make the necessary investments,
- Depth of experience on directly comparable projects,
- Demonstrated experience and availability to meet the stated schedule for project completion,
- The quality of the proposed building program, ownership structure, and operating plans,
- The quality of the plan to provide the workforce necessary to staff the project once completed.
- Extent to which the proposed Hotel Conference Center building program meets the objectives of the City as described in the RFP,
- Simultaneous development of complimentary land uses in a mixed-use development,
- Benefit to the City, financial and otherwise, of the proposed ownership and operating arrangements, and
- Overall responsiveness to the RFP.

5. OTHER CONDITIONS

- Any response to this RFP should remain in effect for 120 days after the date of submission.
- The respondent shall not collude in any manner or engage in any practices with any respondent(s) which may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause the City to reject the respondent's submittal. This prohibition is not intended to preclude joint ventures or subcontracts
- All responses submitted must be the original work product of the respondent. The copying, pasting, paraphrasing or other uses of substantial portions of the work product of another respondent is not permitted. Failure to adhere to this instruction will cause the city to reject the proposal.
- This RFP does not commit the City to procure or award a contract for the scope of work described herein.
- The City reserves the right to waive any irregularities or non-conformance with the terms of the RFP.



CITY COUNCIL MEMO

DATE: February 15, 2022
TO: Mayor and City Council
FROM: Kent Myers, City Manager
SUBJECT: City Manager Performance Goals-2022

Summary:

Following discussion with the City Council during my recent performance evaluation, the attached performance goals are presented for the City Council consideration.

Recommendation:

It is recommended that the City Council approve these performance goals for the City Manager to accomplish prior to his retirement on September 30, 2022.

Background / Analysis:

Every year the City Council approves the performance goals for the City Manager. This year an initial listing of goals was prepared by the City Manager based upon recent one-on-one meetings with City department heads. One additional goal was added involving the City Manager working closely with the new Housing Coordinator.

Once approved, these performance goals provide useful guidance on priorities that need to be addressed in the coming year. Progress is already taking place with several of these goals. With the continued involvement and support of City departments, it is expected that all of the goals will be accomplished by October 1.

The City of Fredericksburg

Attachments:

Proposed Performance Goals


Department Approval


City Manager Approval


City Attorney Approval

The City of Fredericksburg

City of Fredericksburg
City Manager Performance Goals-2022

1. Establish process for selection of new Police Chief including City Council and community input
2. Improve team building between City departments to ensure broad inter-department cooperation
3. Utilize excess sales tax revenues to establish new Capital Improvement Fund with approval of the City Council
4. Work closely with Fire Chief and Gillespie County to identify and purchase a site for a third Fire Station
5. Complete five-year financial plan for City
6. Initiate comprehensive planning process including project schedule and plan for community involvement
7. Complete long-range staffing and space study
8. Complete fourth employee leadership training class
9. Complete update to city personnel policies
10. Identify and implement improved efficiencies in financial management practices
11. Work with the new Housing Coordinator to explore potential public/private partnerships for workforce housing.
12. Ensure smooth transition to new City Manager



CITY COUNCIL MEMO

DATE: February 7, 2022
TO: Mayor and City Council
FROM: Shelley Goodwin, City Secretary
SUBJECT: Hotel Occupancy Tax (HOT) Funding Process

Summary:

The City Council approves HOT Funding to local recipients every year. To streamline the process the City continues to make changes to better the process.

Recommendation:

Staff recommends the approval of the attached documents.

Background / Analysis:

A few years ago, the City made several changes to the HOT funding process and before the process begins for 2022, I need a few directions:

- Application Process and forms
- Timeline

Attachments:

- Proposed Timeline
 - Letter for Applicants
 - Hotel Occupancy Tax Funding Application
 - Reporting Forms
 - Guidelines
-



Department Approval



City Manager Approval



City Attorney Approval

The City of Fredericksburg

2022 HOT FUNDING TIMELINE

Timeframe for funding is May 1, 2022 – April 30, 2023

February 23, 2022	Update City website
February 28, 2022	Email out a letter regarding the applicant process and where to print or pick up an application.
March 9, 2022	Put ad in the Fredericksburg Standard
March 24, 2022	Deadline to submit Applications
March 30, 2022	Provide City Council with HOT Funding Applications
April 4, 2022	City Council Regular Meeting discuss qualifications and possible allocations
April 18, 2022	City Council Regular Meeting approve the HOT Funding Allocations
April 29, 2022	Start getting contracts signed. After contract is sign then a copy is provided to Finance to provide the funding.



