



**CITY OF DENISON
CITY COUNCIL MEETING
AGENDA**

Tuesday, February 22, 2022

After determining that a quorum is present, the City Council of the City of Denison, Texas will convene in a Regular Meeting on **Tuesday, February 22, 2022, at 6:00 PM** in the Council Chambers at City Hall, 300 W. Main Street, Denison, Texas at which the following items will be considered:

- 1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE**
- 2. PUBLIC COMMENTS**

Citizens may speak on items listed on the Agenda. A “Request to Speak Card” should be completed and returned to the City Clerk upon arrival, prior to the Council reaching the Public Comment section of the agenda. Citizen comments are limited to three (3) minutes, unless otherwise required by law. Comments related to the Public Hearings listed below, will be heard when the specific hearing starts.

3. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on February 7, 2022.
- B. Receive a report, hold a discussion and take action on approval of the DPD Contact Data Annual Report for 2021.
- C. Receive a report, hold a discussion and take action on a Resolution authorizing continued participation with the Steering Committee of Cities served by Oncor and authorizing the payment of ten cents per capita to the Steering Committee to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC.
- D. Receive a report, hold a discussion and take action on an Ordinance repealing Ordinance No. 5162, establishing classifications for the Police Department, providing for reclassification of a Lieutenant position to Sergeant and establishing additional police officer positions.
- E. Receive a report, hold a discussion and take action on an Ordinance repealing Ordinance No. 5021, establishing classifications for the Fire Department, establishing an additional Battalion Chief position and establishing additional Firefighter positions.
- F. Receive a report, hold a discussion and take action on a Resolution appointing Bobby Atteberry as a Voting Member and Carrie Jones as an Alternate Member to the Technical Advisory

Committee, or TAC, of the Grayson County Metropolitan Planning Organization, or GCMPO.

- G. Receive a report, hold a discussion and take action on the reappointment of Linwood Smith and the appointment of Charles Shearer as regular members to the Zoning Board of Adjustments and Appeals each to serve a two-year term, commencing January 1, 2022.
- H. Receive a report, hold a discussion and authorize the purchase of three generators through a purchasing cooperative from Generator Source in the amount of \$368,500 for the Water Plant, Lake Randell Pump Station and Parkdale Water Tower and authorize the Interim City Manager to execute all necessary documents.

4. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance changing the zoning of approximately 21.55 acres for property located north of Ridge Dr., from SF-7.5, Single Family Residential Zoning District to Planned Development Zoning District. (Case No. 2021-178PD)
- B. Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance changing the zoning of approximately 0.3444 acres for property located on the corner of N. Chandler Ave. and W. Elm St. from the Local Retail Zoning District to SF-5, Single Family Residential Zoning District. (Case No. 2022-001Z)

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Receive a report, hold a discussion and take action on a Services Agreement with Fire Recovery EMS, LLC for EMS and fire billing, and authorize the Interim City Manager to execute the same.
- B. Receive a report, hold a discussion and take action on an agreement with Plummer Associates for engineering and design services for new secondary clarifier and clarifier mechanism in primary clarifier no. 1 for a total amount of \$985,983 and authorize the Interim City Manager to execute the same.

6. EXECUTIVE SESSION

Pursuant to Chapter 551, *Texas Government Code*, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting to receive legal advice from its attorney on any posted agenda item as permitted by law or to discuss the following:

- A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.**
 - 1. Confer with City Attorney regarding Tax Increment Reinvestment Zone No. 2.
 - 2. Confer with City Attorney regarding *City of Denison vs. Tico-Grande, LP*, Cause No. 2021-1-001ED, County Court at Law #1, Grayson County.
 - 3. Confer with City Attorney regarding City Hall facilities.
- B.** Discuss the possible purchase, exchange, lease or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.

- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.**
 - 1. Discuss Tax Increment Reinvestment Zone No. 2.

Following the closed Executive Session, the Council will reconvene in open and public session and take any such action as may be desirable or necessary as a result of the closed deliberations.

CERTIFICATION

I do hereby certify that a copy of this Notice of Meeting was posted on the front window of City Hall readily accessible to the general public at all times and posted on the City of Denison website on the 18th day of February 2022.

Christine Wallentine, City Clerk

In compliance with the Americans With Disabilities Act, the City of Denison will provide for reasonable accommodations for persons attending City Council meeting. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk's Office at 903-465-2720, Ext: 2437.



**CITY OF DENISON
CITY COUNCIL MEETING
MINUTES
Monday, February 7, 2022**

Announce the presence of a quorum.

Mayor Gott called the meeting to order at 6:00 p.m. City Council Members present were Brian Hander, Michael Courtright, James Thorne, J.C. Doty, Robert Crawley and Kristofor Spiegel. Staff present were City Manager, Greg Smith, City Attorney, Julie Fort, City Clerk, Christine Wallentine, and Deputy City Clerk, Fanchon Stearns. Department Directors and members of the media were also present.

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Brett Castle, Pastor of East Baptist Church, gave the Invocation, which was followed by the Pledge of Allegiance and Texas Pledge.

2. PROCLAMATIONS AND PRESENTATION

A. Artist of the Month Presentation.

Mayor Gott presented Keagen Briscoe with an Artist of the Month Certificate and recognized his artwork. Keagen is nine years old and a third grader. Keagen showed an interest in art very early, actually at the age of five and began taking classes at the age of six. His art and drawing skills have grown significantly in the past few years. He completes a canvas painting through his art class every one to two months, and the paintings vary from his home, or a tree house to presidents, even a portrait of Jesus, which won first place for his grade at the Sherman Arts Show in September. The last couple of years Keagen has shown a big interest in history and presidents even going as far as memorizing all the presidents and knows several facts and dates about each. He came up with the idea to represent the hierarchy of power in the United States starting with the current President Joe Biden, the State Governor Greg Abbott, and our City of Denison Mayor, Janet Gott, with a map of the US in the background. Keagen completed this at home on his own time and was very proud of how it turned out. Keagen is not only a talented artist, but he is a young boy with a sweetheart and was recently recognized at his church, Park Avenue Church of Christ for learning the books of the Bible.

B. Employee Years of Service Recognition.

Mayor Gott and Amy Lay, Director of Employee Services, recognized the following employees for their years of service:

5 Years

Bobby Boyles
Fanchon Stearns
Jamie Young

10 Years

Betty Bridges
Karen Brymer
Robert Lay

35 Years

Barney Ruffins

3. PUBLIC COMMENTS

Mayor Gott called for any public comments at this time and reminded those wanting to comment of the guidelines established by the City Council. Mayor Gott then asked City Clerk, Christine Wallentine, if any Request to Speak Cards were received with regard to any of the agenda items. Ms. Wallentine confirmed there was one Request to Speak Card returned to her.

Mayor Gott then called Mr. Landon Lindsey forward. Mr. Lindsey provided the following information for the record:

Name: Landon Lindsey

Address: 83 Shawnee Circle
Denison, TX

Mr. Lindsey stated he was the current President of the Firefighters Association in Denison. Mr. Lindsey said he was speaking on Consent Agenda Items J and L, which all of the firefighters are in support of. Mr. Lindsey stated he just wanted to reiterate that they are in support of these items. Mr. Lindsey also thanked Mayor God and the City Council, and also Mr. Smith. So, in gratitude for service of the firefighters of Denison Fire Rescue Mr. Lindsey wanted to express their bittersweet congratulations on his retirement from the City of Denison. Mr. Lindsey thanked Mr. Smith for his heart towards public service and for forging new relationships between the city officials and public service. Mr. Lindsey said they were truly grateful for new equipment has been implemented in their department and the opportunity to do EMS again. Mr. Lindsey said they wanted to personally express to Mr. Smith, their thanks for his advice regarding city and fire related matters and working together. They feel that we are finally coming together as public servants in the city in a new relationship to better improve our service and community we serve. Mr. Lindsey said they will keep this momentum and strengthen the bond between the city, community and us. Finally, Mr. Lindsey said they wanted

to say thank you from the men and women of public service to the citizens of Denison and may God bless you and keep you safe in the future. Sincerely Denison Fire Rescue.

Prior to announcing the Consent Agenda, Mayor Gott announced that Item M on the Consent Agenda would be pulled and address separately. Mayor Gott then announced the Consent Agenda and called for a motion.

4. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on January 18, 2022.
- B. Receive a report, hold a discussion and take action on a resolution granting approval for the City Manager or his designee to enter into various loan documents with U.S. Bancorp Government Leasing and Finance, Inc. for the purchase of two refuse trucks and a bucket truck in the amount of \$702,522.00.
- C. Receive a report, hold a discussion, and take action on a resolution granting approval for the City Manager or his designee to enter into various loan documents with U.S. Bancorp Government Leasing and Finance, Inc. for the purchase of two police vehicles and one asphalt truck in the amount of \$335,726.00.
- D. Receive a report, hold a discussion and take action on an ordinance calling a joint General Election with Grayson County on Saturday, May 7, 2022, for the purpose of electing a Council Member for Single Member District 4, Place 4, and Place 6, At Large, each for three-year terms, providing residency requirements for candidates, designating polling places, date and time of said election and voting periods.
- E. Receive a report, hold a discussion and take action on entering into Joint Election Agreements with Sherman Independent School District, Denison Independent School District and the Grayson County Elections Administration and authorize the City Manager to execute the same.
- F. Receive a report, hold a discussion and take action on a resolution adopting guidelines for an amnesty program prior to the 2022 Warrant Round Up.
- G. Receive a report, hold a discussion and take action on a resolution authorizing continued participation with the Atmos Cities Steering Committee and authorizing the payment of five cents per capita to the Atmos Steering Committee to fund regulatory and related activities related to Atmos Energy. Corporation.
- H. Receive a report, hold a discussion and take action on the appointment of City Council Member James Thorne to serve on the Texoma Area Paratransit System (TAPS) Board of Directors.
- I. Receive a report, hold a discussion and take action on a Resolution authorizing the submission of a grant application to the Office of the Texas Governor, Public Safety Office Criminal Justice Division for the Criminal Justice Grant Program FY2023, to request funding for the purchase of equipment and technology for the Police Department.

- J. Receive a report, hold a discussion and take action on a Resolution in support of a grant application to the Federal Emergency Management Agency of the Department of Homeland Security for the FY2021 Assistance to Firefighters Grant Program to assist with funding for onsite gym equipment for firefighter wellness and fitness.
- K. Receive a report, hold a discussion and take action on approving support for the application to Texas Volkswagen Emissions Mitigation Level 2 Charging Equipment Grant.
- L. Receive a report, hold a discussion and take action on a Resolution in support of a grant application to the Federal Emergency Management Agency of the Department of Homeland Security for the FY2021 Fire Prevention and Safety Grant Program to assist with funding the purchase of Wildland Protective Gear and a brush truck.
- M. Receive a report, hold a discussion, and take action on an Ordinance amending Chapter 13, "Nuisances", Article III, "Abandoned Vehicles", of the Code of the City of Denison, to amend Section 13-44, "Notification of owners and lienholders", to add or revise certain requirements regarding the towing of abandoned or unclaimed vehicles.
- N. Receive a report, hold a discussion and take action on a Resolution repealing Resolution No. 4056, approving a Deed without Warranty to W. Douglass Distributing, Ltd., for certain City owned right-of-way generally located at Lillis Lane and Morton Street and ratifying the Mayor's execution of the same.

Council Action

On motion by Mayor Pro Tem Hander, seconded by Council Member Doty, the City Council unanimously approved **Ordinance No. 4080**, "RESOLUTION APPROVING FINANCING TERMS WITH U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC. FOR THE FINANCING OF ONE COMMERCIAL REFUSE TRUCK, ON RESIDENTIAL REFUSE TRUCK AND ONE BUCKET TRUCK"; **Resolution No. 4081**, "RESOLUTION APPROVING FINANCING TERMS WITH U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC. FOR THE FINANCING OF TWO POLICE VEHICLES AND ONE ASPHALT PATCH TRUCK"; **Resolution No. 4082**, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS ADOPTING GUIDELINES FOR AN AMNESTY PROGRAM PRIOR TO THE 2022 WARRANT ROUND-UP AND OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE"; **Resolution No. 4083**, "A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE ATMOS CITIES STEERING COMMITTEE; AUTHORIZING THE PAYMENT OF FIVE CENTS PER CAPITA TO THE ATMOS CITIES STEERING COMMITTEE TO FUND REGULATORY AND RELATED ACTIVITIES RELATED TO ATMOS ENERGY CORPORATION; AND PROVIDING AN EFFECTIVE DATE"; **Resolution No. 4084**, "A RESOLUTION AUTHORIZING THE CITY OF DENISON, TEXAS AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE OFFICE OF THE TEXAS GOVERNOR, PUBLIC SAFETY OFFICE CRIMINAL JUSTICE DIVISION FOR THE CRIMINAL JUSTICE GRANT PROGRAM, FY2023, TO REQUEST FUNDING FOR THE PURCHASE OF EQUIPMENT AND TECHNOLOGY FOR THE POLICE DEPARTMENT"; **Resolution No. 4085**, "A RESOLUTION OF THE CITY OF DENISON, TEXAS IN SUPPORT OF A GRANT APPLICATION TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY OF THE DEPARTMENT OF

HOMELAND SECURITY FOR THE FISCAL YEAR 2021 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM TO ASSIST WITH FUNDING FOR ONSITE GYM EQUIPMENT FOR FIREFIGHTER WELLNESS AND FITNESS”; **Resolution No. 4086**, “A RESOLUTION OF THE CITY OF DENISON, TEXAS IN SUPPORT OF A GRANT APPLICATION TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY OF THE DEPARTMENT OF HOMELAND SECURITY FOR THE FISCAL YEAR 2021 FIRE PREVENTION AND SAFETY GRANT PROGRAM TO ASSIST WITH FUNDING PURCHASE OF WILDLAND PROTECTIVE GEAR AND BRUSH TRUCK”; **Resolution No. 4087**, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, REPEALING RESOLUTION NO. 4056; APPROVING A DEED WITHOUT WARRANTY TO W. DOUGLASS DISTRIBUTING, LTD, FOR CERTAIN CITY-OWNED RIGHT-OF-WAY GENERALLY LOCATED AT LILLIS LANE AND MORTON STREET; RATIFYING THE MAYOR’S EXECUTION OF THE SAME; AND PROVIDING AN EFFECTIVE DATE”; **Ordinance No. 5188**, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, CALLING A JOINT GENERAL ELECTION WITH GRAYSON COUNTY, ON SATURDAY, MAY 7, 2022 FOR THE PURPOSE OF ELECTING A COUNCIL MEMBER, PLACE 4, SINGLE MEMBER DISTRICT 4 AND COUNCIL MEMBER, PLACE 6, AT LARGE, EACH FOR THREE (3) YEAR TERMS FOR SAID CITY; PROVIDING RESIDENCY REQUIREMENTS FOR CANDIDATES; DESIGNATING THE POLLING PLACES, DATE AND TIME OF SAID ELECTION AND VOTING PERIODS; PROVIDING FOR BALLOT APPLICATION PROCEDURES; DESIGNATING FILING DEADLINES; PROVIDING INFORMATION FOR EARLY VOTING; PROVIDING THAT SUCH ELECTION SHALL BE ADMINISTERED BY THE GRAYSON COUNTY ELECTIONS ADMINISTRATOR, PURSUANT TO A CONTRACT WITH THE CITY, THE TEXAS ELECTION CODE, AND THE TEXAS CONSTITUTION; PROVIDING INFORMATION FOR CANVASSING; ORDERING NOTICES OF ELECTION TO BE POSTED AND PUBLISHED AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; PROVIDING A SAVINGS/REPEALING CLAUSE AND SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE”; and the rest of the Consent Agenda as presented, with the exception of Item M, which was addressed separately.

Mayor Gott then announced Item M from the Consent Agenda would be considered individually.

- M. Receive a report, hold a discussion, and take action on an Ordinance amending Chapter 13, "Nuisances", Article III, "Abandoned Vehicles", of the Code of the City of Denison, to amend Section 13-44, "Notification of owners and lienholders", to add or revise certain requirements regarding the towing of abandoned or unclaimed vehicles .

Council Action

Mike Gudgel, Police Chief, stated he was before the Council this evening to request to amend an ordinance, Chapter 13, Article III, Section 13-44. The City’s Code of Ordinances provides the procedure for Denison Police Department's response to abandoned vehicles. Currently, the wording of this section requires the Denison Police Department to send notice of abandonment. Chapter 2303 of the Texas Occupations Code and the Department

of Motor Vehicles Title Manual allow for this requirement to be placed on the towing company. In an effort to streamline the process the Denison Police Department would like to remove themselves from the procedure of notification and place that responsibility on the towing company. Chief Gudgel is recommending this wording be amended to note that a licensed vehicle storage facility that takes possession of an abandoned motor vehicle under the authority of the police department must comply with all provisions of the Texas Occupations Code Chapter 2303. Basically, the update to the ordinance would reflect state law.

There was no discussion or questions from Council.

On motion by Council Member Crawley, seconded by Council Member Thorne, the City Council unanimously approved Ordinance No. 5189, "AN ORDINANCE OF THE CITY OF DENISON, TEXAS AMENDING CHAPTER 13, "NUISANCES," ARTICLE III, "ABANDONED VEHICLES," OF THE CODE OF ORDINANCES OF THE CITY OF DENISON BY AMENDING SECTION 13-44 "NOTIFICATION OF OWNER AND LIENHOLDERS"; PROVIDING A PENALTY; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW";

5. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing and take action on a Resolution in support of a grant application to the Texas Parks and Wildlife 2022 Recreational Trails Program to assist with funding for Phase 2 of the Waterloo Lake Regional Park Trail enhancements.

Council Action

Kimberly Bowen, Grant and Special Projects Administrator, presented the agenda item to Council. Ms. Bowen stated she was before the Council to present a funding opportunity offered by the Texas Parks and Wildlife Department Recreational Trails Program. Ms. Bowen reminded the Council the City of Denison was awarded funds through the same program in 2015, which provided funding for construction of a 12-foot-wide concrete path from the parking lot north towards the entry at the natural surface trails which resulted in approximately 1,500 linear feet of concrete trail that is now ADA compliant. The scope of work also called for the replacement of a smaller wooden pedestrian bridge with a 20-foot concrete stone pedestrian bridge that mitigated erosion from a previously undersized culvert. Two trail heads were installed to allow for easier access for wheelchairs and strollers. Staff are looking to do a similar project to expand the concrete trail from the parking lot back south towards the dam to allow for additional ADA compliant access to our lake shore, the kayak rentals the kayak launch and the fishing pier. The project cost is budgeted for \$360,000 and the grant local match requirement is 20%. The \$72,000 match would be a planned budget item to be taken from the Waterloo Lake Park fund. As part of the award process, the review committee looks at public support for the project as part of the scoring matrix. Staff is requesting the Council hold a public hearing and upon completion of the public hearing, Staff requests Council give consideration to a resolution

of support for the grant project. Ms. Bown then thanked the Council for their consideration of this proposal and resolution.

Mayor Gott then asked if there was anyone present who wished to speak to this Agenda item. Mr. Mason came forward and provided the following information for the record:

Name: George Mason

Address: 2117 Park Village
Denison, TX

Mr. Mason stated he was a member of the Parks Advisory Commission and said he could not express enough as to what the new trail that was put in on the north short of the lake means to the people using the park. It's made it so much more accessible for people. Mr. Mason said he hoped the Council would consider doing this to the east side of the park as well.

Mayor Gott then asked if there was anyone else present who wished to speak on this agenda item, to which there were none. With that, the Mayor closed the public hearing.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Hander, seconded by Council Member Spiegel, the City Council unanimously approved Resolution No. 4088, "A RESOLUTION OF THE CITY OF DENISON, TEXAS IN SUPPORT OF A GRANT APPLICATION TO THE TEXAS PARKS AND WILDLIFE 2022 RECREATIONAL TRAILS PROGRAM TO ASSIST WITH FUNDING FOR PHASE 2 OF THE WATERLOO LAKE REGIONAL PARK TRAIL ENHANCEMENTS."

- B. Receive a report, hold a discussion, conduct a public hearing, and take action on an ordinance changing the zoning of approximately 21.55 acres, located north of Ridge Dr. from SF 7.5, Single Family Residential Zoning District to Planned Development Zoning District. (Case No. 2021-178PD)

Council Action

Mayor Gott announced this item needed to be tabled to the February 22, 2022, meeting and called for a motion.

On motion by Mayor Pro Tem Hander, seconded by Council Member Thorne, the City Council unanimously approved tabling this agenda item to the February 22, 2022, Regular City Council Meeting.

- C. Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance changing the zoning for approximately 4.1 acres from the Single Family 7.5 Zoning District to a Planned Development Overlay District for a single-family residential development on S. Bluebonnet Avenue. (Case No. 2021-150PD)

Council Action

Dianne York, Planner, introduced this agenda item. Ms. York reported the applicant is requesting a rezone from the Single Family 7.5 Zoning District to a Planned Development Overlay District for approximately 4.1 acres. Ms. York then presented an aerial photo of the subject property with Blue Bonnet to the east and Loy Lake to the west. Ms. York also presented a zoning map of the subject property. The applicant is proposing 28 single family detached homes. Some of the key standards that are called out in the Planned Development pertain to the minimum lot dimension, lot width. So, the applicant is requesting the base zoning be Single Family 5 with the difference of the minimum lot dimension being 40 foot wide, 80 foot deep and a minimum lot area of 4000 square feet. The applicant is also proposing a mixture of one car and two car garages. Ms. York then presented renderings of the one and two car elevations. The applicant is also proposing the minimum dwelling unit floor area be 1250 square feet. The applicant is also establishing an Architectural Review Committee to review all of the plans prior to any contractors submitting a permit with the building department. The applicant is also proposing a minimum of at least one, two-inch diameter canopy trees or two ornamental trees planted in each of the front yards.

Mayor Gott asked if there was anyone present who wished to speak to this agenda item. Mr. Shearer came forward and provided the following information for the record:

Name: Charlie Shearer
Address: 415 W. Main Street
Denison, TX 75020

Mr. Shearer commented that staff has done an eloquent job of telling the Council what they're trying to do in this particular development, as well as in the packet. Mr. Shearer stated he was sure the Council had all the reports that were submitted from the Planning and Zoning Commission meeting. Mr. Shearer said he'd be happy to answer any questions that the council might have to speed up this process. He did not see any sense in riding the horse to death.

Council Member Doty asked about the lots in the center. Mr. Shearer responded there is actually five lots, and it's on the north border of the south border and those in the center. They're actually right now, 50 foot according to what is shown on the concept plan. Mr. Shearer said he thought there was some confusion that this was a plat, which it is not. This is just basically their concept plan. Mr. Shearer said they're not in the platting process as of yet. They're going to have to give four-foot dedication to Bluebonnet. In the meetings with staff, rather than them trying to go back in and reposition and take a little footage out of each one of these lots, Mr. Shearer said they would just leave those at 46 feet. It will not be a problem to design a house that will fit. The lots themselves are at 89 foot in depth and these are the smaller lots in the development. The lots to the back, the cul de sac lots, and then the four lots in the middle are actually exceed the 5000 mark and they're 5000-foot minimums on those lots. Mr. Shearer said the setbacks are set up. Mr. Shearer then addressed Council Member Doty and stated that what they're trying to create is a pedestrian friendly environment. So, they'll have sidewalks throughout the development. The porches will be at a minimum of 10 foot off of the property line, the house will be at a minimum of 20 foot off of the property line, and the garage door will be a minimum of 25 foot off the property line. They've pushed the garage back away from the street for aesthetics, and also to keep a car from parking in the driveway and hanging over the over the sidewalk. Quite

a bit of time was spent with staff, Mr. Medina and Mr. Webb when they were here, trying to come up with ways that they could create this particular environment. Mr. Shearer said the product that they have designed, even with the 80 - 89 foot there is still plenty of room for a nice backyard on each one of these lots. Mr. Shearer said he anticipates more of this being an empty nester development than a neighborhood where folks will move in with children. Most of them are going to want a larger yard and larger lot. Council Member Doty stated he was glad to see Mr. Shearer doing something with this property. Mr. Shearer added what they've done is they are trying to create a model for future development within the City. Mr. Shearer commented he's always been of the opinion his whole career that just because a house is small doesn't mean it has to lack creativity, and architectural aesthetics. So, they are trying to create this and are going to require this in their deed restrictions and covenants, since the city no longer can enforce building materials. Mr. Shearer said the way they can control what's built in this subdivision is through some pretty strict deeds and covenants. In this they will require certain architectural elements, each elevation must possess a certain number of elements that will be on an approved list. As, as Diane mentioned, there is an Architectural Review Committee. Each plan has to be approved prior to being submitted to the City for permitting. Mr. Shearer does not anticipate there being more than two builders in this particular development at this time and he happens to be one of them. Mr. Shearer stated he has been a part of several developments in Rockwall and other places where the lots don't have to be huge. The houses don't have to be huge, but they can create a very valuable asset to the City, and a community where people can be neighborly. This is the objective and the goal in this particular development.

Mayor Pro Tem Hander asked Mr. Shearer if he will be on the architectural committee, to which Mr. Shearer responded he is the architectural review committee. Mayor Pro Tem Hander asked about the alleyway dedication behind lots seven through twelve and that he was worried because there was no access to this. Mayor Pro Tem Hander said that as we move forward and as Mr. Shearer moves forward with the planning process, this may be something the City may want to look at selling, if we don't have utilities under there, because there is no way to access this and there are houses on each end.

Mayor Gott then asked if there was anyone else present who wished to speak to this agenda item, to which there were none. With that, the Mayor closed the public hearing.

There was no further discussion or questions from the Council.

On motion by Mayor Pro Tem Hander, seconded by Council Member Crawley, the City Council unanimously approved, with the caveat that sidewalks be added to the development, Ordinance No. 5190, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY CHANGING THE ZONING CLASSIFICATION FROM SINGLE FAMILY 7.5 DISTRICT TO PLANNED DEVELOPMENT OVERLAY DISTRICT (PD) WITH BASE ZONING OF SINGLE FAMILY - 5 DISTRICT OF AN APPROXIMATELY 4.1 ACRE TRACT OF LAND, BEING A PART OF THE P.C. MARTIN SURVEY, ABSTRACT NO. 787, AND BEING THE SAME 4.16 ACRE TRACT OF LAND CONVEYED TO JOY BETH LAWRENCE

BY DEED OF RECORD IN VOLUME 2579, PAGE 249 OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; BEING MORE PARTICULARLY DESCRIBED IN OFFICIAL RECORDS OF GRAYSON COUNTY AND DEPICTED IN EXHIBIT "A"; PROVIDING DEVELOPMENT STANDARDS, ATTACHED HERETO AS EXHIBIT "B"; PROVIDING A CONCEPT PLAN, ATTACHED HERETO AS EXHIBIT "C"; PROVIDING FOR SEVERABILITY, REPEALING, AND SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW."

