CITY OF FAIR OAKS RANCH

CITY COUNCIL REGULAR MEETING

Thursday, March 03, 2022 at 6:30 PM

City Hall Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch

AGENDA

OPEN MEETING

1. Roll Call - Declaration of a Quorum
2. Pledge of Allegiance

CITIZENS and GUEST FORUM

To address the Council, please sign the Attendance Roster located on the table at the entrance of the Council Chambers. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda. Speakers shall limit their comments to five (5) minutes each.

3. Citizens to be heard.

PRESENTATIONS

4. Presentation of a 10-Year Service Award to Brandon Garrettson, Wastewater Supervisor.

   Joanna Merrill, IPMA-SCP, Director of Human Resources and Communications

5. Presentation to recognize Jennifer Hudson, HR/Communications Specialist for receiving the International Public Management Association for Human Resources Certified Professional (IPMA-CP) designation.

   Joanna Merrill, IMPA-SCP, Director of Human Resources and Communications

6. Introduction of new employees: Kenneth Neesham, Maintenance Technician; Hunter Hickman, Maintenance Technician; Eloy Contreras III, Maintenance Technician and Ricardo Bautista, Court Administrator.

   Joanna Merrill, IPMS-SCP, Director of Human Resources and Communications

7. Recognition of the Employee of the Quarter - Q1 recipient, Maria J. Pinedo, Court Clerk.

   Joanna Merrill, IMPA-SCP, Director of Human Resources and Communications

8. Presentation of the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting for the Fiscal Year Ended September 30, 2020.

   Joanna Merrill, ICMA-SCP, Director of Human Resources and Communications

9. Recognition of the Government Finance Officers Association Distinguished Budget Presentation Award for the FY 2021 budget.

   Joanna Merrill, IPMA-SCP, Director of Human Resources and Communications

10. Boerne Ranch Estates Presentation.

Boerne Ranch Estates Developers

11. Presentation of Utility Rate Study Report and Recommendations from the Rate Advisory Panel.

Grant Watanabe, P.E., Director of Public Works & Engineering Services
Angie Flores, Senior Manager, Raftelis
Mary Zambrano, Consultant, Raftelis

CONSENT AGENDA

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

12. Approval of the February 17, 2022 Regular City Council meeting minutes.

Christina Picioccio, TRMC, City Secretary

CONSIDERATION/DISCUSSION ITEMS

13. Presentation of the Certificate of Unopposed Candidates and consideration and possible action approving a Resolution declaring unopposed candidates, in the May 7, 2022 General Election, elected to office and to cancel said General Election.

Christina Picioccio, TRMC, City Secretary

14. Consideration and possible action authorizing the City Manager to execute a Guaranteed Maximum Price Amendment to the Construction Manager at Risk Agreement between the City of Fair Oaks Ranch and Waterman Construction, LLC for City Hall Renovation construction services.

Carole Vanzant, CPM, TRMC, Assistant City Manager, Public Works & Engineering Services

15. Consideration and possible action approving the first reading of an Ordinance adopting Fiscal Year 2021-22 Budget Amendments for the City Hall Renovation project.

Scott Huizenga, Assistant City Manager, Administrative Services

16. Consideration and possible action authorizing the City Manager to sign a Professional Services Agreement for a Wastewater Treatment Plant Engineering Feasibility Study.

Clayton Hoelscher, Procurement Manager
Grant Watanabe, P.E., Director of Public Works & Engineering Services

17. Consideration and possible action approving a request to create a flag shaped rear lot and a rear lot with a depth greater than five times the lot frontage on the street located northwest of the intersection of Rolling Acres Trail and Ammann Rd.

Katherine Schweitzer, P.E., Manager of Engineering Services

18. Consideration and possible action approving a Law Enforcement & Patrol Agreement between the City of Fair Oaks Ranch and Elkhorn Ridge Homeowners Association Inc.

Tim Moring, Chief of Police

19. Consideration and possible action approving a Law Enforcement & Patrol Agreement between the City of Fair Oaks Ranch and SA Front Gate Homeowners Association.

Tim Moring, Chief of Police

20. Consideration and possible action approving a Resolution to appoint a member to fill the Planning & Zoning Commission's Place 5 unexpired term.

Christina Picioccio, TRMC, City Secretary

21. Consideration and possible action approving a Resolution to appoint members to fill the open Zoning Board of Adjustment Place 1 and Alternate Places 6 and 7.

Christina Picioccio, TRMC, City Secretary

REPORTS FROM STAFF AND COUNCIL

22. Update to Council regarding the status of FY 2021 State of the City event.

Joanna Merrill, IPMA-SCP, Director of Human Resources and Communications

REQUESTS AND ANNOUNCEMENTS

23. Announcements and reports by Mayor and Council Members.
24. Announcements by the City Manager.
25. Requests by Mayor and Council Members that items be placed on a future City Council agenda.

CONVENE INTO EXECUTIVE SESSION

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

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

26. To receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.
27. Cause No. 2022CI01978; Boerne Ranch Estates, LLC v. The City of Fair Oaks Ranch.