February 28, 2022

Hotel Occupancy Tax Applicants:

It's that time of year!!!

The City Council will review the 2022 Hotel / Tax Funding Requests at the Regular Meeting on April 4, 2022. Enclosed, please find the *Application for Hotel Occupancy Tax Funds*. The Application form must be completed and returned to my office no later than Thursday, March 24, 2022. The form is also available online at the City of Fredericksburg website, www.fbgtx.org. Find the link under the City Secretary page.

This year, the City of Fredericksburg will only accept one application per event. Returning applicants please ensure that your organization complies with the reporting requirements in your 2021/2022 HOT Grant Agreement.

Each applicant is responsible for attending the April 4, 2022, City Council Regular Meeting to answer any question. This meeting will be held at the Law Enforcement Center (1601 E. Main Street) at 6 pm. and the funding will be allocated on April 18, 2022, at the City Council Regular Meeting. This meeting will also begin at 6 p.m. and held at the Law Enforcement Center.

If you have any questions, please don't hesitate to call me.

Shelley Goodwin
City Secretary

The City of Fredericksburg

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



City of Fredericksburg, Texas

HOTEL OCCUPANCY TAX FUNDING APPLICATION

2022

Date Application received (To be completed by City Staff):		
Official Name of Organization/Entity:	Is Organization/Entity a non-profit?	Date Organization/Entity Founded:
Organization/Entity Mailing Address:		
Organization/Entity website:		
Name and Title of Person authorized to act on behalf of Organization/Entity for this application ("Applicant"):	Organization/Entity Phone:	
	Organization/Entity Email:	

SECTION A – FUNDING REQUEST DESCRIPTION

Name of Project/Event:	Project/Event Date(s):	
Estimated number of room nights that will be occupied at local hotels, motels, & short term rentals by attendees of your event(s) or project(s)?	Estimated number of the annual attendance at your event(s) or project(s)?	Amount of funds requested:
Project/Event location(s):		

In the space below, please describe each individual project/event for which funding is sought, and explain how each project/event will directly enhance and promote tourism and the hotel/motel/short term rental (STR) industry in the City of Fredericksburg:

SECTION B – FUNDING CATEGORIES AUTHORIZED BY TEXAS LAW (Please indicate which funding categories are applicable to your project/event – multiple categories may be selected)

	Check box below
1. Construction, maintenance and operation of Convention or visitor center	
2. Facilities and personnel for the registration of convention delegates	
3. Advertising and promotional programs to attract tourists	
4. Encouragement and promotion of the arts	
5. Historical restoration and preservation projects, advertising to encourage tourists to visited historic sites and museums	
6. Signage directing the public to sights and attractions frequently visited by tourists	
7. Certain transportation systems serving tourists and hotel guests; and, for certain cities	
8. Sporting events for which the majority of participants come from out of town	
9. Qualifying sports facilities that routinely host regional or national tournament	
10. Coliseums or multiuse facilities	

SECTION C – ASSURANCES

The Applicant hereby certifies to the City of Fredericksburg that, to the best of the Applicant’s knowledge and belief, the:

1. Project(s)/event(s) for which financial assistance is sought will be administered in accordance with Federal, State, and local law;
2. HOT funds received as a result of this application will be used solely for the project(s)/event(s) described herein;
3. Applicant has read, understands, and will conform to the City HOT Guidelines; and
4. Figures, facts and representations made in this application, including any attachments hereto, are true and correct.

Receipt of any HOT funds awarded pursuant to this application is conditioned upon the execution of a Hotel Occupancy Tax Grant Agreement with the City.