- D. Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance changing the zoning of 0.1377 acres from Local Retail Zoning District to 2F – Two-Family (duplex) Residential District for property located at 826 W. Crawford St. (Case No. 2021-177Z)

Council Action

Dianne York, Planner, reported the applicant is requesting a rezone from the Local Retail Zoning District to the 2F - Two Family Duplex Residential Zoning District for their property that currently has a single-family dwelling unit on it. Ms. York then showed an aerial map of the subject property with West Crawford to the north and Scullin to the east. Right across the street is what used to be Kroger. The request for the two-family duplex zoning district is an extension of the residential district that is already there, rather than going with a spot zoning. Ms. York then showed a survey of where the dwelling unit sits on the subject property. The Planning and Zoning Commission recommended approval for this rezone at their meeting on January 25, 2022. The applicant is requesting the rezone in order for the zoning to conform with how the property has been developed.

Council Member Courtright pointed out that the subject property has not been used as a duplex, but rather a single-family dwelling. Ms. York replied this was correct. It's been developed in a residential manner. So, the applicant is requesting a residential zoning district, which happens to be the two-family duplex zoning district for the extension of the residential district that's already there. Mayor Gott asked if the residence that is there now is occupied. Ms. York responded she did not know if it is occupied. Ms. York believed the applicant is attempting to sell the property and pointed out that the applicant was present to speak on this.

Mayor Gott then asked if there was anyone present who wished to speak on this agenda item. Mr. Mason came forward and provided the following information for the record:

Name: Carl Mason

Address: 1904 Elmore Road
Denison, TX

Mr. Mason stated he was the broker who is helping the owner sell the subject property. The current buyer for the property wants it rezoned primarily so they wouldn't get stuck with a retail space. So, they would like a rezone to a residential space, which makes sense.

Mayor Gott asked if it was the intent to tear down this structure. Mr. Mason responded this was not the intent. The subject property has had a home there since the 1940s and Mr. Mason is not sure why it was retail to begin with, but it's been a residential property ever since the 1940s. Grayson County has also taxed it as a residential property. Council Member Courtright asked if, since there is no duplex on the property, could it be rezoned as an SF-5, which is what it really is. The concern is changing it to a duplex and then whomever gets the property can tear down the structure and build a duplex. There are no other duplexes in the neighborhood. So, it would not match the neighborhood. Council Member Courtright said he would be fine changing it to an SF-5 but does have concerns about changing it to a duplex. The applicant said this was fine with him and the property owner. Mayor Gott then asked the applicant if this was his request to change the zoning to SF-5 Single Family Zoning District. The applicant replied yes and that he did not know all the different zones. It's a single-family home now and he believes it was at one time a duplex, and then converted it to a single family.

Mayor Gott then asked if there was anyone else present who wished to speak to this agenda item, to which there were none. With that, the Mayor closed the public hearing.

There was no further discussion or questions from Council.

On a motion by Council Member Courtright, seconded by Mayor Pro Tem Hander, the City Council unanimously approved Ordinance No. 5191, "AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY CHANGING THE ZONING CLASSIFICATION ON A CERTAIN TRACT OF LAND LEGALLY DESCRIBED AS LOT 2, BLOCK 78, OF THE MILLER'S SECOND ADDITION, AN ADDITION TO THE CITY OF DENISON, GRAYSON COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME, PAGE, DEED RECORDS OF GRAYSON COUNTY, TEXAS, COMMONLY REFERRED TO AS 826 W. CRAWFORD ST, DENISON, TX, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT "A", FROM ITS ZONING CLASSIFICATION OF LOCAL RETAIL DISTRICT TO SF-5 – SINGLE-FAMILY RESIDENTIAL DISTRICT; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE 5F – SINGLE-FAMILY RESIDENTIAL DISTRICT FOR THE PROPERTY; PROVIDING A PENALTY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE."

- E. Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance adopting the annexation of certain territory located in the extraterritorial jurisdiction being an approximately 3.688-acre tract of land identified as Grayson County CAD Property ID 378985 and located on FM 131, Denison, Texas. (Case No. 2021-127A)

Council Action

Dianne York, Planner, stated the applicant is requesting a voluntary annexation of the property ID number 378985. Located off of FM 131. The applicant owns the two adjacent parcels to the east. The applicant is requesting this annexation for the purpose of constructing an Oncor Electric substation. The applicant has also requested an initial zoning and a rezoning of the two properties to the east for Planned development, which is a companion item on this agenda.

Mayor Gott then asked if there was anyone present who wished to speak to this agenda item. Mr. Sampson came forward and provided the following information for the record:

Name: Seth Sampson

Address: 777 Main Steet
Fort Worth TX

Mr. Sampson stated he was a Right of Way sighting Specialist for Oncore Electric and is the representative for this annexation item and companion zoning item and was present for any questions the Council may have.

Mayor Gott then asked if there was anyone else present who wished to speak on this agenda item, to which there were none. With that, the Mayor closed the public hearing.

There was no discussion or questions from council.

On motion by Mayor Pro Tem Hander, seconded by Council Member Spiegel, the City Council unanimously approved Ordinance No. 5192, "AN ORDINANCE OF THE CITY OF DENISON, TEXAS, ADOPTING THE ANNEXATION OF CERTAIN TERRITORY LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF DENISON, TEXAS, TO WIT: BEING AN APPROXIMATELY 3.688 ACRE TRACT OF LAND, IDENTIFIED AS GRAYSON COUNTY CAD PROPERTY ID 378985, GRAYSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN EXHIBIT "A" AND GRAPHICALLY DEPICTED IN EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN; PROVIDING FOR INCORPORATION OF FINDINGS, AMENDING OF THE OFFICIAL CITY MAP, AND ACKNOWLEDGING A SERVICE PLAN; REQUIRING THE FILING OF THIS ORDINANCE WITH THE COUNTY CLERK; PRESCRIBING FOR EFFECT ON TERRITORY, GRANTING AS APPROPRIATE TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF THE CITY OF DENISON, TEXAS; PROVIDING SEVERABILITY, REPEALING, AND SAVINGS CLAUSES; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW."

- F. Receive a report, hold a discussion, conduct a public hearing, and take action on a request for approval of the initial zoning of approximately 3.5 acres to Planned Development Zoning District and rezoning of approximately 3.899 acres from Light Industrial and

Agriculture Zoning District to Planned Development Zoning District for a total of approximately 7.399 acres located on FM 131, Denison Texas, Property ID: 230504, 378985, and 230505. (Case No. 2021-152Z)

Council Action

Dianne York, Planner, commented now that the property is annexed, the applicant is requesting an initial or initial zoning of that property to the west for a Planned Development Overlay District and then the two properties to the east for the same. The purpose of the planned development is to construct an Oncor Electric substation. The applicant went with a PD because the sole use for this piece of property is the substation. So, if that substation goes away, quits working or they move somewhere else, someone has to come before the Council to rezone the property. This was done with the intent to protect the land and the residential property owners around there. A couple of the highlights from that PD include the applicant is requesting a base zoning of light industrial with a couple of differences. From light industrial, they're requesting no parking requirements. Maximum height is 120 feet. They're also requesting some landscaping or non-landscaping requirements. Their intention is to keep as many of the trees as they can other than the ones that are in the way of the electric lines. The applicant is proposing landscaping screening in the form of single row shrubs to the north and south and a screening from FM 131 shall be a concrete precast concrete screen. The Planning and Zoning Commission recommended approval of the initial zoning and the rezoning at their January 25, 2022, regular meeting. As previously mentioned, the applicant is requesting the planned development zoning district for the sole purpose of the Oncor Electric substation.

Mayor Gott then asked if there was anyone present who wished to speak to this agenda item, to which there were none. With that, the Mayor closed the public hearing.

Mayor Pro Tem asked about the seven-foot chain link fence that's going to be around this. Our community is going to grow this way someday. Mayor Pro Tem Hander asked Mr. Sampson if there was any kind of alternative fencing or upscale fencing. Mr. Sampson responded typically when they do these, they follow the city's screening ordinances. On this one, we have the wall facing the main thoroughfare which is a masonry precast wall which is what was discussed with staff. Mayor Pro Tem Hander stated he was not opposed to the masonry wall, but if the remainder of the chain link fence is going to be around the rest of the property though is there room to improve that a little bit. Do they use any kind of different material? Mr. Sampson responded other than masonry screen wall, precast, that you'll find in some different areas, their typical fencing is the chain link fence. There are some areas where you'll find precast masonry screen walls, same height, the height doesn't change. In this case there's really not a lot back there. It's nice that there are trees and everything back there because they screen better than any seven-foot wall would, but typically they have chain link. Mayor Pro Tem commented that because it was chain link, he believed the City required it to be black vinyl painted, powder coated. Mayor Gott replied the Council gets one opportunity so it's best to address this at this point and make sure the screening is going to be what the Council wants because the city is growing and eventually there is going to be residential all around the substation. Mayor Gott felt it would be appropriate for the Council to request an upgrade in the fencing. Mr. Sampson asked if he was hearing a specific upgrade from Council. Council Member Courtright asked about a wood fence. Mr. Sampson stated they wouldn't do wood because of the nature of the use, but if the Council has something in particular that they're looking for, they are open to the

conversation. The screening is easier for them to change than obviously the use or anything like that. So, if there's something the Council is looking for, that they are willing to give to him now that's conversation he can have. Mayor Pro Tem Hander asked about the precast concrete and if it was just a concrete wall or is it like what TxDOT uses that looks like stone. Mr. Sampson replied the wall is masonry precast and it comes with a stone design on it. It's like stamped into it and multiple different designs. Some that look like bricks and some that look like stone. Mayor Pro Tem Hander said if this is something they do in other communities, he would not be opposed to a brick or stone look as this would hide the substation pretty well. Mr. Sampson clarified the request was to use the same precast they'd use on the front of the station to encompass all four sides and if this was the request with the intent to moving the project forward, this is something Oncor could agree to. Council Member Spiegel asked if as part of this development, would the transmission lines be changed out. Mr. Sampson responded that he did not believe anything will be changed on the transmission line. The substation does connect into the transmission line, but other than that, the transmission lines there are okay.

There was no further discussion or questions from Council.

On motion by Mayor Pro Tem Hander, seconded by Council Member Courtright, the City Council unanimously approved, with the caveat that a precast concrete enclosure encircle the entire property, Ordinance No. 5193, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF A 3.5-ACRE TRACT OF LAND AND CHANGING THE ZONING CLASSIFICATION OF A 3.899-ACRE TRACT WITH CURRENT CLASSIFICATIONS OF AGRICULTURAL DISTRICT AND LIGHT INDUSTRIAL DISTRICT, ALL IN THE D.M. FARMER SURVEY, ABSTRACT NUMBER 433 IN GRAYSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "B" AND DEPICTED IN EXHIBIT "C", TO PLANNED DEVELOPMENT OVERLAY DISTRICT WITH BASE ZONING OF LIGHT INDUSTRIAL DISTRICT; PROVIDING DEVELOPMENT STANDARDS, ATTACHED HERETO AS EXHIBIT "A"; PROVIDING A CONCEPT PLAN, ATTACHED HERETO AS EXHIBIT "D"; PROVIDING A CONCEPT LANDSCAPE PLAN, ATTACHED HERETO AS EXHIBIT "E"; PROVIDING A ROADWAY IMPROVEMENTS PLAN, ATTACHED HERETO AS EXHIBIT "F"; PROVIDING FOR SEVERABILITY, REPEALING, AND SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW."

6. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Receive a report, hold a discussion and take action on approving a grant application for the FEMA Fiscal Year 2021 Building Resilient Infrastructure and Communities (BRIC) Program.

Council Action

Kimberly Bowen, Grants and Special Projects Administrator, presented a funding opportunity to Council offered by FEMA through the US Department of Homeland Security and hazard mitigation assistance division for activities and local communities that include mitigating risk to public infrastructure, risk to one or more community lifelines and enhancing climate resilience and adaptation. Staff are seeking support and approval for the submission of a project proposal to the Building Resilient Infrastructure and Communities Program, also referred to as BRIC. The City of Denison's water treatment plant has several incoming power sources fed from a single line from dual sources of power switched outside the plant boundary. The plant and raw water pump station have no backup power generation service. Most of the existing plant electrical systems were installed prior to 1993 and are quickly becoming obsolete with limited availability of spare parts for repairs. In addition to the water treatment plant, half of the city and the whole City of Pottsboro rely on the Parkdale elevated storage and ground storage for water distribution. Through this project, the city plans to purchase a 1200 kilowatt diesel generator for the water treatment plant, a 300 kilowatt diesel generator for an automatic transfer switch for the raw water pump station at Lake Randell, the city's main source of water, and a 350 kilowatt diesel generator to serve the Parkdale ground storage, install main electrical switchgear for the water treatment plant electrical improvements and install a SCADA system throughout the distribution system for continuous pressure monitoring. Staff identified this project as a high priority project following the critical infrastructure issues experienced from last year's Winter Storm Yuri. During the winter storm in February 2021, the City's water treatment plant lost power despite having the dual feed. Due to the extreme temperature, pumps and chemicals froze within 20 minutes. It took city staff eight hours or more to defrost enough pumps and chemicals to continue to treat the water. The ground storage tank at Parkdale was without electricity as well, which prohibited water from being pumped from the ground storage tank to the elevated storage tank. Within the first day, the tanks in the city were depleted and a system was relying on pressure from the distribution system. Due to the Parkdale water tower providing service to other pressure plains, there were vast areas of town that were without water supply for approximately five days. With the addition of generators and backup power at key locations, future infrastructure failures would be less likely to occur. The City has already engaged Plumber Associates through a water plant master plan to provide project management, engineering services and configuration services for the Parkdale electrical and instrumentation improvements, Lake Randell Water Treatment Plant electrical improvement and water treatment plant and distribution control system. The estimated cost of the proposed project is \$3,045,896 and has a 25% required local match of \$761,474 that would be taken from the water and sewer bond fund. Ms. Bowen then thanked the Council for their consideration of this proposal.

There was no discussion or questions from Council.

On motion by Council Member Crawley, seconded by Council Member Courtright, the City Council unanimously approved a grant application for the FEMA Fiscal Year 2021 Building Resilient Infrastructure and Communities (BRIC) Program.

- B. Receive a report, hold a discussion, and take action on the Capital Improvement Projects (CIP) Manager position.

Council Action

Renee Waggoner, Executive Director of Finance and Administrative Services, reminded Council of the capital improvements project plan that Carrie has spoken about many times, whether it was during budget workshop or as a project update about a month ago. The Plan consists of large scale and short- and long-range infrastructure and facility projects. The proposed CIP manager will help manage all aspects of the CIP including proposing new projects based on Council, Staff and community feedback, negotiating fees and scope of work for contractors coordinating construction activity, developing bid proposal packages, tracking spending and finding cost savings and more, which is very important. The position will be funded through debt services and report to the Director of Public Works, Carrie Jones. While working closely with the City Manager and Executive Director of Finance and Administrative Services. Staff recommends approval of this position.

There was no discussion or questions from Council.

On motion by Council Member Crawley, seconded by Council Member Spiegel, the City Council unanimously approved the Capital Improvement Projects (CIP) Manager position.

7. EXECUTIVE SESSION

The Council then adjourned into Executive Session at 6:54 p.m. pursuant the Chapter 551, Texas Government Code, in accordance with the Authority:

A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.

1. Confer with City Attorney regarding *City of Denison vs. Tico-Grande, LP*, Cause No. 2021-1-001ED, County Court at Law #1, Grayson County.
2. Confer with City Attorney on development of property in TIRZ #3.
3. Confer with City Attorney regarding City Manager position.

B. Discuss the possible purchase, exchange, lease or sale of value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.

C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.

D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.

1. Discuss City Manager position.

E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a

facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.

- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

RECONVENE INTO REGULAR SESSION

The Council then reconvened into Regular Session at 8:04 p.m. and took the following action:

A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.

- 1. Confer with City Attorney regarding *City of Denison vs. Tico-Grande, LP*, Cause No. 2021-1-001ED, County Court at Law #1, Grayson County.

Council Action

No action taken.

- 2. Confer with City Attorney on development of property in TIRZ #3.

Council Action

No action taken.

- 3. Confer with City Attorney regarding City Manager position.

Council Action

On a motion by Mayor Pro Tem Hander, seconded by Council Member Doty, the City Council unanimously approved accepting the Separation Agreement with Mr. Greg Smith as discussed in Executive Session pending the expiration of the statutory replication period.

Regarding the Interim City Manager:

On a motion by Mayor Pro Tem Hander, seconded by Council Member Doty, the City Council unanimously approved the appointment of Bobby Atteberry as Interim City Manager.

- B. Discuss the possible purchase, exchange, lease or sale of value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.

D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.

1. Discuss City Manager position.

Council Action

See above under Item A.3.

- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.

- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.

- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

There being no further business to come before the Council, the meeting adjourned at 8:06 pm.

JANET GOTT, Mayor

ATTEST

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on approval of the DPD Contact Data Annual Report for 2021.

Staff Contact

Mike Gudgel, Chief of Police
mgudgel@cityofdenison.com
903-465-2422, ext. 2303

Summary

- This is a required annual report done in accordance with the Texas Racial Profiling Law (S.B. No. 1074).
- This report covers the period of 1/01/2021 to 12/31/2021.
- Presentation of this report to council each year is required.

Staff Recommendation

Staff recommends approval of this report.

Recommended Motion

“I move to approve the DPD Contact Data Annual Report for 2021.”

Background Information and Analysis

Since January, 2002, the Denison Police Department, in accordance with the Texas Racial Profiling Law (S.B. No. 1074), has been collecting police contact data for the purpose of identifying and responding (if necessary) to concerns regarding racial profiling practices. It is my hope that the findings provided in this report will serve as evidence that the Denison Police Department continues to strive towards the goal of maintaining strong relations with the community.

In this report, the reader will encounter several sections designed at providing background information on the rationale and objectives of the Texas Racial Profiling Law. Other sections contain information relevant to the institutional policies adopted by the Denison Police Department banishing the practice of racial profiling among its officers.

The final components of this report provide statistical data relevant to the public contacts made during the period of 1/01/2021 to 12/31/2021. This information has been analyzed and compared to the Department of Public Safety data on licensed drivers residing in the Denison area. The analysis of the data and recommendations for future areas of research are also included. It is my sincere hope that the channels of communication between community leaders and the Denison Police Department continue to strengthen as we move forward to meet the challenges of the near future.

Financial Considerations

None

Prior Board or Council Action

Council last approved this report in February, 2021.

Alternatives

None

DENISON POLICE DEPARTMENT
Contact Data Annual Report
January 01, 2021 – December 31, 2021



I. Introduction

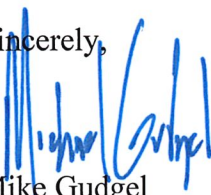
01-25-22

Since January 1, 2002, the Denison Police Department in accordance with the Texas Racial Profiling Law (S.B. No. 1074), has been collecting police contact data for the purpose of identify and responding (if necessary) to concerns regarding racial profiling practices. It is my hope that the findings provided in this report will serve as evidence that the Denison Police Department continues to strive towards the goal of maintaining strong relations with the community.

In this report, the reader will encounter several sections designed at providing background information on the rationale and objectives of the Texas Racial Profiling Law. Other sections contain information relevant to the institutional policies adopted by the Denison Police Department banishing the practice of racial profiling among its officers.

The final components of this report provide statistical data relevant to the public contacts made during the period of 1/1/21 and 12/31/21. This information has been analyzed and compared to the Department of Public Safety data on motorists residing in the Denison area. The analysis of the data and recommendations for future areas of research are also included. It is my sincere hope that the channels of communication between community leaders and the Denison Police Department continue to strengthen as we move forward to meet the challenges of the near future.

Sincerely,



Mike Gudgel
Chief of Police

Police Contact Data Annual Report January 01, 2021---December 31, 2021

Table of Content

(I) Introduction

- a) Opening Statement Outlining Rationale and Objective of Report
- b) Table of Content
- c) The Texas Law on Racial Profiling (S.B. 1074) (S.B. 1849)
- d) Outline of Requirements Introduced by The Texas Racial Profiling Law

(II) Background

- a) Police Department's Background/Demographics
- b) Police Department's General Orders/Procedures (include organizational chart if available)
- c) Report on Inventory/Usage of Video/Audio Equipment in Police Vehicles

(III) Responding to the Texas Racial Profiling Law

- a) Institutional Policy on Racial Profiling (definition/prohibition of racial profiling)
- b) Implementation of Complaint Process Addressing Allegations of Racial Profiling Practices (includes efforts relevant to the implementation of an educational campaign aimed at informing the public on the complaint process)
- c) Training Administered to Law Enforcement Personnel
- d) Tables Depicting Police Contact Information (01/01/21—12/31/21). Include Tier 1 information (Comparative Analysis)
- e) Report on Complaints (if any) Filed Against Officers for Violating Racial Profiling Policy (includes institutional procedures/corrective action used when responding to racial profiling complaints)
- f) Analysis and Interpretation of Data (explain rationale for use of DPS data)

(IV) Summary of Findings

- a) Summary Statement Regarding Findings
- b) Check List/Contact Information

Racial Profiling Reporting to TCOLE

House Bill 3389 changed several portions of the Code of Criminal Procedures Article 2.131 – 2.138. The major change that is now in the law is that all agencies must report racial profiling data to TCOLE as well as their governing body.

The law changes require reporting beginning in 2011 reporting data collected during calendar year 2010.

The attached documents outline three options. Every law enforcement agency must select the option that applies to their particular situation.

These options are:

1. Law enforcement agencies that do not routinely make motor vehicle stops can be fully exempt from reporting.
2. Law enforcement agencies that routinely perform traffic stops or motor vehicle stops and who have their vehicles that routinely perform these stops equipped with video and audio equipment can report under CCP 2.135. (This is called Tier 1 reporting).
3. Law enforcement agencies that routinely perform traffic stops or motor vehicle stops and who do not equip their vehicles with video and audio equipment must report under CCP 2.133 and perform a analysis as required by CCP 2.134.

**RACIAL PROFILING REPORTING
AS REQUIRED BY HB 3389
OF THE 81ST LEGISLATURE
STATE OF TEXAS**

As a Chief Administrator of a Law Enforcement Agency you must submit one (1) of the following three (3) documents.

Please read the Code of Criminal Procedures, Article 2.131 – 2.138 and make a decision about which of the following three categories applies to your department.

Which ONE applies to you?

- Full Exemption from Racial Profiling Reporting – agency does not routinely make traffic stops.
- Tier 1 Partial Exemption from Racial Profiling Report because of video and audio equipment records motor vehicle stops.
- Tier 2 Fully Reporting with no recording video and audio equipment in vehicles performing motor vehicle stops.

By law, one of the above three must be submitted to TCOLE each year by March 1st. This will begin with the 2010 year's data submitted by March 1st, 2011.



Partial Exemption Racial Profiling Reporting
(Tier 1)

Department Name _____
Agency Number _____
Chief Administrator Name _____
Reporting Name _____
Contact Number _____
E-mail Address _____

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):

Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
- (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
 - (A) the Commission on Law Enforcement Officer Standards and Education; and
 - (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These policies are in effect

Chief Administrator

Date



Partial Exemption Racial Profiling Reporting
(Tier 1)

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):

all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

Chief Administrator

Date

AN ACT

relating to the prevention of racial profiling by certain peace officers.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained;

and

(B) whether a search was conducted and, if so,

whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual

who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop;
and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax

effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;
- (4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;
- (5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;
- (6) whether a search of the vehicle was conducted and whether consent for the search was obtained;
- (7) the plea, the judgment, and whether bail was forfeited;
- (8) [(7)] the date of conviction; and
- (9) [(8)] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as

added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001.

S.B. No. 1074

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

S.B. No. 1074

Approved:

Date

Governor

S.B. No. 1849

AN ACT

relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

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

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL RETARDATION~~]. (a)(1) Not later than 12 [~~72~~] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [~~mental retardation~~], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [~~mental retardation~~], the magistrate, except as provided by Subdivision (2), shall order the local mental health or intellectual and developmental disability [~~mental retardation~~] authority or another qualified mental health or intellectual disability [~~mental retardation~~] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual disability [~~mental retardation~~] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [~~mental retardation~~] by the local mental health or intellectual and developmental disability [~~mental retardation~~] authority or another mental health or intellectual disability [~~mental retardation~~] expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be

appropriate by the local mental health or intellectual and developmental disability [~~mental retardation~~] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [~~Department of Aging and Disability Services~~] for examination only on request of the local mental health or intellectual and developmental disability [~~mental retardation~~] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [~~Department of Aging and Disability Services~~] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [~~mental retardation~~];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [~~mental retardation~~] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article:

(1) releasing a defendant who has a mental illness [~~mentally ill~~] or is a person with an intellectual disability [~~mentally retarded defendant~~] from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(b) Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [~~The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.~~] In awarding grants, the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; ~~and~~

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY

COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [~~mental retardation~~] authority or another mental health expert under Article 16.22 [~~of this code~~];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [~~mental retardation~~] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [~~mental retardation~~] authority, that appropriate community-based mental health or intellectual disability [~~mental retardation~~] services for the defendant are available through the [~~Texas~~] Department of State [~~Mental~~] Health Services [~~and Mental Retardation~~] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [~~mental retardation~~] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [~~mental retardation~~] treatment as recommended by the local mental health or intellectual and developmental disability [~~mental retardation~~] authority if the defendant's:

(1) mental illness or intellectual disability [~~mental~~

retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [~~it is not necessary to serve him with a copy, but~~] the clerk shall [~~on request~~] deliver a copy of the indictment [~~same~~] to the accused or the accused's [~~his~~] counsel[~~7~~] at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [~~it shall not be necessary before trial to furnish the accused with a copy of the indictment or information, but he or his counsel may demand a copy, which shall be given as early as possible~~].