Sec. 551.072 (Deliberation regarding real property)

28. The City Council will meet in closed session to deliberate the purchase, exchange, lease, or value of real property that may be considered for future location of water and wastewater system improvements.

RECONVENE INTO OPEN SESSION

Discussion and possible action on items discussed in Executive Session.

ADJOURNMENT

Signature of Agenda Approval: s/Tobin E. Maples

Tobin E. Maples, City Manager

I, Christina Picioccio, TRMC, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the City's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 6:30 PM, February 28, 2022 and remained so posted continuously for at least 72 hours before said meeting was convened.

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

IPMA-HR

This certifies that

Jennifer Hudson

has successfully demonstrated the knowledge and expertise required by the International Public Management Association for Human Resources (IPMA-HR) to earn the designation of

IPMA-CP

IPMA-HR Certified Professional

2/18/2022
Issued

12/31/2025
Expires

Cara Woodson Welch

Cara Woodson Welch
Executive Director

Government Finance Officers Association

Certificate of Achievement for Excellence in Financial Reporting

Presented to

City of Fair Oaks Ranch Texas

For its Annual Comprehensive
Financial Report
For the Fiscal Year Ended

September 30, 2020

Christopher P. Morrill

Executive Director/CEO

GOVERNMENT FINANCE OFFICERS ASSOCIATION

Distinguished Budget Presentation Award

PRESENTED TO

City of Fair Oaks Ranch
Texas

For the Fiscal Year Beginning

October 01, 2021

Christopher P. Morrill

Executive Director

CITY OF

FAIR OAKS RANCH

Water and Wastewater Cost of Service

Draft Report / February 2022

RAFTELIS

This page intentionally left blank to facilitate two-sided printing.

RAFTELIS

February 18, 2022

Mr. Tobin Maples
City Manager
City of Fair Oaks
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

Subject: Water, Wastewater and Reuse Rate Update Study

Dear Mr. Maples,

Raftelis Financial Consultants, Inc. (Raftelis) is pleased to provide this Water, Wastewater and Reuse Rate Update Study Report (Report) for The City of Fair Oaks (City). The Report summarizes the key study findings and recommendations.

The critical outcomes of the study include the following:

1. A **financial plan** which establishes the level of revenues necessary to sustainably fund the ongoing provision of safe and reliable water service.
2. A **cost-of-service analysis** which assigns responsibility for water and wastewater utility costs to customer classes, based on how each class uses the City's water and wastewater systems.
3. **Rate recommendations** which involve adjusting the City's water and wastewater rates so that they reasonably align with each class's cost of service and achieve the City's objectives.

This report summarizes our key findings and recommendations related to the development of the financial plan, cost of service analysis and rate recommendations.

This report represents the culmination of several months of work, not only on behalf of the Raftelis project team, but also the Rate Advisory Panel and City staff as well. We truly appreciate you and your staff's responsiveness both in providing the information needed to complete the study and providing helpful feedback on study deliverables. It has been a pleasure working with you, and we thank you and City staff for the support provided during the course of this study.

Sincerely,

Angie Flores

Angie Flores
Senior Manager

3755 S Capital of Texas Hwy, Suite 155
Austin, Texas 78704
www.raftelis.com

Contents

List of Tables

List of Figures

List of Appendices

This page intentionally left blank to facilitate two-sided printing.

Executive Summary

Introduction

The City retained Raftelis Financial Consultants, Inc. (Raftelis) to complete a Water, Wastewater and Reuse Rate Update Study (Study) to determine the necessary level of rate revenue required to meet annual operating expenses, payments on existing and proposed debt service, fund the capital improvement program while maintaining financial performance metrics. The primary Study objectives were to:

- Develop water and wastewater financial plans for the 10-year study period, 2023 through 2032.
- Analyze costs of providing water and wastewater service to customer classes.
- Determine water and wastewater rate adjustments for 2023 through 2028 to generate sufficient revenue to meet annual revenue requirements, sustain adequate cash reserves, and sustain debt service coverage.

This Report provides our Study assumptions, findings and recommendations. The Appendix to the report includes calculations supporting the Study findings.

Background

The City of Fair Oaks Ranch provides service to approximately 3,500 water and wastewater accounts. The City's water and wastewater utilities are part of an enterprise fund that is financially self-sufficient. They are financially self-sufficient with funding for capital and operating requirements derived primarily from rates, impact fees, interest income, and other miscellaneous sources.

Operations and Maintenance (O&M), repair and replacement of depreciating assets (RR&D), Capital Improvement Plan (CIP), debt service reserves and expenses are recovered through the City's monthly water and wastewater user charges. Capital expenses are funded with cash and bond proceeds. User charge revenue is designed to meet revenue requirements, debt service coverage, and maintain appropriate reserves.

Financial Plan Findings and Recommendations

Raftelis developed a financial plan that forecasts costs based on the assumptions outlined below. The financial plan provides the City with a roadmap for maintaining the financial sustainability of the utility. It is important to understand that the financial plan is based on a certain set of assumptions and any changes to the assumptions will require a re-evaluation of the forecast. It is recommended that the financial plan be reviewed each budget year for accuracy. Any changes that may affect the assumptions may require adjustments to rates or the revenue requirement.