PLEASE ATTACH TO APPLICATION:

1. Copy of the organization/entity IRS 501(c)(3) ruling letter, if applicable.
2. If you cannot provide an estimated number of room nights to be occupied at local hotels, motels, short term rentals, or bed and breakfast inns by attendees of your project/event, or if you cannot provide an estimated number of attendees of your project/event, please attach an explanation of why your project/event prevents you from estimating the number of local room nights or attendees for your event(s) or project.

PLEASE MAKE SURE ALL HOT REPORTS THAT ARE DUE FOR THE PREVIOUS YEAR HAVE BEEN SUBMITTED.

Applicant Signature:	Date signed:
Applicant Name & Title (print or type):	Applicant Phone (if different from phone # listed on page 1):
Applicant Address (if different from Mailing Address listed on page 1):	Applicant E-Mail Address (if different from e-mail address listed on page 1):

Applications are due Thursday, March 24, 2022, by 4:30 p.m.

City of Fredericksburg Annual Financial Report for Hotel Occupancy Tax (HOT)

Reports are due by April 30 – Please submit completed form to Shelley Goodwin, City Secretary, at City Hall, 126 W. Main, Fredericksburg, TX 78624 or submit by email to sgoodwin@fbgtx.org

PROJECT OR EVENT INFORMATION

Name of Grantee Organization: _____

Name of Event or Project: _____

Date(s) of Event or Project: _____

Primary Location of Event or Project: _____

FUNDING USE INFORMATION

Total amount of City hotel occupancy tax (HOT) expended during year: _____

Actual percentage of total event costs funded by City hotel occupancy tax: _____

Actual percentage of facility costs funded by City hotel occupancy tax (if applicable): _____

Actual percentage of staff costs funded by City hotel occupancy tax (if applicable): _____

ATTENDANCE & LOCAL HOTEL/MOTEL OCCUPANCY INFORMATION

Estimate of the annual attendance at your event(s)? _____

Estimate of the annual tourist/visitor attendance at your event(s)? _____

If the attendance numbers differ greatly from the estimated numbers submitted with your application, please explain circumstances that you believe may have affected attendance:

Can you provide an actual or estimated number of how many room nights were occupied at local hotels, motels, short term rentals, or bed and breakfast inns by attendees of your event(s) or project? Yes No

If yes, please provide that number: _____ Is the number provided an actual number, or estimated? _____

If no, please explain why your event prevents you from determining the number of local room nights occupied by attendees of your event(s) or project: _____

Was a room block established for attendees of your event at an area hotel or motel? ___ Yes ___ No

Which hotel(s)/motel(s)? _____

How many rooms were blocked? _____

How many rooms were used? _____

MARKETING & PROMOTION ACTIVITY INFORMATION

Please check all efforts your organization used to promote your event and indicate how much was spent in each category:

_____ Newspaper - \$ _____

_____ Press Releases - \$ _____

_____ Radio - \$ _____

_____ Direct Mail - \$ _____

_____ Internet ads - \$ _____

_____ Social media ads - \$ _____

_____ TV - \$ _____

_____ Other _____ - \$ _____

SPORTING EVENT SECTION *(for use by sporting events only)*

How many individuals participated in the sporting event? _____

How many of the event participants were from another city or county? _____

Explain how the activity substantially increased economic activity at hotel and motels within the City or its vicinity?

City of Fredericksburg Quarterly Hotel/Motel Occupancy Tax (HOT) Report

Grantee Name: _____

Date submitted: _____

Person submitting report: _____



Contact Phone: _____

Contact Email: _____

Quarter 1 (May 1st - July 31st)	<input type="checkbox"/>
Quarter 2 (Aug. 1st - Oct. 31st)	<input type="checkbox"/>
Quarter 3 (Nov. 1st - Jan. 31st)	<input type="checkbox"/>
Quarter 4 (Feb. 1st - April 30th)	<input type="checkbox"/>

HOT Funds	
Total HOT funds received from the City (fiscal year-to-date)	
Total HOT funds expended this quarter	
Remaining balance from previous quarter	
Remaining balance (fiscal year-to-date)	

HOT Fund expenditures this quarter	
Advertising and promotion to attract tourists	\$
Promotion of the arts	\$
Historical restoration or preservation programs	\$
Expenses related to convention center or visitor information center	\$
Signage directing tourists to sights and attractions	\$
Expenses directly related to sporting event	\$
Other:	\$
	\$

Signature: _____

Guidelines Under Texas Law for the Use of Hotel Occupancy Tax Revenue

Under Texas law and City ordinance, the City of Fredericksburg collects a Hotel Occupancy Tax (HOT) from hotels, motels, Bed and Breakfasts, and Short-Term Rentals. Under Texas Tax Code, Chapter 351, every expenditure must directly promote tourism and the convention/hotel industry.