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(a) The commission shall:

- (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
- (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
- (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
- (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
- (5) revise, amend, or change rules and procedures if necessary;
- (6) provide to local government officials consultation on and technical assistance for county jails;
- (7) review and comment on plans for the construction and major modification or renovation of county jails;
- (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
- (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
- (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
- (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
- (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age

securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;

(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;

(15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;

(16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; ~~and~~

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

(21) ~~[(20)]~~ require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(22) ~~[(20)]~~ adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same

extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county jail:

(1) a suicide;

(2) an attempted suicide;

(3) a death;

(4) a serious bodily injury, as that term is defined by

Section 1.07, Penal Code;

(5) an assault;

(6) an escape;
(7) a sexual assault; and
(8) any use of force resulting in bodily injury, as
that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report
required by Subsection (a).

(c) The information required to be reported under
Subsection (a)(8) may not include the name or other identifying
information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public
information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING
IN COUNTY JAIL. (a) On the death of a prisoner in a county jail,
the commission shall appoint a law enforcement agency, other than
the local law enforcement agency that operates the county jail, to
investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating
to the appointment of a law enforcement agency under Subsection
(a), including rules relating to cooperation between law
enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of this Act is governed by the law in effect when the personal bond was executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION
REQUIRED. (a) The Texas Commission on Law Enforcement shall
develop and the commission shall approve an examination for a
person assigned to the jail administrator position overseeing a
county jail.

(b) The commission shall adopt rules requiring a person,
other than a sheriff, assigned to the jail administrator position
overseeing a county jail to pass the examination not later than the
180th day after the date the person is assigned to that position.
The rules must provide that a person who fails the examination may
be immediately removed from the position and may not be reinstated
until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the

jail administrator position at any time there is not a person available who satisfies the examination requirements of this section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows:

(j) As part of the minimum curriculum requirements, the commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [~~section~~] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

(1) topics selected by the agency; and
 (2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity;

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [~~and~~]

(C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and

(D) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and

sexual assault; and

(ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; ~~and~~

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that

individual;

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Texas Commission on Law Enforcement; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; [and]

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; [and]

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [~~as described by Article 2.135(a)(1)(A)~~], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement

motor vehicles and motorcycles or equipping peace officers with body worn cameras [~~as described by Article 2.135(a)(1)(A)~~]. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [~~as described by Article 2.135(a)(1)(A)~~], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [~~as described by Article 2.135(a)(1)(A)~~], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [~~installed~~] video and audio equipment and body worn cameras for those purposes [~~as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)~~].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [~~the~~] amount not to exceed \$5,000 [~~of \$1,000~~] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and

(B) a glossary of terms relating to the information to make the information readily understandable to the public.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1849 passed the Senate on
May 11, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on
May 20, 2017, by the following vote: Yeas 137, Nays 0, one
present not voting.

Chief Clerk of the House

Approved:

Date

Governor

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an "agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

The article further defines race or ethnicity as being of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American." The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian (**pedestrian has been omitted**) for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the TCOLE and governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality and TCOLE not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

II. Background

Police Department Background

The Denison Police Department was founded in the late 1880's. At the time, the Denison Police Department was only made up of a chief and three patrolmen. Today, the Denison Police Department (DPD) is made up of 53 commissioned officers, to include 2 School Resource Officers (SRO's), 1 canine and 19 civilian members. The DPD officers are committed to performing their jobs in a professional manner while serving the community members of Denison and its surrounding areas.

The department promotes, to all its members, to engage in community-policing practices in order to provide quality service to all residents of the community. In 2002, the Denison Police Department adopted a policy, in accordance to the Texas Law on Racial Profiling, banishing racial profiling practices among all DPD officers.

Oath of Office

Each member and volunteer of the Denison Police Department shall subscribe to and abide by the Oath of Office:

I _____ do solemnly swear or affirm that I will faithfully execute the duties of a Police Officer of the City of Denison, Grayson County, Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States, and of this State, and of this City; and I furthermore solemnly swear or affirm that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute, any money or valuable thing to receive my appointment.

So Help Me God.

Upon swearing to the Oath of Office, a signed copy is placed in the employee's personnel file.

Code of Ethics

Each member of the Denison Police Department shall subscribe to and abide by the Code of Ethics:

As a Law Enforcement Officer, my fundamental duty is to serve humanity; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional Rights of all people to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to ethics of Law Enforcement. I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession . . . Law Enforcement.

The newly sworn member shall be given one copy of the Code of Ethics.

Equal Opportunity/Affirmative Action

The policy of the Denison Police Department is to be fair and impartial in all of its relations with its employees or applicants for employment while adhering to the concept of equal employment opportunity and affirmative action as a necessary element of basic merit system principles. In order to achieve this goal, the Denison Police Department hereby reaffirms its official policy that discrimination on the basis of race, sex, color, religion, national origin, age, mental or physical handicap, disabled or veteran status is prohibited by all employees of the Denison Police Department. This policy will apply and is not limited to recruitment, promotion, hiring, layoff, termination, demotion, transfer, training, rates of pay, fringe benefits, or other forms of compensation, use of facilities, and other terms, conditions and privileges of employment for all job classifications. The City of Denison will take the necessary steps in its employment policies, practices and procedures and make reasonable accommodations in order to assure that appropriate equal employment opportunities are available to all persons.

**DENISON, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL**

<i>Effective Date</i> October 19, 2012		<i>Amended Date</i> March 17, 2017		<i>Directive</i> 2.01.1	
<i>Subject</i> Bias and Racial Based Profiling					
<i>Reference</i>					
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition Program Reference</i> 2.01.1 Bias Based Profiling		<i>Review Date</i>	
				<i>Pages</i> 5	

SECTION 1 PURPOSE

The purpose of this order is to provide general guidance on reducing the presence of bias in law enforcement actions, to identify key contexts in which bias may influence these actions, and emphasize the importance of the constitutional guidelines within which we operate.

SECTION 2 POLICY

Denison Police Department is committed to a respect for constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, sexual orientation, national origin, ethnicity, age, or religion. Respect for diversity and equitable enforcement of the law are essential to Denison Police Department's mission.

All enforcement actions shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and by statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions that support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

All departmental orders are informed and guided by this directive. Nothing in this order limits non-enforcement contacts between officers and the public.

SECTION 3 DEFINITIONS

Most of the following terms appear in this policy statement. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

Bias- Prejudice or partiality based on preconceived ideas, a person's upbringing, culture, experience, or education.

Biased policing- Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

Ethnicity- A cluster of characteristics that may include race but also cultural characteristics or traits that are shared by a group with a common experience or history.

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Gender- Unlike sex, a psychological classification based on cultural characteristics or traits.

Probable cause- Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.

Race- A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern, or Native American descent. As distinct from ethnicity, race refers only to physical characteristics sufficiently distinctive to group people under a classification.

Racial profiling- A law-enforcement initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Reasonable suspicion- Articulable, objective facts that lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."

Sex- A biological classification, male or female, based on physical and genetic characteristics.

Stop- An investigative detention. The detention of a subject for a brief period of time, based on reasonable suspicion.

SECTION 4 PROCEDURES

A. General responsibilities

1. Officers are prohibited from engaging in bias-based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes.
2. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, subject stops, arrests, nonconsensual searches, and property seizures. Except as provided in number 3 below, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.
3. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or

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persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion. Except as provided above, reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall be subjected to stops, seizures, or detentions only upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.

4. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
 - a. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.
 - b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
2. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
 - a. Personnel shall facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
3. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on the individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety.
4. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.

B. Supervisory responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
2. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial

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enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.

4. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences.
5. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
6. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
7. Supervisors will randomly review at least three video tapes per officer (either body camera and/or in-car camera video) per quarter. For this policy a "quarter" is defined as a 3-month period of time. Supervisors are not required to watch each incident of an entire shift; however, reviewing the footage in a manner intended to gain an understanding of that officer's performance and adherence to policy and law is required. Supervisors will document the random review of the video in their daily activity logs and any violations of policy or law will be addressed through the use of existing internal affairs policy.
8. Section 7 above applies only to first-line uniformed officers and their immediate supervisors. In the absence of a first-line supervisor this responsibility will move to patrol lieutenants.

SECTION 5 TRAINING

Officers are responsible for adhering to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law. All officers shall complete a TCOLE training and education program on bias-based profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on bias-based profiling.

SECTION 6 COMPLAINT INVESTIGATION

The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint. Refer to General Orders Chapters 2.4.1 through 2.10.1 for the complaint and investigation process.

SECTION 7 PUBLIC EDUCATION

This department will inform the public of its policy against racial and bias based profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available as appropriate in languages other than English, if necessary.

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SECTION 8 USE OF VIDEO AND AUDIO EQUIPMENT

Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment, and each motorcycle regularly used by this department to make traffic and pedestrian stops is equipped with transmitter-activated equipment.

Each traffic and pedestrian stop made by an officer of this department that is capable of being recorded by video and audio, or audio, as appropriate, is recorded.

This department shall retain any video and/or audio recordings of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video and/or audio recordings of the stop until final disposition of the complaint.

Supervisors will ensure officers of this department are recording their traffic and pedestrian stops. A recording of each officer will be reviewed at least once every ninety (90) days.

If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the officer making the stop may properly record and report the information to the equipment officer as soon as possible but no later than the end of the shift. If another unit is available which is equipped with properly functioning video and/or audio equipment, then the officer will change to the other unit.

SECTION 9 RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.

III. Responding to the Texas Racial Profiling Law

Filing a Complaint with The Denison Police Department

*** The following information has been disseminated to the public as part of an educational campaign aimed at informing community members of the complaint process relevant to violations of the Texas Racial Profiling Law. The following Citizen Complaint Process has been posted in the foyer of the police department and has been added to the Denison Police Department's portion of the City of Denison website. This process is also aired on the local television advertisement network.



POLICE

CITIZEN COMPLAINT FORM

A message from Mike Gudgel, Chief of Police Denison Police Department

The employees of the Denison Police Department are committed to delivering the highest level of public safety services possible to our citizens and visitors to our community. We hold ourselves to high standards of conduct and the expectation is for our employees to always perform their duties with integrity, respect and in a professional manner.

I realize that sometimes we will make mistakes. While the number of these mistakes should be few, it is important that I am aware of any complaints toward our efforts in providing the best level of service possible. I would also like to know of any instances where our employees should be recognized or receive a commendation for a job well done.

If you do have a complaint, please complete the attached form to allow our agency to evaluate our employee's actions based on the facts of the incident. As your Chief of Police, I have a responsibility to you and the members of this department to ensure that any complaints of alleged misconduct are properly and thoroughly investigated, and discipline and/or training is provided when appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Gudgel".

Mike Gudgel, Chief of Police
Denison Police Department
108 W. Main Street
Denison, Texas 75021

Attachments: Denison Police Department
Complaint Form

**DENISON POLICE DEPARTMENT
COMPLAINT AGAINST EMPLOYEE
ADMINISTRATIVE INVESTIGATIONS
STATEMENT NOTIFICATION**

This filing of a formal complaint against an employee of the Denison Police Department by you institutes an administrative investigation, which could result in disciplinary action being taken against the employee(s).

Therefore, **a person who makes a false statement under oath concerning a complaint filed** (as required by Section 614.022, Texas Government Code) **against a law enforcement officer**, with intent to deceive and with knowledge of the statement's meaning, **is guilty of Aggravated Perjury** under Section 37.03 of the Texas Penal Code, if he/she has knowledge of the content of the complaint, the purpose of its filing, and the official character of the investigation conducted in connection therewith, and if the statement is material.

I acknowledge that I have read the above notification prior to or at the conclusion of my statement.

COMPLAINANT

DATE

WITNESS

Today is _____, the _____ day of _____, 20__.

I am submitting a formal complaint against the following named employee(s) of the Denison Police Department:

1) _____ 2) _____

3) _____ 4) _____

I do not know the employee(s) name. I can describe the employee as:

1) ___ Male ___ Female ___ White ___ Black ___ Hispanic ___ Asian

___ Height ___ Weight ___ Hair Color _____

2) ___ Male ___ Female ___ White ___ Black ___ Hispanic ___ Asian

___ Height ___ Weight ___ Hair Color _____

My complete name is: _____.

My complete address is: _____ Zip _____.

My birthday is: _____.

My Driver's license number is: _____.

My Social Security number is: _____.

Telephone numbers where I may be reached are:

() _____
Home

() _____
Work

() _____
Cell

Tell your story in your own words using the narrative on the next page(s). Include as much detail as possible. Please include name(s), places, times, witnesses and descriptions. When you have completed the narrative, return the complaint form to the Police Department.

If there are witnesses, do not take statements from them. The Internal Affairs Lieutenant will interview them. If you need additional pages, number and initial the bottom of each additional page.

When you have completed preparing your complaint, you are required to call the Internal Affairs Lieutenant (903-465-2422 ext. 2316) to schedule an appointment to meet with him personally. Do not leave your complaint with the receptionist. The I.A. Lieutenant must review your complaint with you present. The complaint will then be notarized by the I.A. Lieutenant once signed.

If the I.A. Lieutenant is on an extended absence (vacation etc.), ask the receptionist to call any police supervisor to meet you in the lobby. After a police supervisor has reviewed your complaint with you, the receptionist must notarize your signature and will forward your complaint to the I.A. Lieutenant.

DO NOT sign page 7 of the complaint unless your complaint has first been reviewed; in person; by either the I.A. Lieutenant or another police supervisor.

A complaint should be made in a timely manner after the incident so that the details are readily available to the investigating supervisor and prompt attention can be focused to correct and/or discipline an officer acting in an unacceptable manner.

According to state law, the Police Department's receipt of the complaint, investigation, and beginning of discipline of the officer must be completed within 180 days after the occurrence of the act. For criminal matters, the time frame is 180 days from the discovery of the act.

NOTARIZATION

On this, the _____ day of _____, 20____ personally appeared before me, the undersigned authority, _____ who, after being duly sworn by me deposes and says:

The statements contained in this report, made by me, are true and correct to the best of my knowledge.

Signature: _____ Date: _____, 20____.

Sworn and subscribed to before me, a Notary Public, in and for the State of Texas on this the _____ day of _____, 20____.

Notary Signature: _____.

(stamp)

Denison Police Department General Orders

The following section establishes the mission, vision, values, goals, objectives, oath, ethics, and employment practices of the Denison Police Department. Each of these components is often reviewed in order to ensure it adequately addresses the emerging needs of the department, the city, and the residents of the Denison community.

Mission Statement

The Denison Police Department is committed to serving and protecting while partnering with our community to enhance public safety and quality of life within the city.

Motto

Serving and Protecting

Values

SERVICE - We strive to meet or exceed the expectations for those in need of law enforcement assistance.

HONESTY - We adhere to the facts with fairness and straightforwardness of conduct.

INTEGRITY - We are committed to the highest standards of ethical conduct, with strict adherence to moral values and principles.

STACI – City of Denison Core Values

- Service
- Team Work
- Accountability
- Commitment
- Integrity

Training

In compliance with the Texas Racial Profiling Law, the Denison Police Department has asked that all its officers adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

All officers from the Denison Police Department have been asked to complete TCOLE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person, who on September 1, 2001, held a TCOLE intermediate proficiency certificate or who had held a peace officer license issued by TCOLE for at least two years, will complete a TCOLE training and education program on racial profiling not later than September 1, 2003.

The Chief of Police, as part of the initial training and continued education for such appointment, attended the LEMIT program on racial profiling. This fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Training law.

Denison, TX PD

Jan 1, 2021 - Dec 31, 2021

Racial Profiling Report

PLEASE NOTE: The official form does not allow for Other and Unknown in the Race or Ethnicity boxes on the TCOLE website. Please contact TCOLE for instructions on how to resolve these issues. This report only includes traffic stops resulting in a citation, traffic stops resulting in a citation with an arrest, traffic stops resulting in a warning with an arrest, and field interviews that resulted in an arrest. This report does not include any stops from traffic collisions.

1. Gender				8. Was Contraband Discovered?			
FEMALE	ALASKA NATIVE/AMERICAN INDIAN	0.30%	11	N	ALASKA NATIVE/AMERICAN INDIAN	0.66%	1
	ASIAN/PACIFIC ISLANDER	0.47%	17		BLACK	17.11%	26
	BLACK	10.52%	382		HISPANIC/LATINO	7.24%	11
	HISPANIC/LATINO	8.54%	310		WHITE	75.00%	114
	WHITE	80.18%	2,912			100.00%	152
		100.00%	3,632	Y	ALASKA NATIVE/AMERICAN INDIAN	0.30%	1
MALE	ALASKA NATIVE/AMERICAN INDIAN	0.58%	32		ASIAN/PACIFIC ISLANDER	0.30%	1
	ASIAN/PACIFIC ISLANDER	0.29%	16		BLACK	17.01%	57
	BLACK	13.10%	720		HISPANIC/LATINO	8.36%	28
	HISPANIC/LATINO	12.03%	661		WHITE	74.03%	248
	WHITE	74.00%	4,067		100.00%	335	
		100.00%	5,496	Total			487
Total			9,128	9. Description of Contraband			
2. Race or Ethnicity				ALCOHOL	BLACK	17.24%	5
ALASKA NATIVE/AMERICAN INDIAN	0.47%	43	HISPANIC/LATINO		6.90%	2	
ASIAN/PACIFIC ISLANDER	0.36%	33	WHITE		75.86%	22	
BLACK	12.07%	1,102			100.00%	29	
HISPANIC/LATINO	10.64%	971	CURRENCY		BLACK	50.00%	1
WHITE	76.46%	6,979		WHITE	50.00%	1	
Total	100.00%	9,128			100.00%	2	
3. Was Race or Ethnicity Known Prior to Stop?				DRUGS	ALASKA NATIVE/AMERICAN INDIAN	0.36%	1
					ASIAN/PACIFIC	0.36%	1

N		95.66%	8,732		ISLANDER		
Y		4.34%	396		BLACK	18.05%	50
Total		100.00%	9,128		HISPANIC/LATINO	8.30%	23
					WHITE	72.92%	202
4. Reason for Stop?						100.00%	277
MOVING TRAFFIC VIOLATION	ALASKA NATIVE/AMERICAN INDIAN	0.54%	31	OTHER	BLACK	10.00%	4
	ASIAN/PACIFIC ISLANDER	0.42%	24		HISPANIC/LATINO	15.00%	6
	BLACK	11.09%	637		WHITE	75.00%	30
	HISPANIC/LATINO	10.39%	597			100.00%	40
	WHITE	77.56%	4,455	STOLEN PROPERTY	HISPANIC/LATINO	50.00%	1
		100.00%	5,744		WHITE	50.00%	1
						100.00%	2
PRE EXISTING KNOWLEDGE	BLACK	25.00%	10	WEAPONS	BLACK	28.57%	2
	HISPANIC/LATINO	12.50%	5		HISPANIC/LATINO	14.29%	1
	WHITE	62.50%	25		WHITE	57.14%	4
		100.00%	40			100.00%	7
VEHICLE TRAFFIC VIOLATION	ALASKA NATIVE/AMERICAN INDIAN	0.34%	10	Total			357
	ASIAN/PACIFIC ISLANDER	0.24%	7	10. Result of the Stop			
	BLACK	13.54%	394	CITATION	ALASKA NATIVE/AMERICAN INDIAN	0.41%	13
	HISPANIC/LATINO	11.10%	323		ASIAN/PACIFIC ISLANDER	0.47%	15
	WHITE	74.77%	2,175		BLACK	13.24%	422
		100.00%	2,909		HISPANIC/LATINO	13.77%	439
VIOLATION OF LAW	ALASKA NATIVE/AMERICAN INDIAN	0.46%	2		WHITE	72.11%	2,298
	ASIAN/PACIFIC ISLANDER	0.46%	2			100.00%	3,187
	BLACK	14.02%	61	CITATION AND ARREST	BLACK	21.88%	7
	HISPANIC/LATINO	10.57%	46		HISPANIC/LATINO	12.50%	4
	WHITE	74.48%	324		WHITE	65.62%	21
		100.00%	435			100.00%	32
Total			9,128	WRITTEN WARNING	ALASKA NATIVE/AMERICAN INDIAN	0.51%	30
5. Street Address or Approximate Location of the Stop					ASIAN/PACIFIC ISLANDER	0.31%	18
CITY STREET			8,504		BLACK	11.37%	668
COUNTY ROAD			12		HISPANIC/LATINO	8.92%	524
PRIVATE PROPERTY OR OTHER			71		WHITE	78.89%	4,635
STATE HIGHWAY			140			100.00%	5,875
US HIGHWAY			401	WRITTEN WARNING AND ARREST	BLACK	14.71%	5
Total			9,128		HISPANIC/LATINO	11.76%	4
					WHITE	73.53%	25
6. Was a Search Conducted?						100.00%	34
				Total			9,128

N	ALASKA NATIVE/AMERICAN INDIAN	0.47%	41	11. Arrest Based On								
	ASIAN/PACIFIC ISLANDER	0.37%	32	OUTSTANDING WARRANT	BLACK	7.14%	2					
					HISPANIC/LATINO	10.71%	3					
					WHITE	82.14%	23					
	BLACK	11.79%	1,019			100.00%	28					
HISPANIC/LATINO	10.79%	932	VIOLATION OF PENAL CODE	BLACK	25.00%	5						
WHITE	76.58%	6,617		HISPANIC/LATINO	5.00%	1						
				WHITE	70.00%	14						
		100.00%	8,641			100.00%	20					
Y	ALASKA NATIVE/AMERICAN INDIAN	0.41%	2	VIOLATION OF TRAFFIC LAW	BLACK	27.78%	5					
	ASIAN/PACIFIC ISLANDER	0.21%	1		HISPANIC/LATINO	22.22%	4					
					WHITE	50.00%	9					
	BLACK	17.04%	83			100.00%	18					
	HISPANIC/LATINO	8.01%	39	Total			66					
		100.00%	487	12. Was Physical Force Resulting in Bodily Injury Used During Stop?								
Total			9,128	N	ALASKA NATIVE/AMERICAN INDIAN	0.47%	43					
7. Reason for Search?				CONSENT	ALASKA NATIVE/AMERICAN INDIAN	0.55%	1					
ASIAN/PACIFIC ISLANDER	0.37%	32	BLACK					13.74%	25			
										HISPANIC/LATINO	6.59%	12
												100.00%
CONTRABAND IN PLAIN VIEW	ASIAN/PACIFIC ISLANDER	3.57%	1			100.00%	1					
BLACK	3.57%	1	HISPANIC/LATINO	10.71%	3	Total		9,128				
						WHITE	82.14%	23	13. Was Arrest Due to Contraband Found?			
							100.00%	28	N	BLACK	16.67%	9
INCIDENT TO ARREST	BLACK	11.76%	2	HISPANIC/LATINO	11.11%	6	WHITE	72.22%	39			
HISPANIC/LATINO	5.88%	1									100.00%	54
			WHITE							82.35%	14	Y
		100.00%	17	HISPANIC/LATINO	16.67%	2						
INVENTORY	BLACK	18.75%	3				WHITE	58.33%	7			
HISPANIC/LATINO	6.25%	1									100.00%	12
			WHITE	75.00%	12	Total					66	
		100.00%	16	NO SEARCH								
ALASKA NATIVE/AMERICAN INDIAN	0.47%	41	ASIAN/PACIFIC ISLANDER	0.37%	32	BLACK	11.79%	1,019				

	HISPANIC/LATINO	10.79%	932
	WHITE	76.58%	6,617
		100.00%	8,641
PROBABLE CAUSE	ALASKA NATIVE/AMERICAN INDIAN	0.41%	1
	BLACK	21.31%	52
	HISPANIC/LATINO	9.02%	22
	WHITE	69.26%	169
		100.00%	244
Total			9,128

Report Created on: Jan 28, 2022 1:26 AM

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Denison, TX PD

Jan 1, 2021 - Dec 31, 2021

Racial Profiling Report - Del Carmen (w/ Resident)

PLEASE NOTE: The official form does not allow for Other and Unknown in the Race or Ethnicity boxes on the TCOLE website. Please contact TCOLE for instructions on how to resolve these issues. This report only includes traffic stops resulting in a citation, traffic stops resulting in a citation with an arrest, traffic stops resulting in a warning with an arrest, and field interviews that resulted in an arrest. This report does not include any stops from traffic collisions.

Table 1. (Motor Vehicle Contacts Including Tickets, Citations and Warnings) - COUNT

	WRITTEN WARNING	WRITTEN WARNING AND ARREST	CITATION AND ARREST	CITATION	Total
	Resident - N	Resident - N	Resident - N	Resident - N	
A	18	0	0	15	33
B	668	5	7	422	1,102
H	524	4	4	439	971
I	30	0	0	13	43
W	4,635	25	21	2,298	6,979
Total	5,875	34	32	3,187	9,128

Table 1. (Motor Vehicle Contacts Including Tickets, Citations and Warnings) - %

	WRITTEN WARNING	WRITTEN WARNING AND ARREST	CITATION AND ARREST	CITATION	Total
	Resident - N	Resident - N	Resident - N	Resident - N	
A	0.21%	0.00%	0.00%	0.17%	0.38%
B	7.32%	0.07%	0.08%	4.53%	12.00%
H	5.74%	0.04%	0.04%	4.83%	10.66%
I	0.36%	0.00%	0.00%	0.13%	0.50%
W	51.12%	0.27%	0.22%	24.86%	76.47%
Total	64.76%	0.38%	0.35%	34.51%	100.00%

(II) Comparative Analysis

Table 1. Comparison of Self-Initiated Stops of Contacts and DPS Resident Data

Race/Ethnicity*	Contacts		DPS Data		Variance	
	N	%	N	%	N	%
Caucasian**	6979	76.5	37073	86.1	N/A	9.6
African	1102	12.1	3180	7.4	N/A	-4.7
Asian	33	.4	399	.9	N/A	.5
Native American	43	.5	653	1.5	N/A	1.0
Other	971	10.5	1753	4.1	N/A	-6.4
Total	9128	100%	43058	100%		

* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Middle Eastern or Native American”.

** In this table, Hispanics have been added to the Caucasian population and the Middle Easterners have been added to the “Other” population.

This has been done in order to correspond with DPS data collection methods.

According to DPS, Hispanics are combined, in their data reports, with the Caucasian population and the Middle Easterners in the “Other” population.

Additional Comments:

Analysis

The data presented in this report contains valuable information regarding police contacts with the public between 01/01/21 and 12/31/21. Despite its value, the raw data does not present much information relevant to racial profiling trends.