ASSUMPTIONS

Raftelis incorporated the following key assumptions into the financial planh. Changes in these assumptions could have a material effect on study findings.

- The number of accounts for different customer classes increase on average as follows:
  - Residential average increase 2%
  - Commercial average increase 0%
- Water and Wastewater Fees are calculated using the basis developed and used by the City. The fees include:
  - Texas Commission on Environmental Quality (TCEQ) Regulatory Fee
  - Debt Service Fee

  - Capital Reserve Fee
  - Surface Water Fee
- Operations and Maintenance Expenses
  - Based on FY 2022 Budget
  - O&M costs are anticipated to increase at 3% annually
  - Forecast considers savings anticipated from purchase of sludge press
  - Guadalupe-Blanco River Authority (GBRA) costs are anticipated to increase 4% annually
- Capital Expenses
  - Impact Fees are assumed to cash-fund impact-fee eligible projects
  - Capital Reserve used to cash-fund capital, assets and other investments
  - Equipment Replacement Fund used to cash-fund equipment and vehicle replacement
  - Any remaining capital expenses are assumed to be bond funded
    - Proposed debt service is based on 4% annual interest rate, 20-year term, 1% issuance costs, and debt service reserve equal to average annual debt service payment.
- The water and wastewater utility will maintain the following minimum reserves:
  - Operating reserve of 365 days of annual operation and maintenance expense (O&M)
  - Capital Reserve Fund funded with revenues from Capital Reserve Fee
  - Repair and Replacement Fund funded based on annual depreciation of certain assets

FINANCIAL POLICIES

Raftelis reviewed the City's current financial policies to determine how they compare to industry policies. Financial policies can help ensure long-term stability so that the utility is able to maintain operations when unexpected problems arise. Financial policies can also guide future financial and rate decisions. Since each utility has unique operations and service characteristics, there is no "one size fits all" with respect to financial policies. The number one guidance for financial policies is that a City have an adopted financial policy document, which the City does have. At this time, Raftelis does not have any recommendations for changes to the policy. The financial planning model considers and maintains the current financial policies.

Key Finding: Current wastewater revenue levels are insufficient to sustainably fund the ongoing provision of safe and reliable wastewater service. On the other hand, water revenue levels are sufficient to fund water operations.

Recommendations: Raftelis recommends overall rate revenue adjustments of 50% in FY 2023.

Key Finding: Current water revenue levels are sufficient to fund future costs of the utility assuming service fees to recover forecasted debt service and capital reserve funding are set to recover future needs.

Recommendations: Raftelis recommends that the City continue to calculate the required Service Fees based on future costs.

Cost-of-Service Findings and Recommendations

Raftelis completed a cost-of-service study based on industry standards. The cost-of-service study uses processes that ensure costs will be allocated to each customer class based on the proportionate demands that they impose on the water and wastewater systems. The standards used to develop the cost of service are well established in the water and wastewater industry. For water, the cost-of-service process follows a multi-step allocation based on the methodologies published by the American Water Works Association (AWWA) in *Manual of Water Supply Practices M1, Principles of Water Rates, Fee, Charges* (Manual M1). For wastewater, a multi-step cost allocation process is based on methodologies published by the Water Environment Federation (WEF) in *Manual of Practice No. 27, Financing and*

Charges for Wastewater Systems. The City has residential and commercial customer classes for both water and wastewater.

Key Finding: For water, each customer class is covering their costs with small variances for each class.

Recommendations: Raftelis recommends that each calculated rate be based on the cost of service for each class.

Key Finding: For wastewater, rate changes should be based on the cost of service for the residential and commercial customer classes. As mentioned above, current wastewater revenues are under-recovering the cost of the wastewater utility.

Recommendation: Raftelis recommends that the wastewater rates be based on the cost of service.

Rate Design Findings and Recommendations

Once the cost of service is determined for each utility and customer class, the City can recover the revenue needed based on a rate design that meets its goals and objectives. To determine the goals and objectives of the City and the community, Raftelis held a Pricing Objectives Workshop with the City Council and the City's Rate Advisory Panel. The Rate Advisory Panel was appointed by City Council and included various representatives from around the City. It included 18 total members, all of which are current utility customers. The Rate Advisory Panel met four times where they were presented information about the rate study process, results of the cost-of-service and rate design scenarios. Through these meetings the members provided feedback throughout the rate study process and more importantly on the proposed rate design.

An important first step of rate design is the Pricing Objectives Workshop. Through the Pricing Objectives Workshop, the following were identified as the most important objectives by the Council and also by the Panel:

- Revenue Stability
- Equity between Classes
- Minimize Customer Impacts
- Conservation Pricing Signal

While each of these objectives were considered, there were some instances in which some could not be achieved because they conflicted with others. For example, a rate design that sends a conservation pricing signal could result in very large bill impacts for higher water users.

From an industry perspective, a utility has wide latitude on how to recover its costs through its rate structures. In developing the rate structures for your consideration, Raftelis considered these objectives in conjunction with historical consumption patterns of the City's customers. In addition, the current rate structures were evaluated to determine how well they met each objective.