Additionally, every expenditure must fit into one of the following categories authorized by statute:

- the construction, maintenance and operation of a convention or visitor center;
- facilities and personnel for the registration of convention delegates;
- advertising and promotional programs to attract tourists;
- encouragement and promotion of the arts;
- historical restoration and preservation projects, advertising to encourage tourists to visit historic sites and museums;
- signage directing the public to sights and attractions frequently visited by tourists;
- certain transportation systems serving tourists and hotel guests;
and, for certain cities,
- sporting events for which the majority of participants come from out of town;
- qualifying sports facilities that routinely host regional or national tournaments; and
- coliseums or multiuse facilities.



CITY COUNCIL MEMO

DATE: February 16, 2022

TO: Mayor and City Council

FROM: Shelley Goodwin, City Secretary

SUBJECT: Reconsideration of the July 19, 2021, City Council Meeting Minutes

Summary:

Tom Marschall has spoken at several meetings regarding his comments in the July 19, 2021 City Council Meeting Minutes. The City Council can vote to reconsider the minutes and change the wording or leave the minutes as is.

Recommendation:

If the City Council votes to reconsider the minutes, then a separate motion will need to be made regarding the changes..

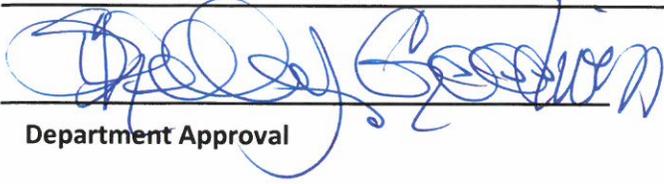
Background / Analysis:

In order to reconsider the City Council will need to make a motion to reconsider the July 19, 2021 City Council Regular Meeting Minutes and vote on the motion. A separate motion and second will need to be made to amend the minutes and providing the wording on how you want the minutes to read, and then a vote on the motion. At the February 7, 2022, Regular Meeting the City Council voted to amend Tom Marschall's comments. Since then, the Mayor and a Councilmember has asked that the July 19, 2021 minutes be brought back for reconsideration again.

Attachments:

The City of Fredericksburg

July 19, 2021 Regular Meeting Minutes
Transcript of the section of Tom Marschall's comments
Tom Marschall's wording he wants in the July 19, 2021 Minutes
Minutes from February 7, 2022, Regular Meeting



Department Approval



City Manager Approval

- Finance Department recognized by GFOA with the Distinguished Budget Presentation Award
- Thank you to Officer Luke Smith for his assistance with 2 felony cases
- Thank you to the Street Department for their professionalism when paving Tanglewood.

5. PUBLIC COMMENTS

Kimberly Lams, City resident, provided a quote from Leo Tolle and spoke about freedom of choice. She spoke regarding the COVID vaccine and provided a handout from Vaers regarding COVID Vaccine Data.

Tom Marschall, City resident, spoke regarding the Texas Constitution and feels that any directive related to COVID voids the Constitution.

Marylee Marschall, City resident, spoke regarding the rights of individuals and how some people cannot wear a mask. She also spoke regarding individuals being denied health care services due to not wearing a mask.

Connie Herman Vass, Gillespie County, encouraged the City Council to keep Town Pool and add the splash pad.

6. CONSENT

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS PULLED AT THE REQUEST OF A MEMBER OF CITY COUNCIL.