Thus, it is felt that further analysis of the data is warranted. As such, data was obtained through the Texas Department of Public Safety (DPS), via a public information request. The data obtained from DPS included the race and gender of drivers in the city of Denison during the 2021 calendar year. The decision to obtain DPS data was made since, according to experts, census data presents challenges to any effort made at establishing a fair and accurate analysis. That is, census data contains information of all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a benchmark of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Denison Police Department, but reside outside city limits. This has a tendency of inflating the overall figures; thus, providing an inaccurate representation of police contacts with the public. Therefore, it is felt that DPS data relevant to city residents, if compared only to the portion of individuals who reside in the city of Denison and have come in contact with the police during a given year, will offer a more accurate representation and provide further insights than other sources including census data.

For example: When comparing the city residents who came in contact with the Denison Police Department during 2021 with those who, according to DPS, were residents of the city during that time and held a valid driver's license, the data produced interesting findings. That is, the number of police contacts with White drivers, when compared to the number of White city residents who held a valid drivers license, demonstrated that the number of contacts with the police were under-represented. It must be noted that Hispanics were grouped with Caucasians for purposes of this analysis since DPS does not collect information related to the ethnicity of drivers. In fact, according to their own language, DPS considers Hispanics, in their data collection process, as Caucasians.

IV. Summary Findings

Summary Statement

The findings suggest that the Denison Police Department does not currently experience a problem regarding racial profiling practices. This is supported by the fact that we have not received any written formal complaints from community members regarding officers misconduct associated with racial profiling practices. Even though the comparison data indicates a higher rate for African Americans, this is due to the fact the comparison was totaled with resident and non-resident contacts.

The continuing effort to collect police contact data will assure an on-going evaluation of the Denison Police Department practices and allow for the citizens of the Denison community to benefit from professional and courteous service from their police department.

Checklist

(I) The following requirements ***must*** be met by all law enforcement agencies in the State of Texas:

- Clearly defined act of actions that constitute racial profiling.
- Statement indicating prohibition of any peace officer employed by the Denison Police Department from engaging in racial profiling.
- Implement a process by which an individual may file a complaint regarding racial profiling violations.
- Provide public education related to the complaint process.
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law.
- Collect data (Tier 1) that includes information on:
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2022.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.

(II) Report and stats compiled by Asst. Chief Joe Clapp.

(III) For additional questions regarding the information presented in this report, please contact:

Chief Mike Gudgel
108 West Main St.
Denison, Texas 75021
(903) 465-2422

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on a Resolution authorizing continued participation with the Steering Committee of Cities served by Oncor and authorizing the payment of ten cents per capita to the Steering Committee to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC.

Staff Contact

Bobby Atteberry, Interim City Manager
batteberry@cityofdenison.com
(903) 464-4440

Summary

- The City of Denison is a member of a 162-member city coalition known as the Steering Committee of Cities Served by Oncor (Steering Committee).
- The Steering Committee undertakes activities on behalf of municipalities for which it needs funding support from its members.
- The Steering Committee has been in existence since the late 1980s. It took on a formal structure in the early 1990s.
- the Steering Committee has been the primary public interest advocate before the Public Utility Commission, ERCOT, the courts, and the Legislature on electric utility regulation matters for over three decades.
- A per capita assessment has historically been used and is a fair method for the members to bear the burdens associated with the benefits received from that membership.
- The resolution approves the assessment of a ten cent (\$0.10) per capita fee to fund the activities of the Steering Committee.

Staff Recommendation

Staff recommends adoption of the Resolution.

Recommended Motion

“I move to adopt the Resolution authorizing continued participation with the Steering Committee of Cities served by Oncor and authorizing the payment of ten cents per capita to the Steering Committee to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC.”

Background Information and Analysis

The City of Denison is a member of a 162-member city coalition known as the Steering Committee of Cities Served by Oncor (Steering Committee).

The Steering Committee undertakes activities on behalf of municipalities for which it needs funding support from its members. Municipalities have original jurisdiction over the electric distribution rates and services within the city. The Steering Committee has been in existence since the late 1980s. It took on a formal structure in the early 1990s. Empowered by city resolutions and funded by per capita assessments, the Steering Committee has been the primary public interest advocate before the Public

Utility Commission, ERCOT, the courts, and the Legislature on electric utility regulation matters for over three decades.

The Steering Committee is actively involved in rate cases, appeals, rulemakings, and legislative efforts impacting the rates charged by Oncor Electric Delivery Company, LLC within the City. Steering Committee representation is also strong at ERCOT. It is possible that additional efforts will be necessary on new issues that arise during the year, and it is important that the Steering Committee be able to fund its participation on behalf of its member cities. A per capita assessment has historically been used and is a fair method for the members to bear the burdens associated with the benefits received from that membership. The resolution approves the assessment of a ten cent (\$0.10) per capita fee to fund the activities of the Steering Committee.

Financial Considerations

The cost of the annual membership is \$2,579.20 and is budgeted out of the General Fund.

Prior Board or Council Action

This is an annual membership for which the Council has approved for the previous several years.

Alternatives

The Council may deny, modify or table the agenda item.

City of Arlington, c/o Oncor Cities
 Steering Committee
 Attn: Brandi Stigler
 101 S. Mesquite St., Ste. 300
 MS # 63-0300
 Arlington, TX 76010

Invoice

Date	Invoice #
1/12/2022	22-41

Bill To
City of Denison

Item	Population	Per Capita	Amount
2022 Membership Assessment	25,792	0.10	2,579.20
Please make check payable to: Oncor Cities Steering Committee and mail to Oncor Cities Steering Committee, Attn: Brandi Stigler, Arlington City Attorney's Office, 101 S. Mesquite St., Ste. 300, MS #63-0300, Arlington, Texas 76010			Total \$2,579.20

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AND AUTHORIZING THE PAYMENT OF TEN CENTS PER CAPITA TO THE STEERING COMMITTEE TO FUND REGULATORY AND LEGAL PROCEEDINGS AND ACTIVITIES RELATED TO ONCOR ELECTRIC DELIVERY COMPANY, LLC.

WHEREAS, the City of Denison is a regulatory authority under the Public Utility Regulatory Act (PURA) and has exclusive original jurisdiction over the rates and services of Oncor Electric Delivery Company, LLC (Oncor) within the municipal boundaries of the city; and

WHEREAS, the Steering Committee of Cities Served By Oncor (Steering Committee) has historically intervened in Oncor rate proceedings and electric utility related rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and

WHEREAS, the Steering Committee is participating in Public Utility Commission dockets and projects, as well as court proceedings, and legislative activity, affecting transmission and distribution utility rates; and

WHEREAS, the City is a member of the Steering Committee; and

WHEREAS, the Steering Committee functions under the direction of an Executive Committee which sets an annual budget and directs interventions before state and federal agencies, courts and legislatures, subject to the right of any member to request and cause its party status to be withdrawn from such activities; and

WHEREAS, the Steering Committee at its December 2021 meeting set a budget for 2022 that compels an assessment of ten cents (\$0.10) per capita; and

WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs.

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

I.

That the City is authorized to continue its membership with the Steering Committee of Cities Served by Oncor to protect the interests of the City of Denison and protect the interests of the customers of Oncor Electric Delivery Company, LLC residing and conducting business within the City limits.

II.

The City is further authorized to pay its assessment to the Steering Committee of ten cents (\$0.10) per capita based on the population figures for the City shown in the latest TML Directory of City Officials.

III.

A copy of this Resolution and the assessment payment check made payable to “*Steering Committee of Cities Served by Oncor*” shall be sent to Brandi Stigler, Steering Committee of Cities Served by Oncor, c/o City Attorney’s Office, Mail Stop 63-0300, 101 S. Mesquite St., Suite 300, Arlington, Texas 76010.

PRESENTED AND PASSED on this the 22nd day of February, 2022, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Denison, Texas.

JANET GOTT, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on an Ordinance repealing Ordinance No. 5162, establishing classifications for the Police Department, providing for reclassification of a Lieutenant position to Sergeant and establishing additional police officer positions.

Staff Contact

Mike Gudgel, Police Chief
mgudgel@cityofdenison.com
903.465.2720, Ext. 2301

Summary

- City of Denison Civil Service Rule 7.01 and Texas LGC Sec. 143.021.
CLASSIFICATION: (a) The commission shall provide for the classification of all fire fighters and police officers. The municipality's governing body shall establish the classifications by ordinance. The governing body by ordinance shall prescribe the number of positions in each classification .
- With the retirement of Lieutenant Mike Eppler next month, it is the appropriate time to update the organizational structure of Denison Police Department.
- Additionally, a civilian Media Relations Coordinator position was filled last year, and that individual is able to absorb many duties previously assigned to the Public Information Officer (Lieutenant Eppler).
- Staff recommends reducing the number of Lieutenant positions by one and reclassifying it to a Sergeant's position.
- The Civil Service Commission has approved this item and final approval of this amendment must be adopted by ordinance of the City Council.

Staff Recommendation

Staff recommends amending the classifications in the Police Department to the following:

Chief – 1
Asst. Chief – 2
Lieutenant – 4
Sergeant – 7
Police Officer – 39
TOTAL 53

Recommended Motion

“I move to approve the Ordinance repealing Ordinance No. 5162, establishing classifications for the Police Department, providing for reclassification of a Lieutenant position to Sergeant and establishing additional police officer positions.”

Background Information and Analysis

Chapter 143 of the Texas Local Government Code requires that the of the City of Denison, Texas ("City Council") establish the number of authorized positions in each civil service classification for

the Fire and Police Departments by ordinance. The City Council has previously adopted Ordinance No. 5162 to comply with this statutory requirement. To further its lawful purposes of providing efficient and effective operation of its Police Department, it should reclassify one (1) Lieutenant position and to the rank of Sergeant; and establish six (6) additional positions at the rank of Police Officer. Through staff evaluation while considering the Denison Police Department's allocated civil service personnel, it has been determined that a front-line supervisor (Sergeant) can absorb the duties of the current Community Services Lieutenant. Therefore, the recommendation from staff would be to dissolve one (1) current Lieutenant position, when it is vacated by the retirement of Lt. Eppler and convert it to one (1) Sergeant position, to better serve the supervisory structure of the department and the City. The Civil Service Commission has approved this item.

Financial Considerations

Reclassifying the position will create a small savings.

Prior Board or Council Action

The current Ordinance No. 5162, which outlines the current classification in the Police Department was approved September 20, 2021.

Alternatives

The Council can approve the classification numbers as presented, table the item, or deny approval and allow current numbers in each classification to remain.

ORDINANCE NO. 5162

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, REPEALING ORDINANCE NOS. 4700 AND 4707 AND ESTABLISHING CLASSIFICATIONS FOR THE POLICE DEPARTMENT; PROVIDING FOR APPOINTMENTS OF POSITIONS CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD; PROVIDING FOR SEVERABILITY; FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS Chapter 143 of the Texas Local Government Code requires that the of the City of Denison, Texas (“City Council”) establish the number of authorized positions in each civil service classification for the Fire and Police Departments by ordinance; and

WHEREAS, the City Council has previously adopted Ordinances Nos. 4700 and 4707 to comply with this statutory requirement; and

WHEREAS, the City Council has now determined the number of personnel in the classifications of the Police Department, wishes to fund such positions for the remainder of the current budget year, and desires to establish the classifications for the same.

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

SECTION 1: The findings set forth above are incorporated as if fully set forth herein.

SECTION 2. That Ordinance Nos. 4700 and 4707 are hereby repealed.

SECTION 3: That the number of personnel in the classifications of the Police Department exist currently as follows:

POLICE DEPARTMENT

Chief	1
Asst. Chief	2
Lieutenant	5
Sergeant	6
Police Officer	33
Total	47

SECTION 4: That the number of personnel in the classifications of the Police Department will now be, and hereafter, unless amended by ordinance pursuant to Texas Local Government Code 143.021:

POLICE DEPARTMENT

Chief	1
-------	---

Asst. Chief	2
Lieutenant	5
Sergeant	6
Police Officer	39
 Total	 53

SECTION 5. That the City Council authorizes two (2) appointments in the Assistant Police Chief classification which is immediately below that of the department head in the Police Department as prescribed by Section 143.014, Texas Local Government Code.

SECTION 6: Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 7: That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

SECTION 8: This Ordinance shall become effective from and after its date of passage and approval.

AND IT IS SO ORDERED.

On motion by Mayor Pro Tem Hander, seconded by Council Member Crawley, the above and foregoing ordinance was passed and approved on this the 20th day of September 2021, by the following vote:

Ayes: Hander, Courtright, Thorne, Gott, Crawley and Spiegel.

Nays:

Abstentions:


Absent: Doty

At regular meeting September 20, 2021.



 JANET GOTT, Mayor

ATTEST:



 Christine M. Wallentine, City Clerk



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, REPEALING ORDINANCE NO. 5162 AND ESTABLISHING CLASSIFICATIONS FOR THE POLICE DEPARTMENT; PROVIDING FOR RECLASSIFICATION OF A LIEUTENANT POSITION TO SERGEANT AND ESTABLISHING ADDITIONAL POLICE OFFICER POSITIONS; PROVIDING FOR SEVERABILITY; FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BYLAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS Chapter 143 of the Texas Local Government Code requires that the of the City of Denison, Texas ("City Council") establish the number of authorized positions in each civil service classification for the Fire and Police Departments by ordinance; and

WHEREAS, the City Council has previously adopted Ordinance No. 5162 to comply with this statutory requirement; and

WHEREAS, the City Council has determined that to further its lawful purposes of providing efficient and effective operation of its Police Department, that it should reclassify one (1) Lieutenant position and to the rank of Sergeant; and establish six (6) additional positions at the rank of Police Officer.

WHEREAS, the City Council has now determined the number of personnel in the classifications of the Police Department, wishes to fund such positions for the remainder of the current budget year, and desires to establish the classifications for the same.

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

SECTION 1: The findings set forth above are incorporated as if fully set forth herein.

SECTION 2. That Ordinance No. 5162 is hereby repealed.

SECTION 3: That the number of personnel in the classifications of the Police Department exist currently as follows:

POLICE DEPARTMENT

Chief	1
Asst. Chief	2
Lieutenant	5
Sergeant	6
Police Officer	33
TOTAL	47

SECTION 4: That the City Council authorizes that one (1) Lieutenant position be reclassified to the rank of Sergeant and six (6) additional positions at the rank of Police Officer so that the number of personnel in the classifications of the Police Department will now be, and hereafter, unless amended by ordinance pursuant to Texas Local Government Code 143.021:

POLICE DEPARTMENT

Chief	1
Asst. Chief	2
Lieutenant	4
Sergeant	7
Police Officer	39

TOTAL 53

SECTION 5: Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6: That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

SECTION 7: This Ordinance shall become effective from and after March 19, 2022.

AND IT IS SO ORDERED.

On motion by _____, seconded by _____, the above and foregoing ordinance was passed and approved on this the 22nd day of February 2022, by the following vote:

Ayes: Nays:

Abstentions:

Absent:

At regular meeting February 22, 2022.

Janet Gott, Mayor

ATTEST:

Christine M. Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on an Ordinance repealing Ordinance No. 5021, establishing classifications for the Fire Department, establishing an additional Battalion Chief position and establishing additional Firefighter positions.

Staff Contact

Kenneth Jacks, Fire Chief

kjacks@cityofdenison.com

903.465.2720, Ext. 2201

Summary

- City of Denison Civil Service Rule 7.01 and Texas LGC Sec. 143.021.
CLASSIFICATION: (a) The commission shall provide for the classification of all fire fighters and police officers. The municipality's governing body shall establish the classifications by ordinance. The governing body by ordinance shall prescribe the number of positions in each classification .
- Previously, due to the outsourcing of Emergency Medical Services, the classification numbers in the Fire Department were reduced. As EMS has returned to the Fire Department, it is now necessary to increase staffing levels once again to meet service level needs.
- Staff recommends increasing the number of Firefighter/Paramedic positions by three and the classification of Battalion Chief by one.
- The Civil Service Commission has approved this item and final approval of this amendment must be adopted by ordinance of the City Council.

Staff Recommendation

Staff recommends amending the classifications in the Fire Department to the following:

Chief – 1

Asst. Chief – 2

Battalion Chief – 5

Captain – 10

Engineer - 10

Firefighter – 33

TOTAL 61

Recommended Motion

“I move to approve the Ordinance repealing Ordinance No. 5021, establishing classifications for the Fire Department, establishing an additional Battalion Chief position and establishing additional Fire Fighter positions.”

Background Information and Analysis

Chapter 143 of the Texas Local Government Code requires that the of the City of Denison, Texas ("City Council") establish the number of authorized positions in each civil service classification for the Fire and Police Departments by ordinance. The City Council has previously adopted Ordinance No. 5021

to comply with this statutory requirement. To further its lawful purposes of providing efficient and effective operation of its Fire Department, that it should establish one (1) additional position in the rank of Battalion Chief and establish three (3) additional positions at the rank of Firefighter. Previously, due to the outsourcing of Emergency Medical Services, the classification numbers in the Fire Department were reduced. As EMS has returned to the Fire Department, it is now necessary to increase staffing levels once again to meet service level needs. The Civil Service Commission has approved this item.

Financial Considerations

Reclassification will require budget amendments to be considered by the City Council.

Prior Board or Council Action

The current Ordinance No. 5021, which outlines the current classification in the Fire Department was approved September 3, 2019.

Alternatives

The Council can approve the classification numbers as presented, table the item, or deny approval and allow current numbers in each classification to remain.

ORDINANCE NO. 5021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS REPEALING ORDINANCE NO. 4999 AND ANY OTHER ORDINANCE IN CONFLICT WITH THIS ORDINANCE; RECLASSIFYING ONE CAPTAIN POSITION TO ENGINEER AND ABOLISHING ONE CAPTAIN POSITION IN THE FIRE DEPARTMENT; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 143 of the Texas Local Government Code requires that the number of authorized positions in each civil service classification for the Fire and Police departments be established by ordinance; and

WHEREAS, the City Council has determined that to further its lawful purposes of providing efficient and effective operation of its Fire Department, that it should take one (1) Captain and reclassify the position to the rank of Engineer and take one (1) Captain position and abolish it; and

WHEREAS, the City Council is amending and superseding Ordinance No. 4999; and

WHEREAS, the City Council has determined the number of personnel in the Captain position in the Fire Department shall decrease as necessary for the efficient and effective operation of its Fire Department and

WHEREAS, the City Council has determined the number of personnel in the Engineer position shall increase as necessary for the efficient and effective operation of its Fire Department and wishes to fund such positions for the remainder of the current budget year; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

SECTION 1: That the number of personnel in the classifications of the Fire Department, created by Ordinance 4999, exist currently as follows:

<u>FIRE DEPARTMENT</u>	
Chief	1
Assistant Chief	2
Battalion Chief	4
Captain	12
Engineer	9
Firefighter	30
Total	58

SECTION 2: That the number of personnel in the classifications of the Fire Department will now be, and hereafter, unless amended by ordinance pursuant to Texas Local Government Code 143.021:

FIRE DEPARTMENT

Chief	1
Assistant Chief	2
Battalion Chief	4
Captain	10
Engineer	10
Firefighter	30
Total	57

SECTION 3: Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Denison, Texas, in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4: Savings/Repealing. Ordinance No. 4960 is hereby repealed in its entirety. All provisions of any other ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force effect.


SECTION 5: Publishing and Effective Date. This ordinance shall become effective according to law.

SECTION 6: Open Meetings. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

On motion by Council Member Adams, seconded by Council Member Spiegel, the above and foregoing ordinance was passed and approved on this the 3rd day of September, 2019, by the following vote:

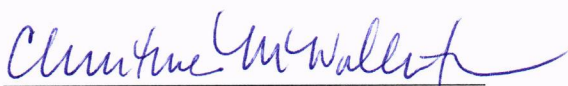
Ayes: Hander, Adams, Greenleaf, Gott, Doty, Crawley and Spiegel
Nays:
Abstentions:
Absent:

At regular meeting September 3, 2019.



JANET GOTT, MAYOR

ATTEST:



Christine M. Wallentine, City Clerk

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, REPEALING ORDINANCE NO. 5021 AND ESTABLISHING CLASSIFICATIONS FOR THE FIRE DEPARTMENT; ESTABLISHING AN ADDITIONAL BATTALION CHIEF POSITION AND ESTABLISHING ADDITIONAL FIREFIGHTER POSITIONS; PROVIDING FOR SEVERABILITY; FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BYLAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS Chapter 143 of the Texas Local Government Code requires that the of the City of Denison, Texas ("City Council") establish the number of authorized positions in each civil service classification for the Fire and Police Departments by ordinance; and

WHEREAS, the City Council has previously adopted Ordinance No. 5021 to comply with this statutory requirement; and

WHEREAS, the City Council has determined that to further its lawful purposes of providing efficient and effective operation of its Fire Department, that it should establish one (1) additional position in the rank of Battalion Chief and establish three (3) additional positions at the rank of Firefighter.

WHEREAS, the City Council has now determined the number of personnel in the classifications of the Fire Department, wishes to fund such positions for the remainder of the current budget year, and desires to establish the classifications for the same.

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

SECTION 1: The findings set forth above are incorporated as if fully set forth herein.

SECTION 2. That Ordinance No. 5021 is hereby repealed.

SECTION 3: That the number of personnel in the classifications of the Fire Department exist currently as follows:

<u>FIRE DEPARTMENT</u>	
Chief	1
Assistant Chief	2
Battalion Chief	4
Captain	12
Engineer	9
Firefighter	30
TOTAL	58

SECTION 4: That the City Council authorizes that one (1) position be added to the rank of Sergeant and three (3) additional positions at the rank of Firefighter so that the number of personnel in the classifications of the Fire Department will now be, and hereafter, unless amended by ordinance pursuant to Texas Local Government Code 143.021:

FIRE DEPARTMENT

Chief	1
Asst. Chief	2
Battalion Chief	5
Captain	10
Engineer	10
Firefighter	33
TOTAL	61

SECTION 5: Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6: That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

SECTION 7: This Ordinance shall become effective from and after its date of passage and approval.

AND IT IS SO ORDERED.

On motion by _____, seconded by _____, the above and foregoing ordinance was passed and approved on this the 22nd day of February, 2022, by the following vote:

Ayes: Nays:
Abstentions:
Absent:

At regular meeting February 22, 2022.

_____ Janet Gott, Mayor

ATTEST:

Christine M. Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on a Resolution appointing Bobby Atteberry as a Voting Member and Carrie Jones as an Alternate Member to the Technical Advisory Committee, or TAC, of the Grayson County Metropolitan Planning Organization, or GCMPO.

Staff Contact

Bobby Atteberry, City Manager

batteberry@cityofdenison.com

903-464-4440

Summary

- The Grayson County Metropolitan Planning Organization, or GCMPO, Technical Advisory Committee, or TAC, reviews and makes recommendations to the GCMPO Policy Board on matters related to the business of the MPO.
- The membership consists of engineers and planners from all the local governments represented by the MPO as well as representatives from the Texoma Area Paratransit System (TAPS), the Regional Mobility Authority (RMA), the North Texas Regional Airport, and the Texas Department of Transportation.
- Staff recommends that Council appoint Bobby Atteberry to serve as Denison's Voting Member and Carrie Jones, Director of Public Works, to serve as Alternate Member

Staff Recommendation

Staff recommends approval of the Resolution.

Recommended Motion

"I move to adopt the Resolution appointing Bobby Atteberry as a Voting Member and Carrie Jones as an Alternate Member of the Technical Advisory Committee of the Grayson County Metropolitan Planning Organization."

Background Information and Analysis

The Grayson County Metropolitan Planning Organization, which is the Metropolitan Planning Organization (MPO) for the Grayson County Metropolitan Area, has the responsibility under the provisions of Fixing America's Surface Transportation (FAST) Act for developing and conducting a continuing, cooperative, and comprehensive transportation planning process for the metropolitan area. The Technical Advisory Committee of the Grayson County Metropolitan Planning Organization is charged with assisting the director in ensuring that plans and programs are developed and conducted in accordance with current legislation, technical tasks associated with the development of the Metropolitan Transportation Plan and the Transportation Improvement Program, and review projects and make recommendations regarding these to the Policy Board.

Voting and alternate members of the Technical Advisory Committee (TAC) must be appointed by the governing bodies who are members of the Grayson County Metropolitan Planning Organization

(GCMPO). Staff recommends the appointment of Bobby Atteberry to serve as the City of Denison's Voting Member and Carrie Jones as Alternate Member of the TAC.

Financial Considerations

None.

Prior Board or Council Action

Greg Smith was appointed Voting Member and Bobby Atteberry appointed Alternate Member on via Resolution 4065 on October 4, 2021.

Alternatives

Council may deny, table, or modify the item.

RESOLUTION NO. _____

GRAYSON COUNTY COMMISSIONERS COURT APPOINTING A VOTING MEMBER TO THE TECHNICAL ADVISORY COMMITTEE OF THE GRAYSON COUNTY METROPOLITAN PLANNING ORGANIZATION

WHEREAS, the Grayson County Metropolitan Planning Organization, which is the Metropolitan Planning Organization (MPO) for the Sherman-Denison Metropolitan Area, has the responsibility under the provisions of Fixing America’s Surface Transportation (FAST) Act for developing and carrying out a continuing, cooperative and comprehensive transportation planning process for the metropolitan area; and,

WHEREAS, the Technical Advisory Committee of the Grayson County Metropolitan Planning Organization is charged with assisting the director in ensuring that plans and programs are developed and conducted in accordance with current legislation, technical tasks associated with the development of the Metropolitan Transportation Plan and the Transportation Improvement Program, and review projects and make recommendations regarding these to the Policy Board; and,

WHEREAS, voting and alternate members of the Technical Advisory Committee are appointed by the governing bodies of the Grayson County Metropolitan Planning Organization.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, THAT: on February 22, 2022, in a property noticed public meeting in accordance with the Bylaws of the Grayson County Metropolitan Planning Organization, that the following are appointed as voting and alternate members of the Technical Advisory Committee of the Grayson County Metropolitan Planning Organization:

Bobby Atteberry, Interim City Manager – Voting Member

↓

Carrie Jones, Director of Public Works – Alternate Member

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, BY A VOTE OF __ TO __, ON THE TWENTY-SECOND DAY OF FEBRUARY, 2022.

JANET GOTT, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on the reappointment of Linwood Smith and the appointment of Charles Shearer as regular members to the Zoning Board of Adjustments and Appeals each to serve a two-year term, commencing January 1, 2022.