In considering a potential change to the City's rate design, the City Council commissioned an Advisory Panel made up of 18 residents that represent various areas of the City. The Advisory Panel met four times where they were presented information about the rate study process, results of the cost-of-service and rate design scenarios. Raftelis presented three scenarios for water and wastewater rates. **Table 1** and **Table** 2 show the three scenarios that were presented to the Advisory Panel. Each scenario considers the cost-of-service analysis and the pricing objectives. As identified below, the water scenarios address three of the pricing objectives. Although the minimizing customer

impact is not identified as being addressed in scenarios 2 and 3 for water, lower water users might see a smaller impact than higher users with the adjusted tiers. For wastewater, because of the rate increases needed, all customers will see an increase in rates. The Advisory Panel recommended Scenario 2 for consideration by the City Council.

Table 1: Water Scenarios

Scenario 1	Scenario 2	Scenario 3
Maintain Current Rate Structures: Service Availability Charges, Water Service Fees and Volumetric Fees	Adjust Service Availability Charges to reflect Industry Meter Factors related to Meter Sizes Maintain Water Service Fees Adjust Volumetric Charges by charging for all usage and adjust tiers to encourage conservation (Different for residential and commercial)	Adjust Service Availability Charges to reflect Industry Meter Factors Eliminate Debt Service and Capital Reserve Fees (continue to maintain capital reserve) Adjust Volumetric Charges by charging for all usage, collect costs recovered in Water Service Fees and adjust tier to encourage conservation
Pricing Objectives: Revenue Stability, Minimize Customer Impacts	Pricing Objectives: Revenue Stability, Equity between Classes and Conservation Pricing Signals	Pricing Objectives: Revenue Stability, Equity between Classes and Conservation Pricing Signals

Table 2: Wastewater Scenarios

Scenario 1	Scenario 2	Scenario 3
Maintain Current Rate Structures: Service Availability Charges, Water Service Fees and Volumetric Fees Reflect Rate Increases required to meet costs	Base Rate is adjusted to recover customer service costs Maintain all Wastewater Service Fees Adds a Uniform Volumetric Rate for Average Winter Consumption	Same as Scenario 2 but eliminates Debt Service Fee and Capital Reserve Fee (continue to maintain capital reserve) Adjust Volumetric Rate to recover costs previously recovered in the Debt Service and Capital Reserve Fees
Pricing Objectives: Revenue Stability	Pricing Objectives: Revenue Stability and Equity between Classes	Pricing Objectives: Revenue Stability and Equity between Classes

RECOMMENDED RATES

The proposed rates are identified in **Table 3** and **Table 4**. Residential and Commercial customer classes will continue to pay the same Service Availability Charges and Water Service Fees. The Water and Wastewater Service Fees are calculated annually based on forecasted costs. Water volumetric fees will differ between residential and commercial. For wastewater, the rates for residential and commercial will be the same. Average Winter Consumption will be based on water usage in the months of December, January and February.

Table 3: Water Rates

Service Availability Charges by Meter Size	
¾”	$20.00
1”	$33.40
1 ½”	$66.60
2”	$106.00
3”	$200.00
4”	$333.40

Water Service Itemized Fees	
Surface Water Fee	$14.25
TCEQ Fee	$0.20
Debt Service	$7.43
Capital Reserve	$6.72
Total	$28.60

Residential Tiered Volume Charges	
Usage (in 1,000 gallons)	$/1,000 gallons
0 – 7	$2.17
7 – 17	$2.82
17 – 30	$6.51
30 – 50	$8.67
50+	$10.84

Commercial Tiered Volume Charges	
Usage (in 1,000 gallons)	$/1,000 gallons
0 – 10	$3.28
10 – 30	$4.26
30+	$6.55

Table 4: Wastewater Rates

Service Availability Charges	
All Meters	$28.94

Wastewater Service Itemized Fees	
TCEQ Fee	$0.05
Debt Service	$2.30
Capital Reserve	$4.12
Total	$6.47

Wastewater Volume Charge

Usage (based on Average Winter Consumption)	Rate Per 1,000 Gallons
All Gallons	$6.00

Financial Plan

The City's water and wastewater fund is a self-supporting enterprise fund. This section presents the financial plan forecast for the operating fund for the 10-year study period, FY 2023 through FY 2033. The illustrations in this report will focus on a five-year forecast period of FY 2023 – FY 2028.

The primary objective of the financial plan involves comparing forecasted utility revenues under existing rates to forecasted expenditures and determining what annual adjustments to revenues are necessary to ensure the financial sustainability of the water and wastewater utility going forward. This involves three steps:

1. Forecast revenue under existing rates
2. Forecast utility operating expenses and capital expenditures
3. Evaluate the sufficiency of existing revenues and adjustments needed to fund utility expenditures in a financially sustainable fashion

In developing the financial planning model, the revenue requirements of the overall enterprise fund were allocated between water and wastewater. This allocation is important for determining whether each utility is self-sustaining. While some of the costs of the utility are tracked at the direct expense level, other shared expenses require allocation between water and wastewater. In those instances, industry practices were used to allocate costs. While this allocation is important for the overall rate study, it is equally important to consider the combined utility when considering financial metrics. For reporting purposes, the City presents the enterprise fund as a combined utility.