- A. Consider approval of City Council Minutes (Shelley Goodwin, City Secretary)**
- July 1, 2021 Workshop**
 - July 6, 2021 Workshop**
 - July 6, 2021 Regular Meeting**

- B. Consider approval of hosting the Gillespie County Fair Parade on Main Street on Friday, August 27, 2021 at 10 a.m. (Jennifer Krupa, Special Events Coordinator).**

- C. Consider approval of a request from Gillespie County 4-H BBQ for two street closures (N. Crockett Street between W. Schubert and W. Travis; and W. Schubert between N. Crockett and N. Adams) on August 27, 2021, beginning at 10 a.m. and ending at 1 p.m. (Jennifer Krupa, Special Events Coordinator).**

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember O'Neill, to approve Consent Agenda items A. – C. The City Council voted four (4) for, and none (0) opposed.

7. PUBLIC HEARINGS

- A. Hold a public hearing to receive citizen comments for or against two requests by Mark Sparrow (Z-2110) for the following (Jason Lutz, Development Services Director):**
- A Land Use change from, Medium Density Residential (MDR), to High Density Residential (HDR) on property located east of US Highway 87 South and south of Friendship Lane on a 10.143 acre tract of the proposed Friendship Oaks Subdivision.**
 - A Land Use change from, Medium Density Residential (MDR), to Low Density Residential (LDR) on property located east of US Highway 87 South and south**

Tom Marschall Started at 13:01 with stating his name

"Finally got my answer to a question I've been looking for, in reference to whether or not the City of Fredericksburg has any immunity from damages that may occur from the Covid Vaccine. I'm glad to hear that yes we are immune... Except in a case of woeful misconduct. Now there is one of those legal terms that is very clear and concise. Everybody knows what it means. Yea it's a joke. To me woeful misconduct would be performing a conduct knowing that it is wrong and continuing that conduct. Up & till this point I don't know what is known. I want to get back to misconduct in a few minutes. Well less than a few minutes. Less than a few minutes. Our Texas Constitution specifies that any law that infringes on our constitutional rights is VOID. Article 1 section 28 I believe it is. Read it! We don't need a Judge's opinion on it. It is clear and concise that any law that effects our constitutional rights is void. Gov. Abbott, the minute he tried to shut down a bar and advise people not to go to church it nullified the 1975. Emergency Powers Act by doing that. I therefore contend that any directive related to Covid is also null and void. I'm here by informing you competent authority as one of your employers that your conduct and directive related to Covid have been wrongful. To continue that conduct could very easily be considered wrongful misconduct. I believe Gillespie County as having the highest % of millionaires per capita in the State. One of those people is all it takes to get the ball rolling in the wrong direction. Rest assured I hope that never happens. Please consider the facts. Thank you"

Ended at 16:01

19 July Minutes proposed correction.

Tom Marschall spoke about the State Constitution and the provision contained therein where laws or directives are null and void if they impact negatively on constitutional rights.

Shelley Goodwin, City Secretary, reviewed the recent Legislative changes in calling the May 7, 2022, General Election. She noted the purpose of the Election is to elect a Mayor and two Councilmembers. She reviewed the Early Voting and Election Day Voting dates, times, and locations.

The City Council discussed the additional wording they wanted in the Order (City of Fredericksburg Precincts 1- 4).

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Watson, approval of an Order calling the May 7, 2022, General Election for the purpose of electing a Mayor and two Councilmembers, with corrections. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

B. Consider the reconsideration of the July 19, 2021 City Council Regular Meeting Minutes (Shelley Goodwin, City Secretary)

Motion: A motion to reconsider was made by Councilmember Musselman, seconded by Councilmember O'Neill, the July 19, 2021 City Council Regular Meeting Minutes. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

The City Council discussed the wording provided by Tom Marschall and the transcript provided by City Staff.

Motion: A motion was made by Councilmember Musselman, seconded by Luckenbach, to amend the July 19, 2021 City Council Regular Meeting Minutes to read Tom Marschall spoke about the State Constitution and his belief that the provision contained therein when laws or directives are null and void if they impact negatively on constitutional rights. The City Council voted four (4) for, and one (1) opposed (Mayor Kiehne). The motion carried.