Staff Contact

Felecia Winfrey, Management Assistant
fwinfrey@cityofdenison.com
903-465-2720 ext. 2519

Summary

- The Denison Zoning Board of Adjustments and Appeals was created under Chapter 28, Article II, Section 28.8 of the Denison Code of Ordinances.
- The Zoning Board of Adjustments and Appeals is comprised of five (5) total members; two (2) alternate members, all of whom reside within the City of Denison.
- The function of the Zoning Board of Adjustments and Appeals is to make special exceptions that are consistent with the general purpose and intent of this Ordinance in appropriate cases and subject to appropriate conditions and safeguards. Each member shall serve a two-year term of office, with no more than three consecutive full terms.
- Mr. Smith is currently serving as regular members on the Zoning Board of Adjustments and Appeals. Mr. Shearer served as Chair of the Planning and Zoning Commission. He has spent three terms on the Planning and Zoning Commission and is in good standing. Mr. Shearer has demonstrated his commitment to the Commission as well as to the City of Denison through his architecture business in the City.
- Mr. Shearer's appointment will fill the vacancy left by Jimmy D. Cravens.
- Mr. Smith and Mr. Shearer are in good standing and are willing and eligible to serve a two-year term.

Staff Recommendation

City Staff recommends approval of the item based on the dedicated service of the applicants.

Recommended Motion

"I move to reappoint Linwood Smith and appoint Charles Shearer Mason as members to the Zoning Board of Adjustments and Appeals each to serve a two-year term, commencing January 1, 2022."

Background Information and Analysis

The Denison Zoning Board of Adjustments and Appeals was created under Chapter 28, Article II, Section 28.8 of the Denison Code of Ordinances. The Zoning Board of Adjustments and Appeals is comprised of five (5) total members; two (2) alternate members, all of whom reside within the City of Denison. The members are appointed by the City Council. The function of the Zoning Board of Adjustments and Appeals is to make special exceptions that are consistent with the general purpose and

intent of this Ordinance in appropriate cases and subject to appropriate conditions and safeguards. Each member shall serve not more than a two-year term of office, with no more than three (3) consecutive full terms.

Linwood Smith has a term expiring on December 31, 2021. All are eligible and willing to serve a two-year term. There are no known or obvious reasons that this item should not be approved. Each of the applicants has demonstrated outstanding service.

Financial Considerations

None

Prior Board or Council Action

The Council's most recent appointments to the Zoning Board of Adjustments and Appeals were Linwood Smith, Jeff Thompson, and George Mason in 2021.

Alternatives

Not to approve the appointment and reappointments to the Zoning Board of Adjustments and Appeals.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and authorize the purchase of three generators through a purchasing cooperative from Generator Source in the amount of \$368,500 for the Water Plant, Lake Randell Pump Station and Parkdale Water Tower and authorize the Interim City Manager to execute all necessary documents.

Staff Contact

Carrie Jones, Director of Public Works
cjones@cityofdenison.com
903-465-2720 x2441

Summary

- According to the Texas Commission on Environmental Quality, all public water systems are required to have backup generation in place by July 1, 2022.
- Included in our Water Plant Master plan was the addition of generators in three key locations to continue being able to pump and treat water in the event of a power outage.
- These generators will be put in place at the Water Treatment Plant, Lake Randell Pump Station and at Parkdale Water Tower.

Staff Recommendation

Staff recommends approval of the purchase of the three generators.

Recommended Motion

“I move to approve the purchase of three generators through a purchasing cooperative from Generator Source in the amount of \$368,500 and authorize the Interim City Manager to execute all necessary documents.”

Background Information and Analysis

The Water Treatment Plant is currently fed by dual power. Prior to Winter Storm Uri, it was assumed that this was a safe and reliable source of electricity. However, due to the severity of the storm and the power shut-downs, the treatment plant lost the ability to treat water due to no power and freezing of pumps. After this occurred, it was a priority to get a backup power source that could keep the water plant running in the event of a major power outage.

Staff has been working diligently with our electrical engineers throughout the Water Plant Master Plan to determine the best locations and sizes for the generators. In addition to our Water Plant Master Plan, TCEQ has made it a requirement that public water systems put in place backup power. With every public water system dealing with the need for a generator, trying to locate a new generator with a short lead time is near impossible.

Generator Source sells high quality used generators that have a short lead time and allow the City to meet the July 1 deadline. We have worked with Generator Source to locate three generators. The 1500KW generator will be for the Water Treatment Plant which will handle two of the high service

pumps along with the treatment plant. The size of the diesel tank is a positive with this generator because it will allow the generator to run for 3 days at full load. The 350KW unit will be for Parkdale which will run the current pumps at Parkdale Water Tower. The 500KW unit will be for the Raw Water Pump Station at Lake Randell and will handle all the pumps and potentially additional pumps that could be added in the future.

Financial Considerations

The total cost of all three generators and shipping is \$368,500. This is a budgeted item in the CIP for FY2022. The vendor is part of the BuyBoard contract.

Prior Board or Council Action

None.

Alternatives

Council may direct staff to purchase new generators or find a different a vendor for the purchase of the generators.



GENERATOR SOURCE

SALES · RENTALS · SERVICE

Quote for:
Angus Evans
(903) 464-4482
aevans@cityofdenison.com

Prepared By:
Jared Outram
jared@generatorsource.com

88830,88980,89030-City of Denison- Diesel Generator Package

Bill To:
City of Denison
4631 Randell Lake Road
Denison, TX 75020

Ship To:
City of Denison
4631 Randell Lake Road
Denison, TX 75020

Created Date:
Feb 17, 2022

Expiration Date:
Feb 28, 2022

PO#:

Quote Number: 00001218

This proposal covers the following products and services:

PRODUCT	INFORMATION	DESCRIPTION	PRICE	QTY	TOTAL PRICE
Used Generator	Passed 31-point inspection, including load bank test	88830, 1500kW Cummins 277/480v 3ph 2003 464Hrs S/N: J03553166	\$208,000.00	1	\$208,000.00
Used Generator	Passed 31-point inspection, including load bank test	88980, 500kW Cummins 277/480v 3ph, 2008 740Hrs. Diesel S/N: C080168356	\$80,000.00	1	\$80,000.00
Used Generator	Passed 31-point inspection, including load bank test	89030, 350kW Generac 277/480v 3ph, 2005 Detroit engine 34Hrs. Diesel S/N: 2081701	\$52,000.00	1	\$52,000.00
Shop Labor	Quoted at standard shop rate to complete requested modifications or upgrades. Performed by company technicians.	Labor for conversion from 120/208v to 277/480v for unit 89030	\$1,000.00	1	\$1,000.00
Freight to customer	Shipping cost to be determined based off ship to location. Client is responsible for Offloading equipment.	Delivery cost for Delivery of 88830,88980, 89030	\$27,500.00	1	\$27,500.00

Subtotal \$368,500.00

Grand Total: \$368,500.00

Reply to your sales representative to lock in pricing and availability

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance changing the zoning of approximately 21.55 acres for property located north of Ridge Dr., from SF-7.5, Single Family Residential Zoning District to Planned Development Zoning District. (Case No. 2021-178PD)

Staff Contact

Dianne York, Planner
dyork@cityofdenison.com
903-465-2720

Summary

- The applicant is requesting to rezone approximately 21.55 acres from the SF-7.5, Single Family. Zoning District to Planned Development Zoning District to allow for a mixture of 50' and 60' residential lots.
- The proposed Planned Development District complies with the Comprehensive Plan.

Recommended Motion

"I move to approve (or deny) an Ordinance changing the zoning of the subject property from the SF-7.5, Single Family Zoning District to a Planned Development Zoning District."

Background Information and Analysis

Applicant is requesting a rezone of 21.545 acres from the SF-7.5 Single Family Residential Zoning District to a Planned Development Zoning District (PD) to allow for a mixture of 50' and 60' lots. The concept plan provided, depicts 74 lots, split between two areas with Area 1 located at the southern portion of the development and Area 2 located at the northern portion of the development. The PD language, illustrated in Exhibit A, calls out the base zoning for the development to be SF-7.5, Single Family Residential Zoning District as well as development standards pertaining to each Area of the development.

The significant development standards called out in the PD are listed below:

Area 1: 34 Lots

- Minimum width: 50'
- Minimum depth: 100'
- Minimum lot area: 5,000 square feet

Area 2: 40 Lots

- Minimum lot width: 60'
- Minimum lot depth: 100'
- Minimum lot area: 7,500 square feet

The entire development will consist of a two-car garage and the minimum living area for each dwelling shall be 1,600 square feet. A Homeowners Association (HOA) will be established to own and maintain all open spaces within the development. Sidewalks will be constructed along each street and side street and along open spaces.

The complete list of all development standards are listed within Exhibit A.

According to Ordinance Section 28.10, City staff and the Planning and Zoning Commission shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

Yes, the proposed uses are compatible with the overall residential uses in the area.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

There are no proposed plans to improve existing street, water supply, sanitary sewer systems, or other utilities.

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

The area around has mostly been developed in a residential manner.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

N/A

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

Other nearby areas should not be negatively affected as the area has been developed in a residential manner.

6. *Whether the zoning petition is consistent with the current land use plan; and*

Yes, this zoning petition is consistent with the Comprehensive Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

Financial Considerations

N/A

Prior Board or Council Action

The Planning and Zoning Commission recommended approval of this request at their meeting held on January 11th, 2022.

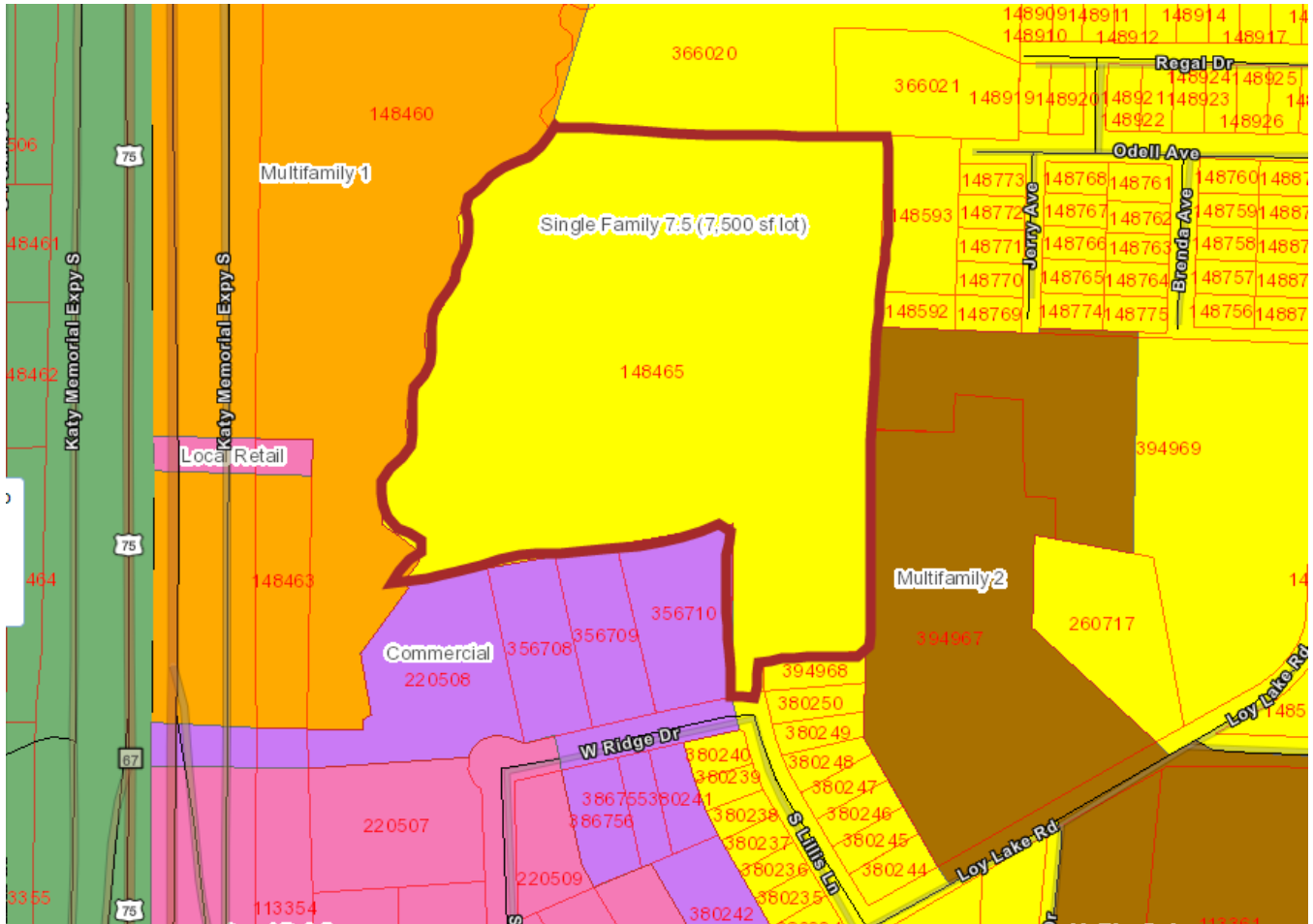
The City Council tabled this request at their meetings held on January 18th, 2022 and February 7th, 2022.

Alternatives

- The City Council may table, deny, or approve with conditions.

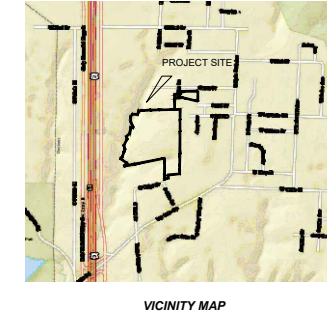
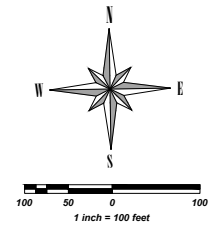
Aerial of Subject Property

Zoning of Subject Property – Office Zoning District



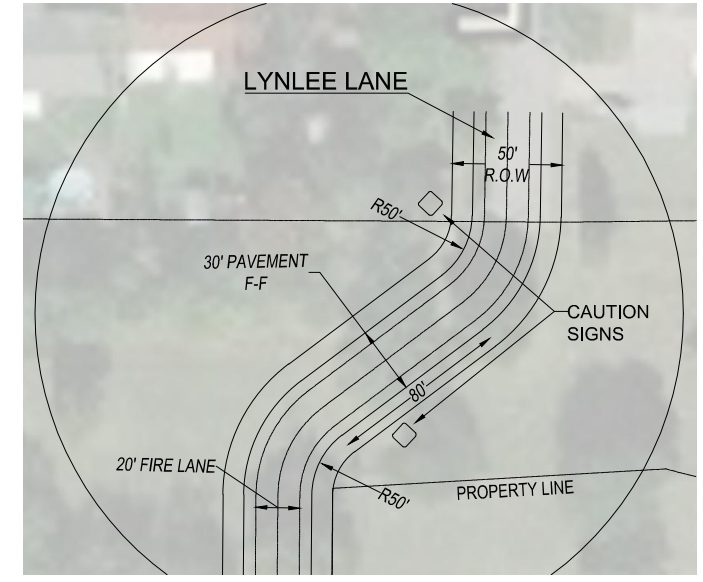
CURVE TABLE				
CURVE	LENGTH	RADIUS	DELTA	CHORD
C1	53.48'	503.60'	6°05'04"	S02°33'53"E 53.45'
C2	21.33'	15.00'	81°28'29"	N35°32'47"E 19.58'
C3	55.51'	560.00'	5°40'46"	N02°21'05"W 55.49'

LINE TABLE		
LINE	LENGTH	BEARING
L1	6.73'	S00°29'18"W
L2	73.76'	S76°40'47"W
L3	13.41'	N53°10'50"W
L4	78.01'	N57°00'18"E
L5	154.54'	N53°57'18"W
L6	50.91'	N49°55'19"E
L7	91.84'	N16°15'02"E
L8	50.00'	N22°56'49"E
L9	71.14'	N16°58'53"W
L10	127.64'	N28°32'43"E
L11	50.14'	N20°59'30"W
L12	76.11'	N51°47'02"E
L13	120.31'	N11°10'10"E
L14	33.56'	S56°29'21"E
L15	30.00'	N17°51'49"E
L16	99.43'	N24°22'24"W
L17	86.03'	N01°39'02"W
L18	60.53'	N34°44'05"E
L19	89.23'	S85°14'24"E
L20	71.12'	N24°11'42"E
L21	31.94'	N77°33'46"E



Legend

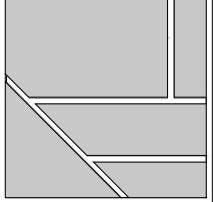
- AREA 1 - 34 LOTS
- AREA 2 - 40 LOTS
- OPEN SPACES
- EX. CONTOURS



Planned Development for Creekview Addition, Denison, Texas.	
PROPOSED BASE ZONING: SF-7.5	
BUILDING TYPE	Single Family
TOTAL AREA OF SITE:	21.545 ACRE (938,500.20 SF)
TOTAL LOTS:	74
REQUIREMENTS	
AREA 1:	
MIN LOT SIZE:	5,000 SF
# OF LOTS:	34
MIN LOT DEPTH:	100'
MIN LOT WIDTH:	50'
MAX LOT COVERAGE:	58%
MINIMUM YARDS:	
FRONT YARD:	25'
SIDE YARD:	5' Interior lots, 15' corner lots and 25' Key Lots.
REAR YARD:	10'
AREA 2:	
MIN LOT SIZE:	7,500 SF
# OF LOTS:	40
MIN LOT DEPTH:	100'
MIN LOT WIDTH:	60'
MAX LOT COVERAGE:	50%
MINIMUM YARDS:	
FRONT YARD:	25'
SIDE YARD:	6' Interior lots, 15' all corner lots
REAR YARD:	10'
FOR AREA 1 AND 2:	
MAXIMUM HEIGHT:	35'
MINIMUM FLOOR AREA:	1,600 SF
MINIMUM PARKING:	4 Paved spaces total, 2 enclosed.

FOR PRELIMINARY REVIEW ONLY
 THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF JEFF D. CRANWELL, PE#50800 ON IT IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.

CCM Engineering
 2570 FM 407, Suite 209
 Highland Village, Texas 75077
 Ph: 972.691.6633
 Fax: 972.691.6628
 TBPE FIRM #605



CREEKVIEW ADDITION
 Lillis Lane
 City of Denison, Texas

PLANNED DEVELOPMENT CONCEPT PLAN

REVISIONS	
DESIGN:	CCM Engineering
DRAWN:	
DATE:	12-01-2021
SCALE:	
NOTES:	
FILE:	



CCM ENGINEERING

2570 FM 407 STE. 209, Highland Village, TX 75077

Office: 972-691-6605

TBPE FIRM #605

Exhibit B

Narrative

RE: Proposed Creekside Addition Denison, Texas

A new single family subdivision is proposed on 21 acres located north of Lillis Lane and west of the Hyde Park Apartments in Denison. The land is currently SF 7.5. We are proposing to amend the zoning with a Planned Development to allow for approximately 35 single family lots that are 50' wide instead of the required 60' width. The remaining lots will all be 60' wide or more. The reason for this request is that this will allow the development to preserve multiple areas of open space around the existing pond and the small creek along the west side of the property. The pond area will serve as an amenity for this project. This development will also preserve the small creek and trees located along the west side of the property. By reducing the lot width to 50', we can preserve these natural features of the site and still maintain the economic feasibility of the project.

The proposed 50' wide lots are located at the south and east sides of our property where our land abuts existing commercial and multifamily zoning. The smaller lots will provide a much needed transition between the existing commercial and multifamily projects.

Our PD zoning request will use the SF 7.5 as the base zoning and we will maintain all of the SF 7.5 zoning requirements except for the lot width and lot size. The PD development standards that we are amending are shown in our Exhibit A – PD Conditions. We are proposing the minimum lot width to be 50' and the minimum lot size to be 5,000 square feet.

This project will provide approximately 3.6 acres of open space that will preserve the natural topography, trees and waterways at the west side of the property. We will also preserve approximately 0.9 acres around the existing pond at our south property line.

There are other vacant properties in town that have the SF-5 zoning, but we want to preserve almost all of the SF-7.5 requirements. So this zoning change request, in my opinion, meets the requirements of the Comprehensive Plan and provides a much needed transition zoning between our surrounding multifamily and commercial properties.

This zoning change, if approved, will have no affect of the surrounding undeveloped properties.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY CHANGING THE ZONING CLASSIFICATION FROM SINGLE-FAMILY 7.5 DISTRICT (SF-7.5) TO PLANNED DEVELOPMENT OVERLAY DISTRICT (PD) WITH BASE ZONING OF SINGLE-FAMILY 7.5 DISTRICT (SF-7.5) ON AN APPROXIMATELY 21.545-ACRE TRACT IN THE SPENCER RICE SURVEY, ABSTRACT NO. 1037, OF THE OFFICIAL PUBLIC RECORDS OF GRAYSON COUNTY, TEXAS; BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT “A-1” AND DEPICTED IN EXHIBIT “A-2”; PROVIDING DEVELOPMENT STANDARDS, ATTACHED HERETO AS EXHIBIT “B”; PROVIDING A CONCEPT PLAN, ATTACHED HERETO AS EXHIBIT “C”; PROVIDING FOR SEVERABILITY, REPEALING, AND SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City of Denison, Texas (the “City Council”), is authorized and empowered by law, in accordance with Chapter 211 of the Texas Local Government Code, to adopt zoning regulations governing the use of land within the City; and

WHEREAS, the City Council adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, the City has received a request from Emir Investments, LLC, to change the zoning classification from Single-Family 7.5 Residential District (“SF-7.5”) to Planned Development Overlay District (“PD”) with base zoning of Single-Family 7.5 Residential District on a 21.545-acre tract in the Spencer Rice Survey, Abstract No. 1037, of the Official Public Records of Grayson County, TX, and being more particularly described in **Exhibit A-1** and depicted in **Exhibit A-2**, each attached hereto and incorporated as if fully set forth herein (the “Property”); and

WHEREAS, the Development Standards and Concept Plan, as set forth in **Exhibit B** and **Exhibit C**, each attached hereto and incorporated herein, define the base zoning districts and provide for modifications to district regulations for the development of the Property; and

WHEREAS, after public notices were given in compliance with Texas law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City (the “Planning and Zoning Commission”) has recommended to the City Council to approve the change in zoning district classification on the Property and to amend the official zoning map of the City (the “Zoning Map”) to reflect the PD-SF-7.5 zoning classification; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which it considered the recommendation of the Planning and Zoning Commission and, among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the requested zoning accomplishes such objectives; and

WHEREAS, the Zoning Ordinance incorporates design standards and building materials standards that are differentially applicable to residential structures and non-residential buildings; and

WHEREAS, such standards substantially further the preservation of property values and the promotion of economic development within the City; and

WHEREAS, such standards also establish the character of community development and embody architecturally and, in some contexts, culturally significant features of continuing duration; and

WHEREAS, the Zoning Ordinance also provides for planned development districts, which enable departures from traditional zoning district standards in recognition of the unique character of a development project; and

WHEREAS, the City's policy in creating or amending a planned development district is to incorporate and enhance to the fullest extent feasible the design and building materials standards that are integral to the City's zoning regulations in all planned development districts; and

WHEREAS, the City Council finds and determines that the incorporation of such standards lends long-term viability to the planned development project; and

WHEREAS, the owner and/or developer of the Property has consented in writing to the enforcement of the City's design and building materials standards within the planned development district and waived the statutory provisions in Chapter 3000, Texas Government Code.

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

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Findings. After due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety and welfare.

Section 3. Zoning Amendment. The Zoning Ordinance is hereby amended to change the zoning of the Property to Planned Development Overlay District with base zoning of Single-Family 7.5 Residential District, subject to the following regulations, which exhibits are incorporated as if fully set forth herein, and all applicable City ordinances and regulations governing except as may be modified by this Ordinance:

Exhibit B: Development Standards
Exhibit C: Concept Plan

Section 4. Zoning Map. The Zoning Map is hereby amended to reflect the established zoning classification designation herein made.

Section 5. Compliance Required. The Property shall be used only in the manner and for the purposes provided for in this Ordinance and the Comprehensive Zoning Ordinance of the City, as amended.

Section 6. Severability Clause. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 7. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 8. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction, therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 9. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

Section 10. Open Meeting. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041 of the Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing ordinance was passed and approved by the following vote:

Ayes:
Nays:
Abstentions:

At regular meeting February 22, 2022.

JANET GOTT, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT A-1
PROPERTY LEGAL DESCRIPTION

Helvey-Wagner Surveying, Inc.