The operating fund tracks financial activities associated with operations and maintenance of the water and wastewater systems and funding for the capital improvement program. The utility has several sub-funds of the operating fund that are used to fund capital expenditures. The funds include the Capital Reserve Fund, Impact Fee Fund, and the Equipment Replacement Fund. This Report will be focused on the overall operating fund which includes the sub-fund activities.

Evaluating financial sustainability involves two key financial performance metrics: days expenditures and a debt service coverage ratio. Raftelis recommends the City continue to maintain a goal of 365 days O&M Expenditures and at least 1.0 times debt service coverage ratio, as required by its current Financial Management Policy and bond requirements. Days Expenditures is a measure of the ability of the utility to deal with unanticipated declines in revenue or emergency expenditures without reducing service quality or dramatically increasing rates. A Debt Service Coverage Ratio is a measure of how much current revenues exceed current debt service obligations, after operating expenses have been funded. A ratio above one indicates that current net revenues (operating revenues less expenses) are sufficient to meet current debt service obligations with room to spare for unforeseen emergencies. A ratio of less than one would mean that the utility does not have sufficient current revenues to cover operating expenses and meet debt service payment obligations. Coverage requirements vary by the type of debt issued, bond covenants and ratings agency criteria, but the financial plans developed for the City are based on maintaining a minimum 1.0 times debt service coverage ratio. Raftelis considered the City's current financial policies and provided the memo attached to this report in Attachment A.

In **Table 5** the results of the financial planning analysis are shown. The forecast shows that the debt service coverage and operating reserve targets are met based on the assumptions in the financial plans described in the subsequent sections.

Table 5: Revenue Sufficiency – Combined Utility

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Beginning Balance	$ 4,189,251	$ 4,932,948	$ 5,663,727	$ 6,381,616	$ 7,076,247
Revenue from Rates					
Revenue from Rates	$ 5,734,642	$ 6,272,178	$ 7,261,460	$ 8,109,223	$ 8,775,388
Impact Fees	566,511	567,453	568,414	569,395	570,396
Miscellaneous Revenue	321,357	321,357	321,357	321,357	321,357
Total	$ 6,622,510	$ 7,160,988	$ 8,151,230	$ 8,999,974	$ 9,667,141
Revenue Requirement					
O&M	$ 4,434,232	$ 4,567,259	$ 4,704,277	$ 4,845,405	$ 4,990,768
Debt Service					
Existing	$ 339,746	$ 336,514	$ 338,256	$ 334,974	$ 336,666
Proposed	84,118	505,576	1,370,504	2,095,515	2,630,402
Subtotal	$ 423,863	$ 842,090	$ 1,708,760	$ 2,430,489	$ 2,967,068
Transfers					
Cash-Funded Capital	$ (0)	$ -	$ -	$ -	$ -
Capital Reserve Fund	398,959	406,805	414,808	422,972	431,298
Impact Fee Fund	566,511	567,453	568,414	569,395	570,396
Equipment Replacement Fund	55,247	46,601	37,082	37,082	29,937
Subtotal	$ 1,020,717	$ 1,020,859	$ 1,020,304	$ 1,029,448	$ 1,031,632
Total Revenue Requirement	$ 5,878,813	$ 6,430,208	$ 7,433,341	$ 8,305,343	$ 8,989,468
Ending Balance	$ 4,932,948	$ 5,663,727	$ 6,381,616	$ 7,076,247	$ 7,753,920
Operating Reserve Target	$ 4,434,232	$ 4,567,259	$ 4,704,277	$ 4,845,405	$ 4,990,768
Debt Service Coverage	5.16	3.08	2.02	1.71	1.58
Debt Service Coverage Target	1.00	1.00	1.00	1.00	1.00

Water Financial Plan

Although the enterprise fund includes both the water and wastewater utilities, for purposes of the rate study, the revenue requirements for each utility were determined. As described above, this was done by considering the direct expenses of each utility and then allocating any shared expenses based on City staff input or industry practices. The Water Financial Plan considers the allocation to the water system. Debt Service is based on capital expenditures related to water only.

SOURCES OF FUNDS

Water revenue is derived from water rates, water impact fee revenue, miscellaneous revenues, and investment income. Rates account for 86% of the current water revenue for the year 2022 and 14% of revenue comes from impact fee and miscellaneous revenues. The City's existing rate structure is composed of service availability charges by meter size, water service fees and volumetric rates. The water service fees are shown in **Table 6**. The water service fees are calculated each year. The model follows the same assumptions where the fees are adjusted based on future estimated surface water, debt service and capital reserve costs.

Water service revenue in the financial planning model is based on water customer consumption and a detailed analysis of historical utility billing records and discussions with City staff. The number of residential accounts is projected to grow 2% per year on average. There is no growth forecasted for the commercial class. Impact Fee revenue is based on estimates provided by City staff. Investment income is calculated using a 0.5 percent annual interest rate applied to the average annual operating fund balance. Miscellaneous revenues are held constant.