C. Consider the approval of a Master Agreement for the handling of Short-Term Rental permitting and related Hotel Occupancy Tax collection with Granicus (Kent Myers, City Manager)

Kent Myers, City Manager, reviewed the need for the change in services for handling STR and HOT collection. He also reviewed the bid process used. He noted the option of the 24/7 hotline. He also read some of the concerns that have been expressed regarding the hotline. He also noticed the effective date to release Granicus is April 1, 2022.

The City Council discussed the need for the hotline and data collection. They also discussed how the hotline would work and the communication efforts for getting the hotline information out to the public.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Luckenbach, approval of a Master Agreement for the handling of Short-Term Rental permitting and related Hotel Occupancy Tax collection with Granicus and including the hotline. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

D. Consider the approval of a contract for the Architect Services for the Police and Municipal Court Project to Lopez Salas Architects (Braxton Roemer, Police Lieutenant)

Braxton Roemer, Police Lieutenant for Special Services, reviewed the history of the bid process. He also reviewed the PowerPoint presentation regarding the Preliminary Design Contract.

The City Council the elevation of the property, possible drainage issues and the firm's specialization.

Lopez Salas, Architect, stated that the proposal included site engineering.

Motion: A motion was made by Councilmember O'Neill, seconded by Councilmember Luckenbach, approval of a contract for the Architect Services for the Police and Municipal Court Project to Lopez Salas Architects. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Upcoming City Council Agenda Items

CITY COUNCIL MEETING DATES & FUTURE AGENDA ITEMS		
Monday, March 7, 2022 (Regular Meeting)		
1	Consent- January 12, 2022 Work Session Minutes	Shelley
2	Consent - February 10, 2022 Work Session Minutes	
3	Consent - February 21, 2022 Regular Meeting Minutes	
4	Consent - Street closures 175 th Anniversary Parade on Saturday, May 7, 2022, at 10 a.m., Fourth of July Parade on Monday, July 4, 2022, at 10 a.m. Gillespie County Fair Parade on Friday, August 26, 2022, at 10 a.m., and Light the Night Christmas Parade on Friday, December 2, 2022, at 6:30 p.m. (inclement weather date of Friday, December 9, 2022)	Jennifer
5	Public Hearing-#Z-2120 amendments to STR, parking etc. and approval of Ordinance	Jason
6	STR Fee Ordinance	Jason
7	Amendment to the Fee Ordinance regarding taxi cab fees	Shelley
8	Update the Records Management Ordinance and Plan	Shelley
9	Parks Eclipse plans, fees and regulations	Andrea
10	Relief Route Resolution	Kent
11	Texas Ranger update on management of Fort Martin Scott	Andrea
12	Landmark designation	Jason
13	Approval of RFP Hotel/Conference Center	Kent
14	Resolution with TxDOT entering and exiting cameras	Braxton
Monday, March 21, 2022 (Regular Meeting)		
1	Consent - March 7, 2022 Regular Meeting Minutes	Shelley
2	Agreement with Soccer Association	Clinton/Daniel/Andrea
3	Fair Association agreement easment access	Andrea
4	MOU with State for license plate reader	Brian V
5	Approval of annexation - Pyka	Jason
6	Bid Award-Broadband Network Improvements	Eric
Monday, April 4, 2022 (Regular Meeting)		
1	Consent - March 21, 2022 Regular Meeting Minutes	Shelley
2	Approval of Consultant Contract for New Comprehensive Plan	Jason
3	Contract award for Small Water Main Replacement Program	Evan
4	Council review HOT applications for qualifications	Shelley/Daniel
5	Approval of Market Square Improvement Bids	Andrea
Monday, April 18, 2022 (Regular Meeting)		
1	Consent - April 4, 2022 Regular Meeting Minutes	Shelley
2	Audit presentation (April 18, 2022)	Laura
3	Annual Investment Policy Review (April 18, 2022)	Laura
4	Allocation HOT funding	Shelley
Monday, May 2, 2022 (Regular Meeting)		
1	Consent - April 18, 2022 Regular Meeting Minutes	Shelley
Monday, May 16, 2022 (Regular Meeting)		
1	Consent - May 2, 20022 Regular Meeting Minutes	Shelley
FUTURE AGENDA ITEMS		
1		
2		0