222 West Main Street · Denison, Texas 75020
Ph: (903) 463-6191 · Fax: (903) 463-4088 · Email: helveysurvey@cableone.net
TBPLS Firm Registration No. 10088100

Billy F. Helvey, RPLS No. 4488 – Kate A. Wagner, RPLS No. 6578 – Kenneth N. Russell, RPLS No. 4409

21.545 Acres

SITUATED in the City of Denison, County of Grayson, State of Texas, and being a part of the Spencer Rice Survey, Abstract No. 1037, and being a part of the 53.823 ac. tract of land conveyed to N-Site Development, Ltd. by Tommy David Bumpass and Billie Jean Bumpass by Warranty Deed with Vendor's Lien dated April 26, 2001 and recorded in Volume 3063, Page 914, Official Public Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at a 1/2 inch capped rebar set stamped "RPLS 6578" in the South line of Lot 2, Hendrix-Mitchell Addition to the City of Denison, Texas, as per plat of record in Volume 22, Page 7, Plat Records, Grayson County, Texas, at the Northwest corner of the property conveyed to Ralph D. Moore and Margaret Jean Moore in Volume 1296, Page 114, Deed Records, Grayson County, Texas, at the Northeast corner of both said N-Site Development 53.823 ac. and the herein described tract;

THENCE Southerly with the East line of said N-Site Development 53.823 ac. and the West lines of said Moore property, the 0.553 ac. tract of land conveyed to Eric D. Babers in Volume 5800, Page 108, said Official Public Records and the 17.683 ac. tract of land conveyed to Charles R. Piazza in Volume 5311, Page 145, said Official Public Records, the following calls and distances:

1. South 01 deg. 05 min. 10 sec. West, 181.39 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578";
2. South 00 deg. 10 min. 15 sec. West, passing the Southwest corner of said Moore property and the Northwest corner of said Babers property and continuing with the West line of said Babers property, a total distance of 216.99 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578";
3. South 00 deg. 33 min. 19 sec. West, passing a 1/2 inch capped rebar found stamped "RPLS 4488" at the Southwest corner of said Babers property at 13.53 ft. and continuing now with the West line of said Piazza 17.683 ac., a total distance of 403.39 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578";
4. South 00 deg. 39 min. 42 sec. West, 280.81 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578";
5. South 00 deg. 32 min. 55 sec. West, 76.78 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578" at the Northeast corner of the 0.291 ac. tract of land (Exhibit "B") conveyed to Charles R. Piazza in Volume 5311, Page 151, said Official Public Records, at the most Easterly Southeast corner of the herein described tract;

THENCE South 84 deg, 21 min. 36 sec. West, with the North line of said Piazza 0.291 ac., over and across said N-Site Development 53.823 ac., a distance of 212.02 ft. to a 1/2 inch capped rebar found stamped "RPLS 4488" at the Northwest corner of said Piazza 0.291 ac., at an Ell corner of the herein described tract;

THENCE South 00 deg, 29 min. 18 sec. West, with the West line of said Piazza 0.291 ac. a distance of 6.73 ft. to a 1/2 inch capped rebar found stamped "RPLS 4488" at the beginning of a curve;

THENCE Southerly, continuing with the West line of said Piazza 0.291 ac. and with a curve to the left, having a radius of 503.60 ft. and a central angle of 06 deg. 05 min. 04 sec. (chord bears South 02 deg. 33 min. 53 sec. East, 53.45 ft.) an arc distance of 53.48 ft. to a 1/2 inch capped rebar found stamped "RPLS 4488" at the Southwest corner of said Piazza 0.291 ac., at the most Southerly Southeast corner of the herein described tract;

THENCE South 76 deg. 40 min. 47 sec. West, continuing over and across said N-Site Development 53.823 ac., a distance of 73.76 ft. to a spike nail found at the Southeast corner of Lot 8, Block 1, Pioneer Ridge, Phase Two to the City of Denison, Texas, as per plat of record in Volume 21, Page 34, said Plat Records, at the most Southerly Southwest corner of the herein described tract;

THENCE Northerly, with the East line of said Lot 8 and with a curve to the left, having a radius of 15.00 ft. and a central angle of 81 deg. 28 min. 29 sec. (chord bears North 35 deg. 32 min. 47 sec. West, 19.58 ft.) an arc distance of 21.33 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578" at the end of said curve;

Continued From Page One

THENCE Northerly, continuing with the East line of said Lot 8 and with a curve to the right, having a radius of 560.00 ft. and a central angle of 05 deg. 40 min. 46 sec. (chord bears North 02 deg. 21 min. 05 sec. West, 55.49 ft.) an arc distance of 55.51 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578" at the end of said curve;

THENCE North 00 deg. 29 min. 18 sec. East, continuing with the East line of said Lot 8, a distance of 309.22 ft. to a 1/2 inch capped rebar set stamped "RPLS 4488" at the Northeast corner of said Lot 8, at an Ell corner of the herein described tract;

THENCE South 78 deg. 45 min. 01 sec. West, with the North line of said Lot 8, over and across said N-Site Development 53.823 ac., passing the Northwest corner of said Lot 8 and the Northeast corner of Lot 7, and continuing now with the North line of said Lot 7, passing the Northwest corner of said Lot 7 and the Northeast corner of Lot 6 and continuing now with the North line of said Lot 6 for a total distance of 549.11 ft. to a 1/2 inch capped rebar set stamped "RPLS 6578" at the Northwest corner of said Lot 6 and the Northeast corner of Lot 5, Block 1, Pioneer Ridge, Phase One to the City of Denison, Texas, as per plat of record in Volume 16, Pages 3 and 4, said Plat Records;

THENCE South 78 deg. 43 min. 25 sec. West, with the North line of said Lot 5, continuing over and across said N-Site Development 53.823 ac., passing a 1/2 inch capped rebar set stamped "RPLS 6578" at 141.60 ft. and continuing for a total distance of 191.60 ft. to a point in the center of a creek, in the East line of the 23.702 ac. tract of land (Tract One) conveyed to AVB Partners II, Ltd. in Volume 4116, Page 893, said Official Public Records, in the West line of said N-Site Development 53.823 ac., at the most Westerly Southwest corner of the herein described tract;

THENCE Northerly, with the center of a creek, the East line of said AVB Partners II, Ltd. 23.702 ac. and the West line of said N-Site Development 53.823 ac., the following calls and distances:

1. North 53 deg. 10 min. 50 sec. West, 13.41 ft.;
2. North 57 deg. 00 min. 18 sec. East, 78.01 ft.;
3. North 53 deg. 57 min. 18 sec. West, 154.54 ft.;
4. North 49 deg. 55 min. 19 sec. East, 50.91 ft.;
5. North 16 deg. 15 min. 02 sec. East, 91.84 ft.;
6. North 22 deg. 56 min. 49 sec. East, 50.00 ft.;
7. North 16 deg. 58 min. 53 sec. West, 71.14 ft.;
8. North 28 deg. 32 min. 43 sec. East, 127.64 ft.;
9. North 20 deg. 59 min. 30 sec. West, 50.14 ft.;
10. North 51 deg. 47 min. 02 sec. East, 76.11 ft.;
11. North 11 deg. 10 min. 10 sec. East, 120.31 ft.;
12. South 56 deg. 29 min. 21 sec. East, 33.56 ft.;
13. North 17 deg. 51 min. 49 sec. East, 30.00 ft.;
14. North 24 deg. 22 min. 24 sec. West, 99.43 ft.;
15. North 01 deg. 39 min. 02 sec. West, 86.03 ft.;
16. North 34 deg. 44 min. 05 sec. East, 60.53 ft.;
17. South 85 deg. 14 min. 24 sec. East, 89.23 ft.;
18. North 24 deg. 11 min. 42 sec. East, 71.12 ft.;
19. North 77 deg. 33 min. 46 sec. East, 31.94 ft. to a point at the Southwest corner of Lot 1, said Hendrix-Mitchell Addition, at the Northwest corner of both said N-Site Development 53.823 ac. and the herein described tract;

THENCE South 87 deg. 22 min. 26 sec. East, with the South line of said Lot 1 and the North line of said N-Site Development 53.823 ac., a distance of 22.80 ft. to a 5 inch bois d'arc corner post at a fence corner, at an angle point;

THENCE North 86 deg. 26 min. 50 sec. East, with the general course of a wire fence maintaining the South line of said Lot 1 and the North line of said N-Site Development 53.823 ac., a distance of 153.31 ft. to an angle point;

THENCE North 88 deg. 32 min. 32 sec. East, continuing with the general course of a wire fence maintaining the South line of said Lot 1 and the North line of said N-Site Development 53.823 ac., a distance of 150.39 ft. to a 5 inch wood fence corner post at an angle point;

Page Two of Three

Continued From Page Two

THENCE North 88 deg. 45 min. 51 sec. East, continuing with the general course of a wire fence maintaining the South line of said Lot 1 and the North line of said N-Site Development 53.823 ac., a distance of 283.79 ft. to a 1/2 inch capped rebar set stamped "RPLS 4488" at the Southeast corner of Lot 1, at the Southeast corner of said Lot 2;

THENCE North 89 deg. 03 min. 57 sec. East, with the general course of a wire fence maintaining the South line of said Lot 2 and the North line of said N-Site Development 53.823 ac., a distance of 100.61 ft. to the **PLACE OF BEGINNING** and containing **21.545 ACRES** of land.

Kate A. Wagner, R. P. L. S. No. 6578
March 7, 2018



EXHIBIT B
DEVELOPMENT STANDARDS

CREEKVIEW ADDITION
PLANNED DEVELOPMENT DISTRICT
STATEMENT OF INTENT AND PURPOSE

This zoning submittal encompasses approximately 21.545 total acres of land currently located within the City of Denison. The uses proposed for the Property will provide the ability to accommodate and encourage the development of single-family residential uses. It is the intent of this planned development document (PD) to establish a base zoning for the overall property together with the uses and development regulations as designated therein, subject to modifications as set forth herein. Additionally, the City's Zoning Ordinance incorporates building materials that are differentially applicable to residential structures and non-residential buildings, and it is the City's policy in creating a planned development district to incorporate and enhance to the fullest extent possible the design and building materials standards, which embody architecturally, and in some contexts, culturally significant features of continuing duration.

This PD document and the Concept Plan provide departure from existing zoning, use, and development regulations in recognition of the unique character of the development described herein, and unless expressly modified by this PD document or the Concept Plan, the Property shall be developed in accordance with the base zoning districts described below, as they exist or may be amended.

1.0 PROJECT OVERVIEW/LOCATION

A new single-family subdivision (the "Development") is proposed on 21.545 acres located north of Lillis Lane and west of the Hyde Park Apartments, situated in the Spencer Rice Survey, Abstract No. 1037 in the City of Denison, Texas as legally described in Exhibit A-1, Legal Description, and as depicted in Exhibit A-2, Property Depiction. This Planned Development District will allow for approximately 35 single family lots that are 50' wide instead of the required 60' width. The remaining lots will all be 60' wide or more. This will allow the Development to preserve multiple areas of open space around the existing pond and the small creek along the west side of the Property. The pond area will serve as an amenity for this Development. This Development will also preserve the small creek and trees located along the west side of the Property. By reducing the lot width to 50', we can preserve these natural features of the site and still maintain the economic feasibility of the Development.

This Planned Development Overlay District shall have base zoning of SF-7.5, and all regulations in the SF-7.5 district of the City's Zoning Ordinance shall apply to the Property, except where different regulations are expressly set forth below.

2.0 HOMEOWNERS ASSOCIATION

A Homeowners Association shall be established to own and maintain all open spaces within the development.

3.0 PROPOSED THOROUGHFARES/ACCESS/CROSS SECTIONS

As currently shown on the Concept Plan, access to the property will be provided by **Lillis Lane**, which runs north/south through the Property.

4.0 CONCEPT PLAN

The design and development of the Property shall generally comply with the Concept Plan, which is intended to provide a general representation of the location of the land uses on the property.

5.0 AREA REGULATIONS

The Development is divided into two areas as shown in the Concept Plan. Both areas are intended for single family lots and open spaces.

A. Area 1:

- a. Minimum Lot Size: 5,000 sf
- b. Minimum Lot Depth: 100 feet
- c. Minimum Lot Width: 50 feet
- d. Maximum Lot Coverage for the main residential building and all accessory buildings:
58%
- e. Minimum living area for each housing unit shall be 1,600 sf
- f. Minimum Yards:
 - i. Front yard: 25 feet
 - ii. Side yard: 5 feet width for interior lots 15 feet for all corner lots, and 25 feet for key lots.
 - iii. Rear yard
 - (a) No main residential building shall be located nearer than ten (10) feet.
 - (b) The main residential building and all accessory buildings shall not cover more than fifty (50) percent of that portion of the lot lying to the rear of a line erected joining the midpoint on one (1) side lot line with the opposite side lot line.
 - (c) Every part of a required rear yard shall be open and unobstructed to the sky from a point thirty (30) inches above the general ground level of the graded lots, except for accessory buildings allowed pursuant to this chapter and the ordinary projections of windowsills, belt courses, cornices, roof overhangs, and other architectural features projecting a maximum of four (4) feet into the required rear yard.

B. Area 2:

- a. Minimum Lot Size: 7,500 sf
- b. Minimum Lot Depth: 100 feet
- c. Minimum Lot Width: 60 feet
- d. Maximum Lot Coverage for the main residential building and all accessory buildings:
50%
- e. Minimum living area for each housing unit shall be 1,600 sf
- f. Minimum Yards:

- i. Front yard: 25 feet
- ii. Side yard: 6 feet width for interior lots; 15 feet for all corner lots, unless otherwise noted plat
- iii. Rear yard
 - (a) No main residential building shall be located nearer than ten (10) feet.
 - (b) The main residential building and all accessory buildings shall not cover more than fifty (50) percent of that portion of the lot lying to the rear of a line erected joining the midpoint on one (1) side lot line with the opposite side lot line.
 - (c) Every part of a required rear yard shall be open and unobstructed to the sky from a point thirty (30) inches above the general ground level of the graded lots, except for accessory buildings allowed pursuant to this chapter and the ordinary projections of windowsills, belt courses, cornices, roof overhangs, and other architectural features projecting a maximum of four (4) feet into the required rear yard.

6.0 OPEN SPACE & TRAILS

All open space areas shall be owned and maintained by the Homeowners Association. The Development will include approximately 3.6 acres of open space that will preserve the natural topography, trees and waterways at the west side of the Property. The Development will also include approximately 0.9 acres around the existing pond at the south Property line.

7.0 PERIMETER SCREENING & LANDSCAPE BUFFERS

Perimeter screening and landscape buffers shall conform to any regulations for such in the Denison Code of Ordinances as it exists or may be amended.

8.0 EXTERIOR CONSTRUCTION STANDARDS

Minimum exterior construction standards: Seventy-five percent (75%) standard masonry construction (see Chapter 28, article V of the Code). Stucco is considered a masonry material. Metal exterior construction as the primary material on the structure is prohibited.

9.0 PHASING

The development of the Property shall be completed in one phase.

10.0 PARKING

Each single-family lot shall have a minimum of two parking spaces on a paved driveway for concrete, asphalt or similar paved surfaces such as turf pavers or brick pavers.

11.0 SIDEWALKS

Sidewalks will be constructed by the builder along each street and side street. Sidewalks shall be five (5) foot wide concrete and located twelve (12) inches inside the right-of-way. The developer shall install all sidewalks that are adjacent to open spaces at time of the initial subdivision construction.

12.0 ADDITIONAL REQUIREMENTS

1. Recreational vehicles, travel trailers, or motor homes may not be used for onsite dwelling purposes.
2. Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, farm equipment, etc., which cannot be stored in any required setback and which shall be screened from view of public streets and neighboring properties).
3. The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.
4. Garage entries for automobiles shall not be located closer than twenty-four (24) feet to a street right-of-way or the minimum side yard or rear yard, whichever is greater.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance changing the zoning of approximately 0.3444 acres for property located on the corner of N. Chandler Ave. and W. Elm St. from the Local Retail Zoning District to SF-5, Single Family Residential Zoning District. (Case No. 2022-001Z)

Staff Contact

Dianne York, Planner
dyork@cityofdenison.com
903-465-2720

Summary

- The applicant is requesting to rezone the subject property from the Local Retail Zoning District to SF-5, Single Family Residential Zoning District
- Applicant would like to construct single family residences
- The proposed rezone complies with the Comprehensive Plan.

Recommended Motion

"I move to approve (or deny) the Ordinance changing the zoning of the subject property from the Local Retail Zoning District to SF-5, Single Family Residential Zoning District."

Background Information and Analysis

Applicant is requesting a rezone of approximately 0.3444 acres from the Local Retail Zoning District to SF-5, Single Family Residential Zoning District in order to construct single family homes.

According to Ordinance Section 28.10, City staff and the Planning and Zoning Commission shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

Yes, the proposed uses are compatible with the overall residential uses in the area. The general area has been developed in a residential manner.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

There are no proposed plans to improve existing street, water supply, sanitary sewer systems, or other utilities.

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

The area around has mostly been developed.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

N/A

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

Other nearby areas should not be negatively affected as this area is engaged in residential manner.

6. *Whether the zoning petition is consistent with the current land use plan; and*

Yes, this zoning petition is consistent with the Comprehensive Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

Financial Considerations

N/A

Prior Board or Council Action

The Planning and Zoning Commission recommended approval for this request at their meeting held on February 8th, 2022.

Alternatives

- The City Council may table, deny, or approve with conditions.

Zoning of Subject Property



Lots 9 and 10 block 2 Millers 2nd Addition

Project narrative addressing the following:

- Discussion of why a zoning district change is being requested.

WE WANT TO BUILD SINGLE FAMILY HOMES THERE. THERE ARE REALLY NO OTHER COMMERCIAL BUSINESSES IN THE AREA ANY MORE.

- Compliance with the adopted Comprehensive Plan.

WE PLAN TO HAVE THE LOTS REZONED TO SF5, FOLLOWED BY A REPLAT REQUEST TO DEVELOP 3 LOTS FACING CHANDLER STREET A FUTRE DATE.

- Is there vacant land that is zoned for your proposed use available in other areas of the City? NO, LOTS ARE QUICKLY BEING SOLD, AND THIS SPECIFIC 2 LOT TRACT WILL ALLOW FOR THE FUTURE REPLAT DEVELOPMENT.

- If approved, how will your request affect other areas designated for similar development? WE WILL ENHANCE THE AREA. SCOTT MOODY HOMES WILL BE BUILDING SINGLE FAMILY HOMES THERE.

- How are the uses permitted by the requested zoning district appropriate in the immediate area surrounding the subject property and the city as a whole? EXACTLY THE SAME.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY CHANGING THE ZONING CLASSIFICATION ON A CERTAIN TRACT OF LAND LEGALLY DESCRIBED AS LOTS 9 & 10, BLOCK 2, MILLER'S SECOND ADDITION, AN ADDITION TO THE CITY OF DENISON, GRAYSON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME Y, PAGE 539, DEED RECORDS OF GRAYSON COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT "A", FROM ITS ZONING CLASSIFICATION OF LOCAL RETAIL DISTRICT (LR) TO SINGLE FAMILY-5 DISTRICT (SF-5); PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE SINGLE FAMILY-5 DISTRICT (SF-5) FOR THE PROPERTY; PROVIDING A PENALTY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the "Zoning Ordinance"); and

WHEREAS, Temphill, LLC (the "Owner") owns Lots 9 & 10, Block 2, Miller's Second Addition, an addition to the City of Denison, Grayson County, Texas, according to the plat recorded in Volume Y, Page 539, deed records of Grayson County, Texas, as described and depicted in **Exhibit "A,"** which is attached and incorporated as if fully set forth herein (the "Property"), has made an application under the provisions of the Zoning Ordinance for a zoning change from the current zoning district classification of Local Retail District to Single Family-5 District; and

WHEREAS, having considered the Owner's requested change to the Property's zoning district classification of Local Retail District to Single Family-5 District, and the compatibility of such zoning for the Property with surrounding uses and with the Comprehensive Land Use Plan of the City; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings

and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

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

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein and found to be true.

SECTION 2. Findings. After due deliberation and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety, and welfare.

SECTION 3. Zoning Amendments. Chapter 28 of the Code of Ordinances of the City, the same being the City's Comprehensive Zoning Ordinance, is hereby amended in the following particulars, and all other articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby are hereby ratified and affirmed.

The zoning district classification on the Property is hereby changed from Local Retail District (LR) to Single Family-5 District (SF-5). The Property shall be subject to all applicable City ordinances and regulations governing a Single Family-5 District (SF-5).

SECTION 4. Zoning Map. The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Planning Director is hereby amended to reflect the foregoing zoning use changes herein made.

SECTION 5. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a

prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction, therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 9. Open Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting February 22, 2022.

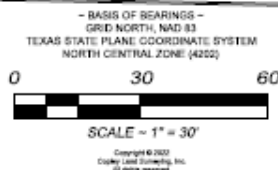
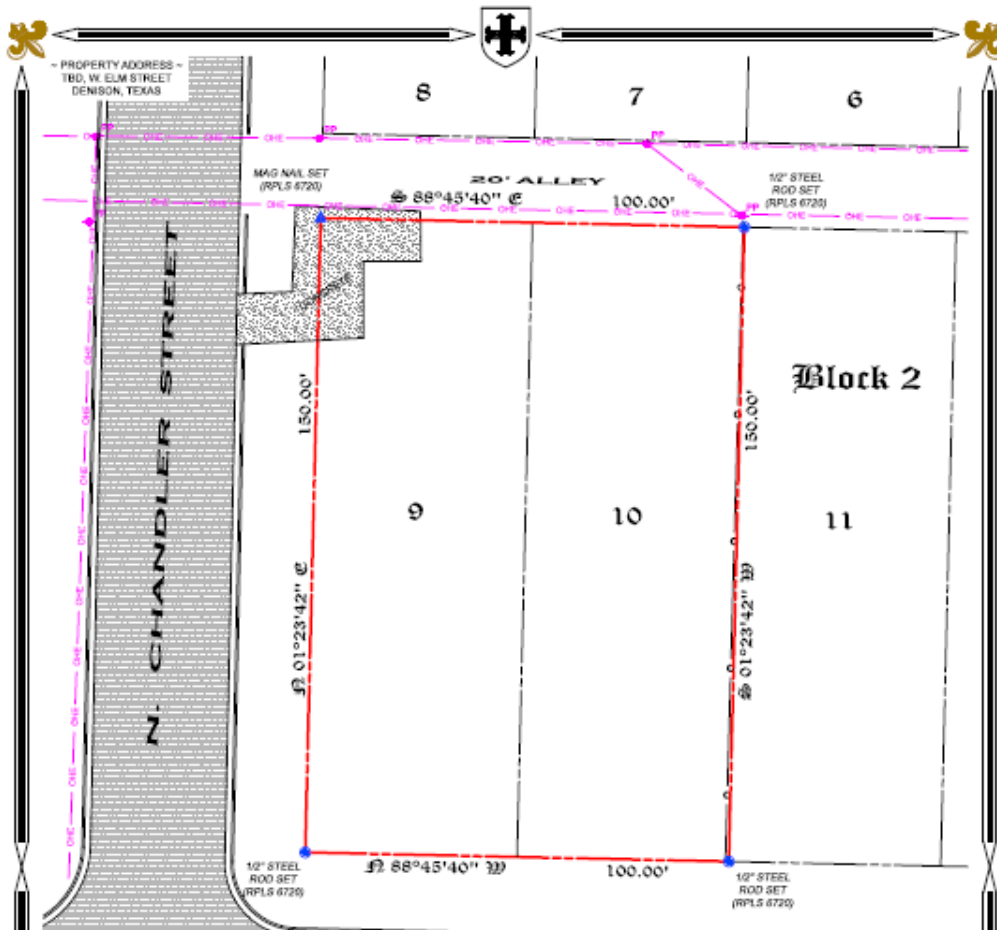
JANET GOTT, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION AND DEPICTION

BEING LOTS 9 & 10, BLOCK 2, MILLER'S SECOND ADDITION, AN ADDITION TO THE CITY OF DENISON, GRAYSON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME Y, PAGE 539, DEED RECORDS OF GRAYSON COUNTY, TEXAS.



Legend

- POWER POLE
- BOUNDARY LINE
- PROPERTY LINE
- OVERHEAD ELECTRIC
- CHAINLINK FENCE
- ASPHALT
- CONCRETE

I, John C. Copley, Registered Professional Land Surveyor do hereby certify that on the 5th day of January, 2022, a survey was made on the ground of the property shown hereon, described as Lots 9 & 10, Block 2, MILLER'S SECOND ADDITION, an addition to the City of Denison, Texas, as shown by plat of record in Volume "Y", Page 539, Deed Records, Grayson County, Texas and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.


 John C. Copley
 Registered Professional
 Land Surveyor No. 6720
 Firm No. 10194429



Copley Land Surveying
 1702 Verbi Ln., Sherman, Texas 75090
 TX 903-415-0643, OR 580-980-0181
 john@copleylandsurveying.com

CL# Job# 22010005

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on a Services Agreement with Fire Recovery EMS, LLC for EMS and fire billing, and authorize the Interim City Manager to execute the same.

Staff Contact

Kenneth Jacks, Fire Chief
kjacks@cityofdenison.com
(903) 464-4427 Ext. 2201

Summary

- Fire Recovery USA will charge the City of Denison a lower rate per recovery.
- Fire Recovery USA provides more transparency than our current billing company.
- Customer service with Fire Recovery is better for Denison Fire Rescue and our citizens.

Staff Recommendation

Staff recommends approval of the proposed agreement.

Recommended Motion

“I move to approve the Service Agreement with Fire Recovery EMS, LLC, and authorize the Interim City Manager to execute the same.”

Background Information and Analysis

Denison Fire Rescue (DFR) is currently using EMERGICON for all EMS and fire billing. With the takeback of EMS, DFR has been looking to find a more efficient and better billing service. Fire Recovery USA will charge a lower rate per recovery and offer exceptional customer service and communication. Having a billing company that is transparent and easy to communicate with is essential for not only DFR but also the citizens. If a citizen has any questions about billing, they will contact Fire Recovery USA directly. The City of Denison must use a company that provides top-tier customer service to ensure our citizens' needs are being appropriately met and in a timely manner. DFR's Fire Chief, Chief Jacks, has previous experience with Fire Recovery USA and has confirmed they have an excellent recovery rate and provide top-notch service. DFR has determined that Fire Recovery USA is best suited for our EMS and fire billing needs.

Financial Considerations

Fire Recovery USA will be charging 5% of recovery rather than the 15% that EMERGICON is currently charging the City of Denison.

Prior Board or Council Action

None.

Alternatives

The City Council may table, modify, or deny the proposed agreement.

SERVICES AGREEMENT

This Services Agreement (“Agreement”) is made effective as of _____, 2022 (“Effective Date”), by and between **FIRE RECOVERY EMS, LLC**, a Illinois limited liability company (“Company”), and the **City of Denison** (“Client”). The Company and Client are referred to herein individually as a “party” and collectively as the “parties.”

RECITALS

WHEREAS, Company engages in the business of performing billing services for United States fire departments; and

WHEREAS, Client seeks the services of Company to assist with the billing for services that Client provides, as described herein (“Company Services”); and

WHEREAS, Company and Client desire to enter into this Agreement to memorialize their agreements regarding the Company Services to be provided to Client.

NOW, THEREFORE, in consideration of the mutual representations, warranties and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Company and Client agree as follows:

ARTICLE 1 ENGAGEMENT

1.1. Engagement: Client hereby engages Company to provide the Company Services described in Schedule A herein, and Client hereby accepts such engagement, all on the terms and conditions set forth herein. Company will determine the method, detail and means of performing the services detailed below in accordance with this Agreement.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1. Representations and Warranties of Company: Company hereby represents and warrants to Client that, at all times during the term of this Agreement, Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Illinois.

2.2. Representations and Warranties of Client: Client hereby represents and warrants to Company that, at all times during the term of this Agreement, Client is a City with an organized fire department, established pursuant to the laws of the State of Texas.

ARTICLE 3 COMPANY STATUS AND QUALIFICATIONS

3.1. Independent Contractor: Company enters into this Agreement, and will remain throughout the term of the Agreement, as an independent contractor. Company agrees that it will not become an employee, partner, agent or principal of Client while this Agreement is in effect. Company shall perform the obligations under this Agreement as a fiduciary to the City, and shall

have a duty of care, integrity, honesty, and loyalty to the City and shall protect the confidential financial and medical information of the City.