Table 6: Water Service Itemized Fees

Fee	Purpose
Surface Water Fee	Recover a portion of the cost of GBRA water
Texas Commission on Environmental Quality Fee	Recover the TCEQ Regulatory Fee
Debt Service Fee	Recover Debt Service Payment
Capital Reserve Fee	Contribution to Capital Reserve

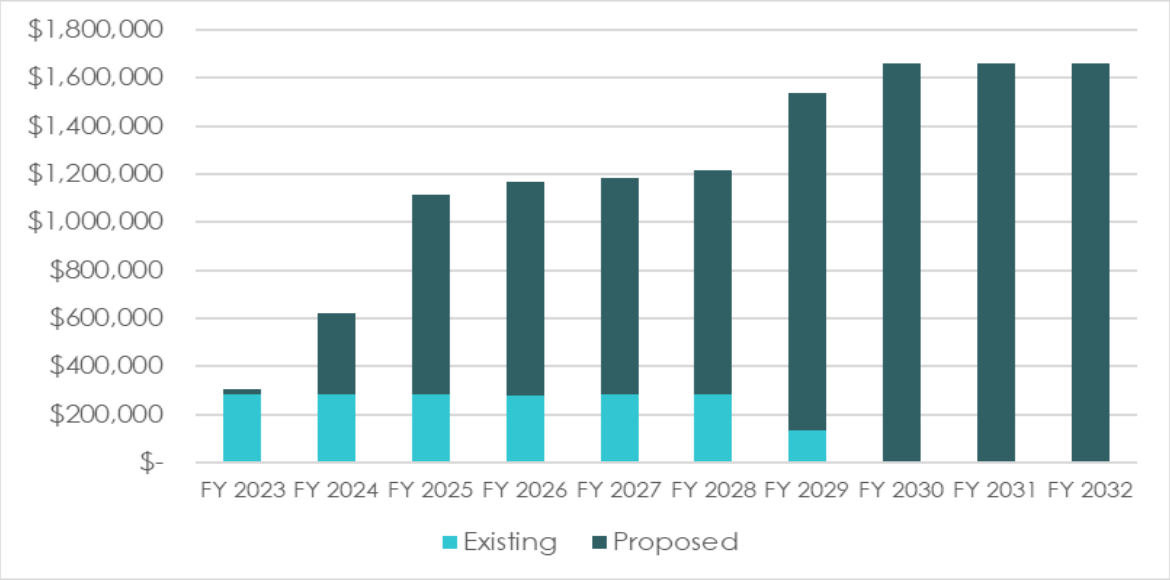
REVENUE REQUIREMENTS

Operations and Maintenance (O&M) costs, debt service on existing and proposed bonds, and transfers to other funds comprise operating fund revenue requirements. O&M consists of personnel, materials, supplies, and contractual services to supply, treat, and distribute water to water customers. An annual inflation allowance of 3% has been included in O&M projections. One of the highest O&M costs to the water utility is the cost of water purchased from the GBRA. O&M costs also include transfers to the General Fund for shared expenses.

Debt service includes principal and interest payments on existing certificates of obligation bonds, and proposed revenue bonds. Currently the water system is paying debt service on one outstanding debt issue, which will be paid off in FY 2029. The City is projected to issue debt to fund capital projects, totaling approximately $20 million, identified in the City's 5-year Water, Wastewater and Reuse Capital Improvement Plan. **Figure 1** illustrates the existing and proposed debt service projections over the study period. The proposed debt service is reduced by cash-funding from the Impact Fee Fund, Capital Reserve Fund and Equipment Replacement Fund. The Impact Fee Fund is funded with impact fee revenue. The Capital Reserve Fund is funded through revenue collected from the Capital Reserve Fee and the Equipment Replacement Fund is funded with rates.

Financial metrics are measured at the combined utility level, as mentioned above. For purposes of generating sufficient revenue to maintain the operating reserve and coverage goals, the revenue requirement for water includes any shortfalls for the water financial metric goals.

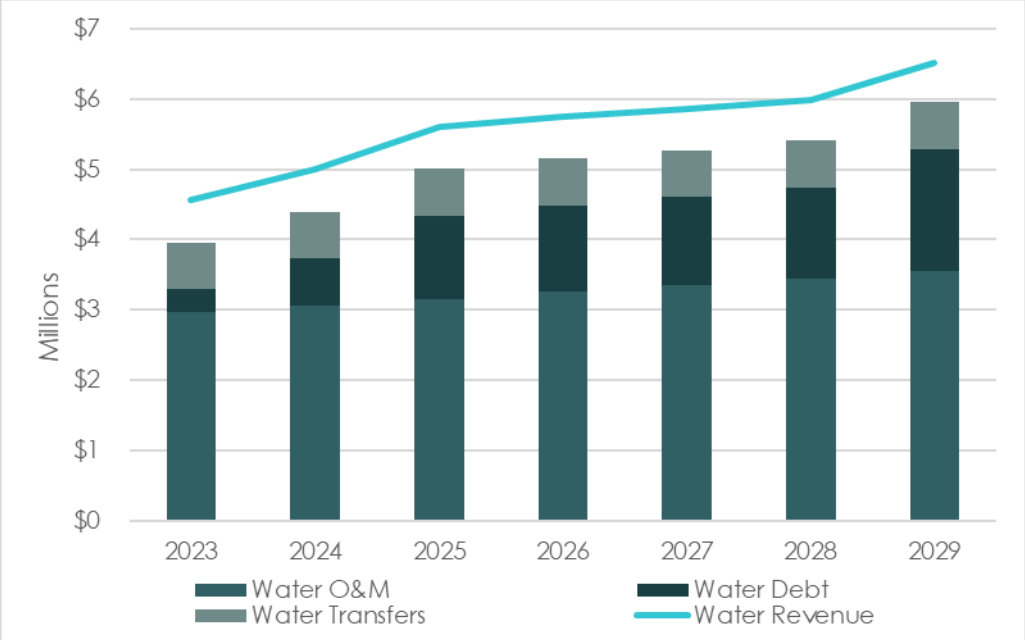
Figure 1: Water Debt Service Projections



REVENUE SUFFICIENCY

The final step in the financial planning process involves compiling a cash-flow forecast which identifies the revenue adjustments necessary to ensure financial sustainability. As indicated by **Figure 2** current revenue levels are sufficient to sustainably fund the ongoing provision of safe and reliable water. The increase in revenue is driven by increases in growth and increases to the Water Services Fees based on forecasted increases in the costs related to those fees.

Figure 2: Water Revenue Sufficiency



Wastewater Financial Plan

As with Water, the revenue requirements of the wastewater system were determined by allocating the costs between the water and wastewater systems. Debt service was based on capital expenditures related to the wastewater system only.

SOURCES OF FUNDS

Wastewater revenue is derived from wastewater rates, wastewater impact fee revenue, miscellaneous revenues, and investment income. 77% of the current wastewater revenue for the year 2022 comes from rates and 24% comes from impact fee and miscellaneous revenues. The City's existing rate structure is composed of service availability charges and wastewater service fees. Currently, the wastewater rates do not include a volumetric charge. The wastewater service fees are shown in **Table 7**. Like water, the wastewater service fees are calculated each year. The model follows the same assumptions where the fees are adjusted based on future estimated, debt service and capital reserve costs.

Wastewater service revenue in the financial planning model is based on the current rate structure. The number of residential accounts is projected to grow two percent per year on average. There is no growth forecasted for the commercial class.

Table 7: Wastewater Service Itemized Fees

Fee	Purpose
Texas Commission on Environmental Quality Fee	Recover the TCEQ Regulatory Fee
Debt Service Fee	Recover Debt Service Payment
Capital Reserve Fee	Contribution to Capital Reserve

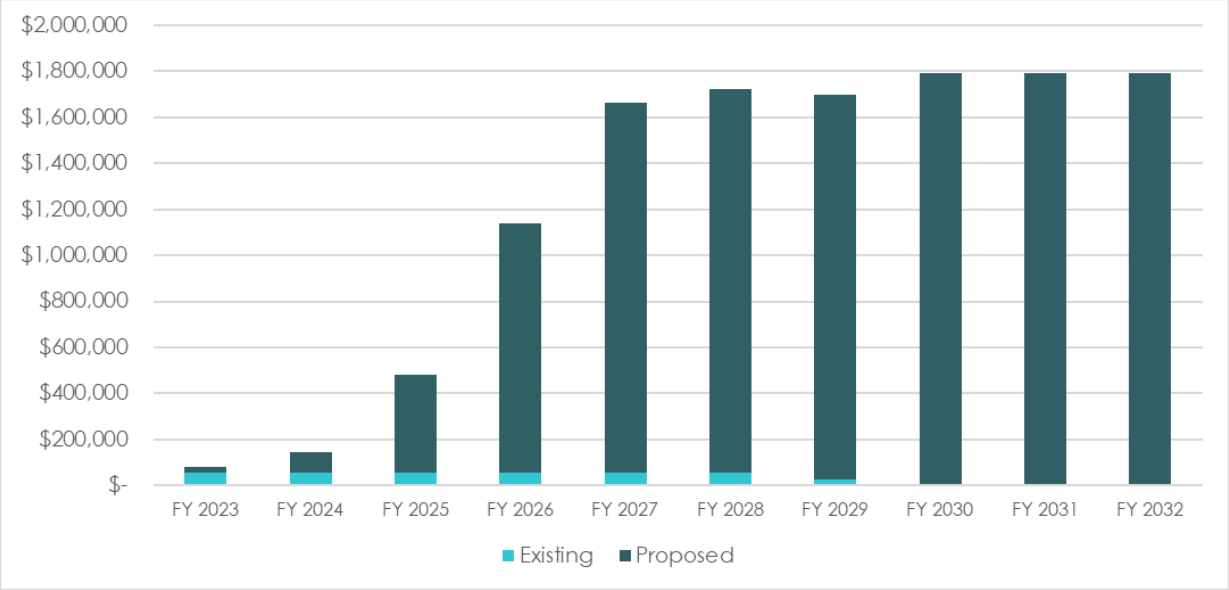
REVENUE REQUIREMENTS

Operations and Maintenance (O&M) costs, debt service on existing and proposed bonds, and transfers to other funds comprise operating fund revenue requirements. O&M consists of personnel, materials, supplies, and costs incurred at the wastewater treatment plant. An annual inflation allowance of 3% has been included in O&M projections. O&M costs also include transfers to the General Fund for shared expenses.