3.2. Payment of Income Taxes: Company is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by Client to Company for services rendered under this Agreement. On request, Company will provide Client with proof of timely payment. Company agrees to indemnify Client for any claims, costs, losses, fees, penalties, interest, or damages suffered by Client resulting from Company's failure to comply with this provision.

3.3. Use of Employees or Subcontractors: Company may, at Company's own expense, use any employees or subcontractors as Company deems necessary to perform the Company Services, or other obligations of Company under by this Agreement. Client may not control, direct, or supervise Company's employees or subcontractors in the performance of those services.

3.4. Qualifications: Company represents that it is qualified and has the skills necessary to perform the services under this Agreement in a competent and professional manner, without the advice or direction of Client.

3.5. Ownership Interest: Company will have no ownership interest in Client.

3.6. No Benefit Contributions: Company shall have no obligation under this Agreement to compensate or pay applicable taxes or provide employee benefits of any kind to any person employed or retained by Client.

3.7. Attorney-in-Fact: Client appoints Company as Client's attorney-in-fact for the sole purposes of:

- (a) Billing and Collections: To bill and collect ("Collections") all revenue earned by and due to Client, in connection with Client's provision of emergency services provided/rendered at the sites of motor vehicle incidents and other emergency incidents, and to receive all Collections on Client's behalf; and
- (b) Endorsement: To take possession of and endorse in Client's name any notes, checks, money orders, and any other instruments received as Collections.

ARTICLE 4 GENERAL RESPONSIBILITIES OF COMPANY

4.1. Minimum Amount of Service: Company agrees to devote as much time and attention to the performance of the Company Services under this Agreement as may be, in Company's sole discretion, required to accomplish the tasks described herein to accomplish the results for which the Company is responsible under this Agreement.

4.2. Company Services: Company agrees to perform the Company Services as set forth in the "List of Company Services" attached hereto as Schedule "A" and incorporated herein by reference; including those additional services requested by Client and accepted in writing by the Company during the term of this Agreement.

4.3. Non-Exclusive Relationship: Company may represent, perform services for, and contract with as many additional clients, persons, or companies as Company, in Company's sole discretion, sees fit.

4.4. Time and Place of Performing Work: Company may perform the services under this Agreement at any suitable time and location Company chooses.

4.5. Materials and Equipment: Company will supply all materials and equipment required to perform the services under this Agreement.

4.6. Workers' Compensation: Company agrees to provide workers' compensation insurance for Company and Company's employees and agents and agrees to hold harmless and indemnify Client for any and all claims arising out of any injury, disability, or death of any of Company's employees or agents.

4.7. Assignment: Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Company without the prior written consent of Client, which consent shall not be unreasonably withheld.

4.8. Compliance with Laws: Company agrees to comply with all federal, state, and local laws, to include the Fair Debt Collection Practices Act and the Texas Finance Code.

ARTICLE 5 COMPENSATION OF COMPANY

5.1. Compensation for Company Services: Client agrees to pay Company in accordance with the following fee schedule for the Company Services so long as this Agreement has not been terminated:

- (a) Company shall be paid a flat rate of \$21.95 per collected trip.
- (b) Payments to Company shall be based upon revenues received in the preceding month. Company will provide a monthly billing to Client calculating amounts owed to Company based upon the above stated formula.
- (c) Failure to pay Company within thirty (30) days of the monthly bill may constitute immediate termination of the contract and possible legal action.

5.2. The provisions of Article 11 of this Agreement will govern any dispute associated with compensation.

ARTICLE 6 OBLIGATIONS OF CLIENT

6.1. Cooperation of Client: The Client agrees to comply with all reasonable requests of Company and provide access to all documents reasonably necessary to the performance of Company's duties under this Agreement. The Client shall be responsible for initially complying with, and continuing to review, local and state laws in the Client's jurisdiction to assure adequate legal authority for Company to engage in the Services described herein on behalf of Client.

6.2. Assignment: Once a run is assigned to Company for processing, Company will pursue collection until all efforts have been exhausted. While Company is pursuing payment on a claim Client is precluded from assigning any duties or obligations under this Agreement to any other party, without the written consent of Company. Client may not negotiate a settlement of a run Company is processing without Company's written consent to the terms of the settlement and compensation due to Company for processing the run. Once Company has determined a run is not collectible it will either be archived and closed or sent to a collection agency (only if Client consents to such action).

ARTICLE 7 CLIENT AUTHORIZATION

7.1. Authorization: Notwithstanding other provisions of this Agreement, Company shall obtain authorization from Client prior to performing any of the following:

- (a) The sale conveyance, transfer, pledge exchange, assignment, hypothecation, or encumbrance of Client's interest in any sums owed to Client; and
- (b) All other limitations as stated by the terms of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT

8.1. Termination on Notice: Notwithstanding any other provision of this Agreement, either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Unless earlier terminated as set forth below, this Agreement shall be effective as of the date first set out above and shall continue for a period of one (1) year thereafter. This Agreement shall automatically renew for successive one (1) year periods, not to exceed ten (10) years, unless either party provides written notification to the other party of its decision not to renew this Agreement. Any runs submitted for processing to Company prior to the date of the notice of termination will continue to be processed under the terms of the List of Company Services set forth in this Agreement. Notwithstanding the aforementioned, this Agreement shall be subject to immediate termination by Client if Company fails to maintain insurance described in Section 11.11.

8.2. Termination on Occurrence of Stated Events: This Agreement will terminate automatically on the occurrence of any of the following events;

- (a) Bankruptcy or insolvency of either party;
- (b) The assignment of this Agreement by either party without the consent of the other party; the parties agree that neither party will unreasonably withhold consent to such an assignment.

8.3. Termination for Default: If either party defaults in the performance of this Agreement or materially breaches any of its provisions, the non-breaching party may terminate this Agreement by giving written notification to the breaching party. Termination will take effect immediately on receipt of notice by the breaching party or five (5) days after mailing of notice, whichever occurs first. For the purposes of this paragraph, material breach of this Agreement includes, but is not limited to, the following:

- (a) Company's failure to complete the Company Services specified in the List of Company Services;
- (b) Client's material breach of any representation, warranty or agreement contained in this Agreement;
- (c) Company's material breach of any representation, warranty or agreement contained in this Agreement;

ARTICLE 9 PROPRIETARY RIGHTS

9.1. Confidential Information of Client: Any written, printed, graphic, or electronically or magnetically recorded information furnished by Client for Company's use are the sole property of Client. This proprietary information includes, but is not limited to, customer requirements, customer lists, marketing information, and information concerning the Client's employees and operations. Company will keep this proprietary information in the strictest confidence, and will not disclose it by any means to any person except with the Client's approval, and only to the extent necessary to perform the services under this Agreement, or as required by law. This prohibition also applies to Company's employees, agents, and subcontractors. On termination of this Agreement, Company will return any confidential information in Company's possession to Client, except as required by state or federal law.

9.2 Confidential Information of Company: Any written, printed, graphic, electronically or magnetically recorded information, computer-based hardware, software, applications, software scripts, or software links furnished by Company for Client's use are the sole property of Company. This proprietary information includes, but is not limited to, customer requirements, customer lists, marketing information, and information concerning the Company's employees, products, services, prices, operations, and subsidiaries. Client will keep this proprietary information in the strictest confidence, and will not disclose it by any means to any person except with the Company's approval, and only to the extent necessary to perform the services under this Agreement, or as required by law. This prohibition also applies to Client's employees, agents, and subcontractors. On termination of this Agreement, Client will return any confidential information in Client's possession to Company, except as required by state or federal law.

9.3 Exceptions to Confidentiality: Notwithstanding any other provision herein, the obligations of confidentiality set forth in this Article shall not apply to information that:

- (a) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
- (b) a party receives from a third party who has a right to disclose it to the receiving party; or
- (c) is the subject of a legitimate disclosure request under the Texas Public Information Act or similar applicable public disclosure laws governing this Agreement.

**ARTICLE 10
INDEMNIFICATION**

10.1. Indemnification: **THE COMPANY WILL INDEMNIFY AND HOLD THE CLIENT HARMLESS FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, LIABILITY, OBLIGATIONS, DEBTS, CHARGES, JUDGMENTS, CLAIMS AND/OR PERSONAL INJURY (INCLUDING SERIOUS BODILY INJURY OR DEATH) RESULTING FROM ALL NEGLIGENT ACTIONS, INJURIES, OR PROPERTY DAMAGE ATTRIBUTABLE TO THE SERVICES PERFORMED BY THE COMPANY, OR ITS AGENTS ON THE COMPANY'S BEHALF, IN CONNECTION WITH THIS AGREEMENT. HOWEVER, THIS INDEMNIFICATION SHALL NOT APPLY WITH RESPECT TO ANY LEGAL CAUSE, ACTION OR CONSEQUENTIAL LIABILITY OR LOSSES AS A RESULT FROM INACCURATE OR INCOMPLETE INFORMATION OR UNFOUNDED OR UNREASONABLE SUBMISSIONS FURNISHED TO THE COMPANY BY THE CLIENT NOR SHALL IT APPLY TO ANY ACT, OMISSION OR NEGLIGENCE OF THE CLIENT.**

**ARTICLE 11
GENERAL PROVISIONS**

11.1. Governing Law: This Agreement shall be governed in all respects by the laws of the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction that would cause the application of the laws of any jurisdiction other than the State of Texas). The parties expressly agree that the exclusive venue and forum for resolving any legal disputes under this Agreement shall be the state or federal courts serving Grayson County, Texas.

11.2. Incorporation of Recitals and Entire Agreement: The Recitals set forth above are incorporated into and made part of this Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understanding of the parties.

11.3. Successors and Assigns: Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. No party may assign any of its rights or obligations hereunder without the express written consent of the other party hereto, which consent may not be unreasonably withheld; provided, however, any party may assign any and all of its rights and interests hereunder to one or more of its affiliates and designate one or more of its affiliates to perform its obligations hereunder; provided, however, that such party remains liable for full and total performance of its obligations hereunder.

11.4. Notices: Any notices authorized to be given hereunder shall be in writing and deemed given, if delivered personally or by overnight courier, on the date of delivery, if a Business Day, or if not a business day, on the first Business Day following delivery, or if mailed, three days after mailing by registered or certified mail, return receipt requested, and in each case, addressed, as follows:

If to the Company to:

Fire Recovery EMS, LLC
3223 N. Wilke Road
Arlington Heights, IL 60004

with a copy to:

Attention: Patrick J. Mannix, CEO

Attention: _____

If to Client to:
Denison Fire Department
700 W Chestnut St
Denison, TX 75020
Attention: Fire Chief

with a copy to:
City of Denison
300 W. Main St.
Denison, Texas 75020
Attention: City Secretary

Or, if delivered by telecopy, on a Business Day before 4:00 PM local time of addressee, on transmission confirmed electronically, or if at any other time or day on the first Business Day succeeding transmission confirmed electronically, to the facsimile numbers provided above, or to such other address or telecopy number as any party shall specify to the other, pursuant to the foregoing notice provisions. When used in this Agreement, the term "Business Day" shall mean a day other than a Saturday, Sunday or a Federal Holiday.

11.5. Waiver; Amendments: This Agreement sets forth the entire agreement of the parties respecting the subject matter hereof, (ii) supersede any prior and contemporaneous understandings, agreements, or representations by or among the parties, written or oral, to the extent they related in any way to the subject matter hereof, and (iii) may not be amended orally, and no right or obligation of any party may be altered, except as expressly set forth in a writing signed by such party.

11.6. Counterparts: This Agreement may be signed in several counterparts.

11.7. Expenses: Each party shall bear its own expenses incurred with respect to the preparation of this Agreement and the consummation of the transactions contemplated hereby.

11.8. Arbitration:

(a) If at any time there shall be a dispute arising out of or relating to any provision of this Agreement, any counterpart document or any agreement contemplated hereby or thereby, such dispute shall be submitted for binding and final determination by arbitration in accordance with the regulations then obtaining of the American Arbitration Association. Judgment upon the award rendered by the arbitrator(s) resulting from such arbitration shall be in writing, and shall be final and binding upon all involved parties. The site of any arbitration shall be at a site agreed to by the parties and the arbitration decision can be enforced in a "court of competent jurisdiction".

(b) This arbitration clause shall survive the termination of this Agreement, any counterpart document and any agreement contemplated hereby or thereby.

11.9. Waiver of Jury Trial; Exemplary Damages: **THE PARTIES HERETO HEREBY WAIVE THEIR RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING UNDER THIS AGREEMENT OR ANY COUNTERPART DOCUMENT. NO PARTY SHALL BE AWARDED PUNITIVE OR OTHER EXEMPLARY DAMAGES RESPECTING ANY DISPUTE ARISING UNDER THIS AGREEMENT OR ANY COUNTERPART DOCUMENT CONTEMPLATED HEREBY.**

11.10 Cooperative Purchases: This Agreement may be used by other government agencies. Company has agreed to offer similar services to other agencies under the same or similar terms and conditions as stated herein except that the revenue share percentage (Compensation) may be negotiated between the Company and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The City/County/or Client/Protection District will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchase by other agencies.

11.11 Insurance: Company maintains General Liability \$1,000,000 per occurrence / \$2,000,000 aggregate; Commercial Auto w/ hired non-owned coverage \$1,000,000; Workers Compensation \$500,000/\$500,000/\$500,000; Professional Liability of \$1,000,000; Employment Practices Liability \$250,000, and an umbrella policy 1,000,000 per occurrence/ \$1,000,000 aggregate. Proof of insurance, including Certificates of Insurance, in a form acceptable to the Client, shall be provided to Client upon written request by the Client. Such insurance policies will include a waiver of subrogation, name the Client as an Additional Insured and shall provide a thirty (30) day notice to Client prior to expiration, cancellation, non-renewal, or material change in coverage, and such notice shall be mailed by certified mail to the Client at the addresses for notice provided by this Agreement.

Signatures on following page:

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

COMPANY:

FIRE RECOVERY EMS, LLC.
a Illinois limited liability company

Signature: _____

Name: _____

Title: Manager

CLIENT:

City of Denison

Signature: _____

Name (printed): _____

Title: _____

SCHEDULE A

LIST OF COMPANY SERVICES

1. Company shall provide an Accounts Receivable program within Company's computer billing system for the exclusive purpose of collections for Client.
2. Company will enter into said computer billing system, any and all Company ambulance trips received from Client. Company shall abstract, from the documentation provided by Client, all diagnosis and procedure information necessary to determine the level and type of service provided, any billable diagnostic and therapeutic procedures performed, any billable supplies and ancillary services rendered, and the appropriate diagnosis codes to be billed for all Company ambulance run information provided by Company by the Client for that purpose
3. Company will follow established billing industry guidelines, including those established by State and Federal government programs, for FR Ambulance services. Client retains responsibility for providing accurate and complete documentation of services provided Client understands that Company will code/bill only from the documentation provided.
4. Company shall provide electronic billing of Medicare, Medicaid, Insurance claims, including 3rd party payors, when applicable. It is the responsibility of Client to inform Company of any changes in the company's status that would affect billing.
5. Company will invoice all patients as directed by Client, in accordance with State and Federal programs.

Patient invoicing will be done on a billing form specific for Client.

Invoicing/collection activities will be conducted on the following standard schedule:

1 st invoice	within three (3) days of receipt
Insurance request	thirty (30) days after 1 st invoice
Automated phone call	twenty (20) days after insurance request
2 nd invoice	ten (10) days after phone call
Final notice	twenty (20) days after 2 nd invoice
Collections for W/O review	thirty (30) days after final notice

Bill schedules may vary based on parameters set by department

Collection agency or write off if no results from above as pre-determined by Client.

6. All monies received by Company on behalf of Client will be posted to the patients' accounts on a schedule set forth by Client. All checks will be made payable to Client. It is the responsibility of Client to notify Company of any payments and/or documents pertaining to billing received at Client relating to the services heretofore described.

Company agrees to pay these monies collected to the Client on a monthly basis, within seven (7) working days after the close and accounting of the monthly billing cycle

7. Company will maintain an 800-phone line for the purpose of customer service. This line will be staffed Monday through Friday from 8:30 am to 7:30 pm Central time.
8. Company will promptly respond to all of Client's service recipient concerns related to all billing practices conducted herein.
9. Company will submit monthly reports detailing the transports billed from the previous month. It is the responsibility of Client to verify these reports and provide Company with any missing data. All reports currently within the software of Company's billing system will be provided to Client at no additional cost.
10. Company shall recognize and comply with the right of authorized Client representatives to review any and all payment records pursuant to claims and/or collection procedures conducted herein. Client shall have the right to audit such reports at reasonable times.
11. Company will not begin litigation against a person, entity, or insurance carrier without prior written approval by the Client.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on an agreement with Plummer Associates for engineering and design services for new secondary clarifier and clarifier mechanism in primary clarifier no. 1 for a total amount of \$985,983 and authorize the Interim City Manager to execute the same.

Staff Contact

Carrie Jones, Director of Public Works
cjones@cityofdenison.com
903-465-2720 x2441

Summary

- The next step in the process of rehabilitation and possible expansion at PawPaw Wastewater Treatment Plant is to replace the two secondary clarifiers.
- The existing secondary clarifiers are steel, beyond their life expectancy and experiencing structural concerns.
- The clarifier mechanism in Primary Clarifier No. 2 is also beyond its life expectancy and needs to be replaced.

Staff Recommendation

Staff recommends approval of this engineering and design agreement with Plummer Associates.

Recommended Motion

“I move to approve the agreement with Plummer Associates for engineering and design services for new secondary clarifiers and a clarifier mechanism in PC1 for a total amount of \$985,983 and authorize the Interim City Manager to execute the same.”

Background Information and Analysis

The City is currently underway with the first construction project at PawPaw Wastewater Treatment Plant to move towards rehabilitation and expansion. In this first project, the headworks is being repaired, a new splitter box is being built along with several other miscellaneous items. The next step identified in our Master Plan is the replacement of the two secondary clarifiers.

The proposed agreement will include the design of two new secondary clarifiers to replace the aging secondary clarifiers that are currently in use. The existing secondary clarifiers have structural concerns. IN addition to the secondary clarifiers, new return activated sludge (RAS) pumps will be designed for each secondary clarifier. They are currently connected to the aeration blowers which makes operations more difficult. Lastly, the clarifier mechanism in Primary Clarifier No. 1 is beyond its useful life and needs to be replaced. The clarifier mechanism in Primary Clarifier No. 2 was replaced in 2018.

With design and engineering beginning now, the current plan and timeline will allow for design and engineering to be completed in conjunction with the current construction project ending. The use of temporary piping and ease of moving into the second construction project may have a savings with the construction of the secondary clarifiers and replacements of the clarifier mechanism in PC1. The

estimated cost of construction for the secondary clarifiers, RAS pumps and clarifier mechanism in PC1 is approximately \$13-\$15 million. This cost will be built into the upcoming CIP schedules.

Financial Considerations

This design contract was included in the FY2022 CIP.

Prior Board or Council Action

None.

Alternatives

Council may choose to postpone this agreement; however, failure could occur which would be catastrophic to PawPaw Wastewater Treatment Plant.

PLUMMER ASSOCIATES, INC.

AGREEMENT FOR ENGINEERING SERVICES

Project No. _____

THIS AGREEMENT is made and entered into as of the _____ day of _____, **2022**, by and between the **CITY OF DENISON, TEXAS**, (hereinafter called "Owner") and the firm of **PLUMMER ASSOCIATES, INC.**, a Texas Corporation with its corporate office at 1320 South University, Suite 300, Fort Worth, Tarrant County, Texas, (hereinafter called "Engineer").

OWNER INFORMATION

Name: <u>City of Denison, Texas</u>	Contact: _____
Billing Address: <u>P.O. Box 347</u>	Title: _____
<u>Denison, Texas 75021-0347</u>	Telephone: _____

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, Owner and Engineer agree as follows:

SCOPE OF SERVICE:

Owner requests and authorizes Engineer to perform BASIC ENGINEERING SERVICES to and as further described in Exhibit A, "**Scope of Services**," and hereinafter called the Project as set forth in this Agreement.

GENERAL TERMS AND CONDITIONS:

1. Authorization to Proceed

Execution of this Agreement by the Owner will be authorization for PLUMMER ASSOCIATES, INC. ("Engineer") to proceed with the work, unless otherwise provided for in this Agreement.

2. Salary Costs

Engineer's Salary Costs, when the basis of compensation, are the amount of wages or salaries paid Engineer's employees for work directly performed on Owner's Project plus a percentage applied to all such wages or salaries to cover all payroll-related taxes, payments, premiums, and benefits.

3. Per Diem Rates

Engineer's Per Diem Rates, when the basis of compensation, are those hourly or daily rates charged for work performed on Owner's Project by Engineer's employees of the indicated classifications. These rates are subject to annual calendar year adjustments and include all allowances for salary, overheads, and fee, but do not include allowances for Direct Expenses.

4. Direct Expenses

Engineer's Direct Expenses, when part of the basis of compensation, are those costs incurred on or directly for the Owner's Project, including, but not limited to, necessary transportation costs, including Engineer's current rates for Engineer's vehicles; meals and lodging; laboratory tests and analyses; computer services; word processing services, telephone, printing, binding, and reproduction charges; all costs associated with outside consultants, subconsultants, subcontractors, and other outside services and facilities; and other similar costs. Reimbursement for Direct Expenses will be on the basis of actual charges when furnished by commercial sources and on the basis of current rates when furnished by Engineer.

5. Cost Opinions

Any cost opinions or Project economic evaluations provided by Engineer will be on a basis of experience and judgment; but, since it has no control over market conditions or bidding procedures, Engineer cannot warrant that bids, ultimate construction cost, or Project economics will not vary from these opinions.

6. Termination

This Agreement may be terminated for convenience upon 30 days' written notice by either party with or without cause. On termination, Engineer will be paid for all work performed up to the date of notification. If no notice of termination is given and termination is not for cause, relationships and obligations created by this Agreement, except Articles 8 through 15, will be terminated upon completion of all applicable requirements of this Agreement.

7. Compensation

Owner shall pay Engineer for Basic Services and Additional Services rendered in accordance with the provisions of Exhibit B.

Monthly invoices will be issued by Engineer for all work performed under this Agreement. Invoices are due and payable on receipt. Interest at the rate of 1-1/2 percent per month, or that permitted by law if lesser, will be charged on all past-due amounts starting 30 days after date of invoice. Payments will first be credited to interest and then to principal.

In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid.

The Owner will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.

8. Insurance

Engineer, as a minimum, shall maintain insurance of a form and in amounts as required by state law and as set forth in the attachment "Insurance and as set forth in Exhibit C, "Insurance". Engineer shall provide proof of said insurance requirements by attaching a Certificate of Insurance with the executed Agreement.

9. Independent Consultant

Engineer agrees to perform all services as an independent consultant and not as a subcontractor, agent or employee of the Owner.

10. Engineer's Personnel at the Project Site

The presence or duties of the Engineer's personnel at the Project site, whether as on-site representatives or otherwise, do not make the Engineer or its personnel in any way responsible for those duties that belong to Owner and/or to other contractors, subcontractors, or other entities, and do not relieve the other contractors,

subcontractors, or other entities of their obligations, duties, and responsibilities, including, but not limited to, all methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work of those parties in accordance with their contract requirements and any health or safety precautions required by such work. The Engineer and its personnel have no authority to exercise any control over any contractor, subcontractor, or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of any contractor, subcontractor, or other entity or any other persons at the Project site except Engineer's own personnel.

Engineer neither guarantees the performance of any contractors, subcontractors or other entities nor assumes responsibility for their failure to perform their work in accordance with their contractual responsibilities.

11. Litigation Assistance

Unless specifically set forth in the Scope of Services, the Scope of Services does not include costs of the Engineer for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation or administrative proceedings taken or defended by the Owner.

12. Venue

In the event that any legal proceeding is brought to enforce this Agreement or any provision hereof, the same shall be brought in **Grayson County, Texas**, and shall be governed by the laws of the **State of Texas**.

13. Severability and Survival

If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of this Agreement for any cause.

14. Interpretation

The limitations of liability and indemnities will apply whether Engineer's liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, except for willful misconduct or gross negligence for limitations of liability and sole negligence for indemnification, and shall apply to Engineer's officers, affiliated corporation, employees and subcontractors. The law of the state of Texas shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

15. No Third Party Beneficiaries

This Agreement gives no rights or benefits to anyone other than the Owner and Engineer and has no third party beneficiaries. The Owner will include a provision in each agreement which Owner enters into with any other entity or person that such entity or person shall have no third-party beneficiary rights under this Agreement.

Engineer's services are defined solely by this Agreement, and not by any other contract or Agreement that may be associated with the Project.

16. Indemnity and Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, ENGINEER SHALL INDEMNIFY AND HOLD HARMLESS OWNER AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, CONSULTANTS, AND EMPLOYEES FROM REASONABLE CLAIMS, COSTS, LOSSES, AND DAMAGES ARISING OUT OF ENGINEER'S NEGLIGENT ACT OR OMISSION OF ENGINEER, ITS CONSULTANTS, OR THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, OR EMPLOYEES ON SERVICES PERFORMED UNDER THIS AGREEMENT PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE

PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING THE LOSS OF USE RESULTING THEREFROM. IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT IN NO CASE SHALL THE ENGINEER BE REQUIRED TO PAY AN AMOUNT DISPROPORTIONAL TO ENGINEER'S CULPABILITY, OR ANY SHARE OF ANY AMOUNT LEVIED TO RECOGNIZE MORE THAN ACTUAL ECONOMIC DAMAGES

ENGINEER WILL STRIVE TO PERFORM SERVICES UNDER THIS AGREEMENT IN A MANNER CONSISTENT WITH THAT LEVEL OF CARE AND SKILL ORDINARILY EXERCISED BY MEMBERS OF THE PROFESSION CURRENTLY PRACTICING SIMILAR WORK IN THE SAME LOCALITY UNDER SIMILAR CONDITIONS DURING THE SAME TIME. ENGINEER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, UNDER THIS AGREEMENT OR OTHERWISE, IN CONNECTION WITH ANY SERVICES PERFORMED OR FURNISHED BY ENGINEER. ENGINEER'S SERVICES SHALL BE GOVERNED BY THE NEGLIGENCE STANDARD FOR PROFESSIONAL SERVICES, MEASURED AS OF THE TIME THOSE SERVICES ARE PERFORMED.

THE OWNER'S REVIEW, APPROVAL, OR ACCEPTANCE OF, OR PAYMENT FOR, ANY OF THESE SERVICES SHALL NOT BE CONSTRUED TO OPERATE AS A WAIVER OF ANY RIGHTS UNDER THIS AGREEMENT OR OF ANY CAUSE OF ACTION ARISING OUT OF THE PERFORMANCES OF THIS AGREEMENT, AND THE ENGINEER SHALL BE AND REMAIN LIABLE IN ACCORDANCE WITH APPLICABLE LAW FOR ALL DAMAGES TO THE OWNER CAUSED BY ENGINEER'S OMISSIONS OR NEGLIGENT PERFORMANCE OF ANY OF THE SERVICES FURNISHED UNDER THIS AGREEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, ENGINEER'S LIABILITY FOR OWNER DAMAGES FOR ANY CAUSE OR COMBINATION OF CAUSES WILL, IN THE AGGREGATE, NOT EXCEED THE LIMITS OF THE ENGINEER'S PROFESSIONAL LIABILITY INSURANCE COVERAGE.

AS USED HEREIN, ENGINEER INCLUDES THE CORPORATION, SUBCONTRACTORS, AND ANY OF ITS OR THEIR OFFICERS, OR EMPLOYEES.

AS BETWEEN THE OWNER AND THE ENGINEER, ANY CONTRACT CLAIM MUST BE BROUGHT WITHIN FOUR YEARS FROM THE DAY FOLLOWING THE ACT OR OMISSION GIVING RISE TO THE BREACH OF CONTRACT CLAIM.

17. Documents and Notices

Contract documents, reports, plans, specifications, memorandums, or other delivered documents (furthermore known as Documents), in printed paper format (also known as hard copies) prepared or furnished by Engineer, pursuant to this Agreement are instruments of service but shall become the property of the Owner subject to Engineer's receipt of full payment for all services relating to preparation of the Documents. Engineer shall have the right to retain copies of Documents for information and reference. Signed and sealed printed form documents and plans shall be deemed superior and shall govern over same electronic format documents.

Contracted notices required by this Agreement shall be made in writing and shall be delivered by:

- a. person;
- b. overnight courier with written verification of receipt;
- c. electronic communication; or
- d. certified mail, return receipt requested.

18. Assignment

Neither Party will assign all or any part of this Agreement without prior written consent to the other party.

Exhibit A – Scope of Services

Exhibit B – Compensation

Exhibit C – Insurance

By execution of this Agreement, Owner authorizes Engineer to provide Basic Services for the Project in accordance with Exhibit A, "Scope of Services." Services covered by this Agreement will be performed in accordance with the Provisions attached to this form and any other attachments or schedules. This Agreement supersedes all prior Agreements and understandings and may only be changed by written amendment executed by both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

Owner:

Plummer Associates, Inc.:

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Exhibit A

Scope of Services

BACKGROUND

The Paw Paw Wastewater Treatment Plant (WWTP) has two primary clarifiers. The clarifier mechanism in Primary Clarifier No. 2 was replaced in its entirety in 2018 as part of the "Paw Paw WWTP UV and Clarifier Equipment Replacement" project. The clarifier mechanism in Primary Clarifier No. 1 has similarly operated beyond its normal anticipated life and needs to be replaced. Primary Clarifier No. 2 is being converted into Secondary Clarifier No. 3 as part of the ongoing "Paw Paw WWTP Headworks and Miscellaneous Clarifier Improvements" project to facilitate construction of new secondary clarifiers as part of this project. Upon completion and startup of the new secondary clarifiers, Primary Clarifier No. 2 can be placed back into operation as a primary clarifier and the mechanism in Primary Clarifier No. 1 can be replaced.

The original painted steel splitter box for Secondary Clarifiers No. 1 and 2 is attached to the painted steel Secondary Clarifier No. 1. The Secondary Clarifier 1 wall is warped, particularly between the splitter box and Secondary Clarifier No. 1, and shows signs of pitting, which is further supported by ultrasonic testing done as part of the "Paw Paw WWTP Headworks and Miscellaneous Clarifier Improvements" project. Both secondary clarifiers need to be replaced in their entirety. A new splitter box is being constructed as part of the ongoing "Paw Paw WWTP Headworks and Miscellaneous Clarifier Improvements" project to facilitate this work.

Return Activated Sludge (RAS) is currently lifted from the bottom of the existing secondary clarifiers into elevated, two-chamber RAS boxes attached to each clarifier via air lift pumps. RAS overflows a weir inside each of the RAS boxes and flows by gravity to the aeration basin splitter box. The aeration blowers that supply air to the aeration basins also supply air to these air lift pumps. Plant staff have noted that the air lift pumps do not receive enough air to overcome the static headlosses and effectively return RAS to the aeration basin splitter box, particularly when trying to control the aeration blowers off of dissolved oxygen probes in the aeration basins or when operating Primary Clarifier No. 2 due to hydraulic constraints. A new RAS pump station for each of the secondary clarifiers will provide better control over RAS flowrates that are no longer tied to the performance of the aeration blowers.

BASIC SERVICES

Basic Services provided by the Engineer shall generally be covered under the following tasks:

1. Design Phase Services
2. Advertisement and Bid Phase Services

The specific activities for each task are identified in the following sections. The number of prime construction contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

In the event that the Project designed or specified by Engineer is to be performed or furnished under more than one prime construction contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Design Phase, develop a schedule for performance of Engineer's services during the Design, Advertisement and Bid, and Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit C whether or not the services under such contracts is to proceed concurrently.

1. Design Phase Services

- 1.1. Project Initiation: Engineer shall consult with the Owner to gather existing information relative to the Project including on-going or planned construction projects in the work area, location of existing utilities

and underground facilities, design criteria, construction plans and drawings, mapping, existing subsurface and geotechnical reports, existing topography map and survey information, etc. Exhibits of existing systems shall be provided in electronic format if available.

1.2. The Engineer shall develop drawings and specification as follows:

1.2.1. General and Civil Drawings

1.2.1.1. General sheets will provide organization and a general understanding of the project to bidders. A hydraulic profile shall be included beginning at the Headworks and ending at the Outfall.

1.2.1.2. Process and Instrumentation Diagrams (P&IDs)

1.2.1.3. Yard piping and grading.

1.2.1.4. Standard details.

1.2.2. Primary Clarifier Mechanism Replacement Drawings and Specifications

1.2.2.1. The Engineer shall develop detailed drawings and specifications for the removal and replacement of the 75-foot diameter primary clarifier mechanism in Primary Clarifier No. 1.

1.2.2.2. The Engineer shall coordinate with the Primary Clarifier Mechanism Manufacturer for a not-to-exceed price and scope of supply to include in the final specifications prior to advertisement.

1.2.3. Secondary Clarifier Drawings and Specifications

1.2.3.1. The Engineer shall develop detailed drawings and specifications for demolishing the existing two painted steel secondary clarifiers and constructing two new concrete secondary clarifiers of similar size and shape in the same location.

1.2.3.2. The Engineer shall coordinate with the Secondary Clarifier Mechanism Manufacturer for a not-to-exceed price and scope of supply to include in the final specifications prior to advertisement.

1.2.4. Return Activated Sludge (RAS) Pump Stations

1.2.4.1. The Engineer shall develop detailed drawings and specifications for constructing two new RAS Pump Stations, each located adjacent to and serving one Secondary Clarifier.

1.2.5. Electrical Building Drawings and Specifications

1.2.5.1. The Engineer shall develop detailed drawings and specifications for a new electrical building that will serve the secondary clarifier splitter box, Secondary Clarifiers 1 and 2 and a future third secondary clarifier, RAS PS 1 and 2 and a future third RAS PS, and the existing Trojan 3000Plus UV Disinfection system and a future parallel UV disinfection system. The new electrical building shall be CMU construction with a metal roof and HVAC. The building will be constructed on a raised platform to mitigate potential flooding.

- 1.2.6. Modify electrical power system, control system, and instrumentation as necessary to accommodate the above-referenced improvements.
 - 1.2.7. Prepare supporting specifications to fully describe the intended work, convey the intent of the design, and to serve as the governing conditions for the General Contractor.
 - 1.2.7.1. The Engineer shall utilize the Engineer's front-end documents (Division 0, which includes the Advertisement for Bids, contractual terms and conditions, etc.). These documents are based on the Engineers Joint Contract Documents Committee (EJCDC).
 - 1.2.7.2. Technical specifications shall be prepared based on the Engineer's standard specifications.
 - 1.2.8. Deliverables: The Engineer shall provide the following deliverables at both the 50% and 90% completion milestones.
 - 1.2.8.1. Electronic copies of the half-size design drawings and specifications in PDF format.
 - 1.2.8.2. Within 14 calendar days of receipt of each of the review documents, Owner shall submit to Engineer any comments regarding on the design drawings and specifications.
 - 1.2.8.3. The Engineer shall provide a written response to the Owner's comments and modify design drawings and specifications incorporating required changes.
 - 1.2.9. The Engineer will develop contract documents to comply with TCEQ requirements. The Engineer shall submit required notification to the TCEQ. When requested, the Engineer shall provide plans and specifications to the TCEQ for review.
 - 1.2.10. The Engineer will develop final design drawings and specifications in accordance with comments and instructions from the Owner and reviewing agencies, as appropriate, and submit electronic copies of the engineer sealed final design documents, bidding documents, and a revised Opinion of Probable Construction Cost in PDF format.
- 1.3. Meetings and Site Visits
- 1.3.1. The Engineer shall conduct a Project Initiation Meeting with the Owner at the Owner's facility at the beginning of the Project to review and confirm the scope, schedule, resources, and responsibilities. Initiation meeting with the Owner shall clarify and define the Owner's expectations, requirements and responsibilities on the Project and review Engineer's services. The meeting shall discuss design concepts, information and documents, design criteria, outline specifications, and conceptual Opinion of Probable Construction Cost (OPCC).
 - 1.3.1.1. Confirm the Project objectives, scope of work, milestone schedule, and Owner expectations.
 - 1.3.1.2. Confirm and Identify information needed from the Owner for the Project and determine the most efficient method for obtaining information.
 - 1.3.1.3. Confirm critical Project success factors and Project deliverables.
 - 1.3.1.4. Identify reporting requirements and other information needed to manage and monitor the progress of this Project.

- 1.3.1.5. Prepare draft meeting notes and list of action items resulting from meeting. Provide a draft copy of meeting notes in portable document format (PDF) to the Owner's Project Manager for distribution and review to Owner's staff.
- 1.3.1.6. Prepare final meeting notes and list of action items incorporating comments from the Owner. Provide a final copy of meeting notes in PDF format to the Owner's Project Manager for distribution to the Owner's staff.
- 1.3.2. The Engineer shall conduct project review meetings at the 50% and 90% completion milestones. These meetings are to assist the Owner in preparing review comments for the Engineer.
 - 1.3.2.1. The Engineer shall prepare an agenda for and moderate the meetings.
 - 1.3.2.2. Prepare draft meeting notes and list of action items resulting from meeting. Provide a draft copy of meeting notes in PDF format to the Owner's Project Manager for distribution and review to Owner's staff.
 - 1.3.2.3. Prepare final meeting notes and list of action items incorporating comments from the Owner. Provide a final copy of meeting notes in PDF format to the Owner's Project Manager for distribution to the Owner's staff.
- 1.3.3. The Engineer shall conduct a 0%, 50%, and 90% internal quality control meeting. Senior level staff not associated with the design of the project shall review and provide design recommendations to the design team. Meetings will be held at the Engineer's office in Fort Worth.
- 1.3.4. The Engineer will make up to two (2) additional site visits during design.
- 1.4. Opinion of Probable Construction Cost (OPCC) Development
 - 1.4.1. The Engineer will prepare an OPCC for review by the Owner in conjunction with the design of improvements. The OPCC will be updated and submitted with both the 50% and 90% QC review of the plans and specifications. The Engineer will update the OPCC for submittal with the final sealed plans and specifications. The Engineer's projection of construction costs will be based on materials and labor prices prevailing at the time of preparation, without consideration of inflationary increases in cost. The Engineer does not warrant the accuracy of the opinion of probable construction cost.

2. Advertisement and Bid Phase Services

Upon acceptance by Owner of the final design and bid documents and the most recent Opinion of Probable Construction Cost as determined in the Design Phase, and upon written authorization by Owner to proceed, Engineer shall

- 2.1. Assist the Owner in the advertisement of the project for competitive bids. Services shall include:
 - 2.1.1. Provide draft and final advertisement language (Advertisement for Bids) to the Owner for publication in the local news media, the cost of which shall be paid by the Owner.
 - 2.1.2. Assist Owner in advertising and notifying construction news publications for and securing competitive bids for the Work.
 - 2.1.3. Distribute bid documents, plans, and specifications for the project to prospective bidders via CivCast.

- 2.1.4. Assist the prospective bidders in interpreting the plans and specifications through the preparation and issuance of addenda to clarify, correct or change the bid documents.
- 2.1.5. Maintain a record of prospective bidders to whom Bidding Documents have been issued.
- 2.2. Coordinate, attend, and administer one (1) pre-bid conference for the project.
- 2.3. Assist the Owner in the opening, tabulation, analysis of the bids received and furnish recommendations on the award of the contracts or the appropriate actions to be taken by the Owner.
 - 2.3.1. Consult with Owner as to the acceptability of contractor, subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bid documents.
- 2.4. Following the opening of bids, the Engineer shall conform the contract documents including all addendum changes. The following contract document sets shall be provided.
 - 2.4.1. Up to three (3) sets of conformed documents, including up to one (1) full-size drawings, two (2) half-size drawings, and four (4) specification sets (one executed and three conformed) to the Owner.
 - 2.4.2. Up to three (3) sets of conformed documents, including up to two (2) full-size drawings, one (1) half-size drawings, and four (4) specification sets (one executed and three conformed) to the Contractor.
 - 2.4.3. Electronic set of conformed documents in PDF format.
- 2.5. Assist the Owner in coordinating the execution of the conformed contract documents.
- 2.6. Preparation of additional copies of the documents for the Owner or other parties will be performed by the Engineer as an Additional Service.

3. Project Management and Quality Control

- 3.1. Provide project management for Design Phase Services and Advertisement and Bid Phase Services. Project management shall include developing and implementing a project management plan; tracking and managing internal schedules of work; monitoring and addressing issues related to the scope of work, budget and deliverables; preparing and processing monthly billings; providing labor resources necessary to fulfill scoped work; scheduling and participating in quality control reviews; and providing updates to the Owner on a regular basis.
 - 3.1.1. The Engineer shall coordinate efforts on project tasks identified above.
 - 3.1.2. The Engineer shall prepare a common monthly invoice.

4. Schedule

- 4.1. The time period for performance of Design and Advertisement and Bid Phase services identified under Basic Services as detailed above shall be completed within 365 days of the execution date of this Agreement plus such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the final design documents, if such approval is to be obtained during the Design Phase.

5. Special Services

- 5.1. Special Services incidental to the Project, but not included within the scope of Basic Services covered above, which may be performed or arranged for separately by the Owner, or may be added to the Engineer's responsibilities by mutual agreement and written authorization. At this time, no Special Services are included in the scope of work.

6. Additional Services

- 6.1. Additional Services are those services not included in General Services that may be required for the Project, but cannot be defined sufficiently at this time to establish a Scope of Work. These include, but are not necessarily limited to the following:
 - 6.1.1. Design of other improvements not identified in Basic or Special Services.
 - 6.1.2. Population or flow projections.
 - 6.1.3. Construction Phase Services.
 - 6.1.4. Other services beyond those included in Basic or Special Services that are approved by the Owner.
 - 6.1.5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
 - 6.1.6. Providing additional hard copies of technical memorandums, reports, plans, specifications, OPCCs, and contract documents beyond those specifically described in Basic and Special Services.
 - 6.1.7. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation, review, or payment of fees for environmental assessments and impact statements, storm water discharge permits, 404 permit applications, or any other type of permit; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 - 6.1.8. Services to investigate existing conditions of facilities (in addition to those furnished under Basic Services), make measured drawings of, or to verify the accuracy of drawings or other information furnished by Owner or others.
 - 6.1.9. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
 - 6.1.10. Modifications to the design of improvements previously approved by the Owner by acceptance without comment on conceptual or detailed design progress submittals.
 - 6.1.11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and

performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.

- 6.1.12. Attending additional meetings or visits to the site during design (if required) that are not identified in Sections 1.3.1 and 1.3.4 above.
- 6.1.13. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof or other services attributable to more than one prime construction contract.
- 6.1.14. Providing renderings or models for Owner's use.
- 6.1.15. Preparation of operation and maintenance manuals if not already in the scope of services.
- 6.1.16. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required.
- 6.1.17. Services in making revisions to drawings and specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of the construction contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the project; evaluation and determination of proposed "or equals" or substitutions, whether proposed before or after award of the construction contract, above the number specified under Basic Services.
- 6.1.18. Services requiring out-of-town travel of Engineer other than for visits to the Site or Owner's office.
- 6.1.19. Providing construction surveys and staking to enable Contractor to perform its work.
- 6.1.20. Property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
- 6.1.21. Processing additional shop drawings, operation and maintenance manuals, requests for information, payment requests/applications, or contract modifications above the numbers specified under Basic Services.
- 6.1.22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
- 6.1.23. Assistance to Owner in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.
- 6.1.24. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor.
- 6.1.25. Easement acquisition assistance or aid in acquiring property in fee, including in-house labor by the Engineer, subconsultant services or property appraisals.
- 6.1.26. Corrosion studies.
- 6.1.27. Archeological investigations.
- 6.1.28. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.

- 6.1.29. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
- 6.1.30. GIS processing of geophysical and/or geotechnical data beyond the assumptions provided in Basic or Special Services.
- 6.1.31. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
- 6.1.32. Public relation activities.
- 6.1.33. Services known to be required for completion of the Project that the Owner agrees are to be furnished by the Engineer or by a subconsultant that cannot be defined sufficiently at this time to establish the maximum compensation.
- 6.1.34. Services in connection with work change directives and change orders to reflect changes requested by Owner.

Exhibit B Compensation

1. Basic Services of Engineer

Owner shall pay Engineer for Basic Services of Engineer rendered for "Scope of Services" as provided in this agreement. Fees shall be paid per Article 7 of the General Terms and Conditions.

Compensation for the following Services actually completed shall be as shown below:

Task Item	Task Name	Budgeted Amount	Payment Terms
BASIC SERVICES			Lump Sum
Task 1	Design Phase Services	\$896,541.00	
Task 2	Advertisement and Bid Phase Services	\$89,442.00	
TOTAL BASIC SERVICES		\$985,983.00	

Cost reimbursable compensation shall be based on Engineer's personnel time at Engineer's hourly labor rates attached hereto as Table B -1 Hourly Fee Schedule for Professional Services. All direct expenses, including mileage, travel and lodging expenses, but excluding subcontract expenses, applied to the Basic Services of Engineer, shall be paid at invoice or internal office cost plus a **fifteen percent (15%)** service charge. Subcontract expenses shall be paid at direct cost plus a **ten percent (10%)** service charge. All sales, use, value added, business transfer, gross receipts, or other similar taxes will be added to Engineer's compensation when invoicing Owner.

Compensation for Basic Engineering Services shall be a lump sum amount of \$985,983.00.

2. Additional Services of Engineer

Additional Services of Engineer, which may be required by the Owner, shall be based on actual hours and costs in accordance with Exhibit B-1. All direct expenses, including mileage, travel and lodging expenses, but excluding subcontract expenses, applied to the Additional Services of Engineer, shall be paid at invoice or internal office cost plus a **fifteen percent (15%)** service charge. Subcontract expenses shall be paid at direct cost plus a **ten percent (10%)** service charge. All sales, use, value added, business transfer, gross receipts, or other similar taxes will be added to Engineer's compensation when invoicing Owner.

3. Definitions

Direct Labor Cost: Salaries and wages paid to Engineer's personnel engaged directly on the Project, but do not include indirect costs, insurance costs, fringe benefits, overhead or profit. Direct Labor Cost is subject to annual calendar year adjustments.

Hourly Labor Rates: Direct Labor Cost plus a percentage applied to all such wages or salaries to cover payroll taxes, insurance premiums, benefits and all other overhead or profit.

Direct Expenses: All expenses incurred directly by the Engineer. These may include transportation costs, travel, meals, lodging, laboratory testing and analyses, telecommunication, computer services, document reproduction and processing, all direct expenses associated with outside consultants, and any other direct expense incurred by the Engineer.

**TABLE B-1
PLUMMER ASSOCIATES, INC.
HOURLY FEE SCHEDULE
2022**

Staff Description	Staff Code	Range of Billing Rates
Admin Staff	A1-A3	\$ 85.00 - \$ 105.00
Senior Admin Staff	A4	\$ 90.00 - \$ 130.00
Designer/Technician	C1-C2	\$ 75.00 - \$ 115.00
Designer/Technician III	C3	\$ 100.00 - \$ 130.00
Senior Designer/Technician	C4	\$ 125.00 - \$ 160.00
Engineer/Scientist Intern	ES0	\$ 50.00 - \$ 95.00
Engineer-in-Training/Scientist-in-Training	ES1-ES2	\$ 95.00 - \$ 130.00
Engineer-in-Training/Scientist-in-Training III	ES3	\$ 115.00 - \$ 145.00
Project Engineer/Scientist	ES4	\$ 120.00 - \$ 155.00
Senior Project Engineer/Scientist	ES5	\$ 135.00 - \$ 195.00
Project Manager	ES6	\$ 180.00 - \$ 250.00
Senior Project Manager	ES7	\$ 225.00 - \$ 295.00
Principal I	ES8	\$ 250.00 - \$ 330.00
Principal II	ES9	\$ 290.00 - \$ 400.00
Electrical Engineer in Training I	EE1	\$ 85.00 - \$ 110.00
Electrical Engineer in Training II	EE2	\$ 100.00 - \$ 115.00
Electrical Engineer in Training III	EE3	\$ 120.00 - \$ 150.00
Electrical Specialist	EE4	\$ 130.00 - \$ 165.00
Programmer	EE5	\$ 135.00 - \$ 170.00
Programmer II	EE6	\$ 140.00 - \$ 175.00
Senior Electrical Engineer	EE7	\$ 260.00 - \$ 295.00
Construction Manager in Training (<i>CMIT</i>)	CM 1 - 3	\$ 95.00 - \$ 145.00
Construction Manager	CM 4 – CM 6	\$ 120.00 – \$ 220.00
Sr. Construction Manager	CM 7 – CM 8	\$ 225.00 - \$ 305.00
Resident Project Rep. I	RR1	\$ 85.00 - \$ 110.00
Resident Project Rep. II	RR2	\$ 100.00 - \$ 115.00
Resident Project Rep. III	RR3	\$ 115.00 - \$ 140.00
Lead Resident Project Rep.	RR4	\$ 120.00 - \$ 150.00
Field Technician I	LS1	\$ 65.00 - \$ 100.00
Field Technician II	LS2	\$ 80.00 - \$ 105.00
Survey Specialist I	LS3	\$ 100.00 - \$ 120.00

Survey Specialist II	LS4	\$ 110.00 - \$ 125.00
Survey Analyst	LS5	\$ 115.00 - \$ 130.00
Chief of Parties	LS6	\$ 125.00 - \$ 150.00
Registered Professional Land Surveyor	LS7	\$ 225.00 - \$ 295.00

Billing rates are based on "salary cost" times a multiplier of 2.3.

Salary cost is based on direct payroll costs times 1.43. Salary cost includes direct payroll costs, payroll taxes, vacation, holiday, sick leave, employee insurance, and other fringe.

Range of billing rates shown may be adjusted by up to 4 percent annually (at the beginning of each calendar year) during the term of this agreement. The multipliers shown will not be adjusted.

A multiplier of 1.15 will be applied to all direct expenses.

A technology charge will be billed at \$5 per labor hour.

Exhibit C
Insurance

Engineer shall maintain the following minimum insurance for the duration of the Project:

I. Workers Compensation and Employer's Liability:

Workers Compensation:	Statutory Limits
Employer's Liability:	
Bodily Injury by Accident	\$ 1,000,000 Each Accident
Bodily Injury by Disease	\$ 1,000,000 Each Employee
Bodily Injury by Disease	\$ 1,000,000 Policy Limit
Required Endorsements:	
Notice of Cancellation – as required by Section 6 below.	
Waiver of Subrogation – as required by Section 7 below.	

II. General Liability; Products - Completed Operations Coverage and Contractual Liability:

General Each Occurrence:	\$ 1,000,000
General Aggregate:	\$ 2,000,000
Personal and Advertising Injury:	\$ 1,000,000
Products – Comp/Op Aggregate:	\$ 2,000,000

Required Endorsements:

Additional Insured: Additional insured status shall be provided in favor of the Owner Parties on ISO forms CG 20 10, CG 2026 or an equivalent approved by the Owner

Primary and Non-Contributing Liability: It is the intent of the parties to this Contract that all insurance coverage required herein shall be primary to and shall seek no contribution from all insurance available to Owner Parties, with Owner Parties' insurance being excess, secondary and non-contributing. This CGL coverage shall be endorsed to provide such primary and non-contributing liability coverage.

Notice of Cancellation – as required by Section 6 below.

Waiver of Subrogation – as required by Section 7 below.

III. Umbrella Liability:

Umbrella Each Occurrence:	\$ 4,000,000
Umbrella Aggregate:	\$ 4,000,000

Required Endorsements:

Notice of Cancellation – as required by Section 6 below.

Waiver of Subrogation – as required by Section 7 below.

IV. Automobile Liability: Owned, Hired, and Non-Owned Vehicles:

Combined Single Limit: \$ 1,000,000 Each Accident

Required Endorsements:

Notice of Cancellation – as required by Section 6 below.

Waiver of Subrogation – as required by Section 7 below.

V. Professional Liability:

Professional Liability Limit: \$ 2,000,000 Per Claim/Annual Aggregate

VI. Notice of Cancellation or Reduction by Endorsement in Coverage:

In the event of cancellation or reduction by endorsement in coverage or a non-renewal affecting the Owner, thirty (30) days prior written notice shall be given to the certificate holder.

VII. Waiver of Subrogation:

Engineer hereby agrees to waive its rights of recovery from Owner with regard to all causes of property and/or liability loss and shall cause a waiver of subrogation endorsement to be provided in favor of the Owner on all insurance coverage carried by the Engineer, whether required or not (except Engineer's professional liability insurance).

VIII. Evidence of Insurance:

Certificates of Insurance shall be attached hereto.