Debt service includes principal and interest payments on existing certificates of obligation bonds, and proposed revenue bonds. Currently the wastewater system is paying debt service on one outstanding debt issue. The City is projected to issue debt to fund capital projects, totaling approximately $21 million, identified in the City's five-year Water, Wastewater and Reuse Capital Improvement Plan. **Figure 3** illustrates the existing and proposed debt service projections over the study period. The proposed debt service is reduced by cash-funding from the Impact Fee Fund, Capital Reserve Fund and Equipment Replacement Fund.

Financial metrics are measured at the combined utility level, as mentioned above. For purposes of generating sufficient revenue to maintain the operating reserve and coverage goals, the revenue requirement for wastewater includes any shortfalls for the wastewater financial metric goals.

Figure 3: Wastewater Debt Service Projections

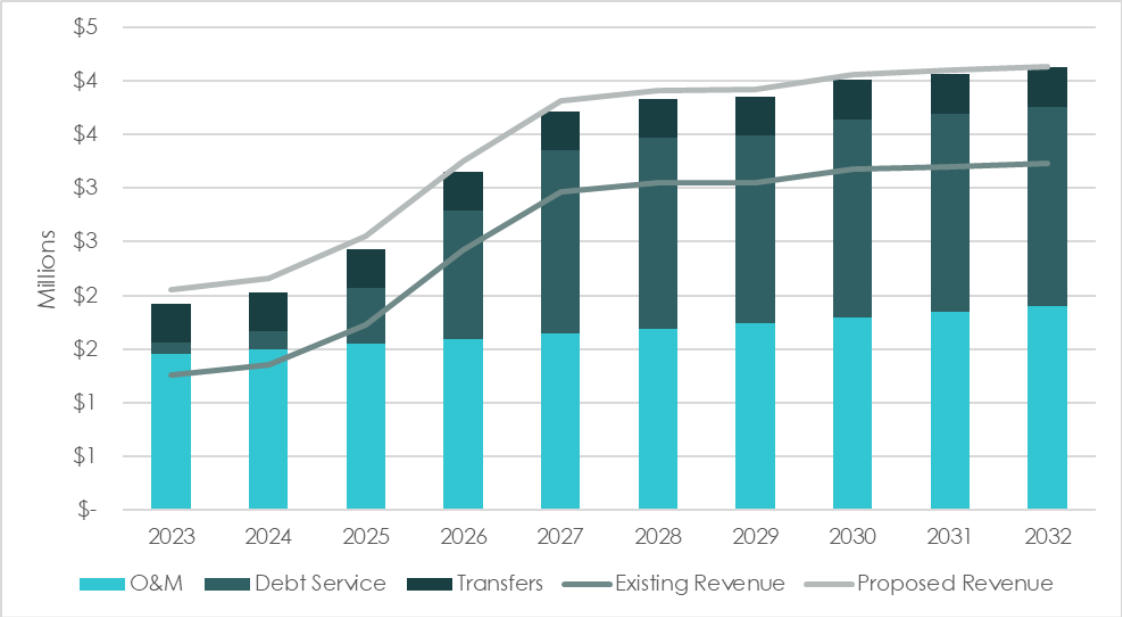


REVENUE SUFFICIENCY

The final step in the financial planning process involves compiling a cash flow forecast which identifies the revenue adjustments necessary to ensure financial sustainability. As indicated by **Figure 4**, at existing rates, the wastewater utility will not be sustainable, even with adjustments to the Debt Service and Capital Reserve fees. The proposed

revenue is based on a 50% rate adjustment in FY 2023, along with future adjustments to the Debt Service and Capital Reserve fees.

Figure 4: Wastewater Revenue Sufficiency



Cost of Service

Introduction

The key objective of the cost-of-service analysis is to determine each customer class's share of the cost based on how they use the City's water and wastewater systems. The cost-of-service analysis aligns responsibility for these costs with the customer classes that cause them to incur creating equity in the system. The principle of using cost causation as a guide for water and wastewater rate setting is well established throughout the industry and is the basis for the methodology described in the American Water Works Association's (AWWA) *Principles of Water Rates, Fees, and Charges, Manual M1* and Water Environmental Federation's (WEF) *Financing and Charges for Wastewater Systems*.

Technically, a cost-of-service analysis involves the following steps:

1. **Functionalize Revenue Requirement.** Applying the principle of cost causation requires a determination of how the costs incurred relate to the design and operation of the utility systems.

2. **Allocate Functionalized Revenue Requirement to Cost Drivers.** The cost of each function from Step 1 is driven by different types of customer demand. Step 2 attributes the functionalized costs to these cost drivers. The result is an understanding of the proportion of the revenue requirement for each utility which can be attributed to each type of customer demand. This allows for a distribution of the revenue requirement based on customer demands (Steps 3 through 5).

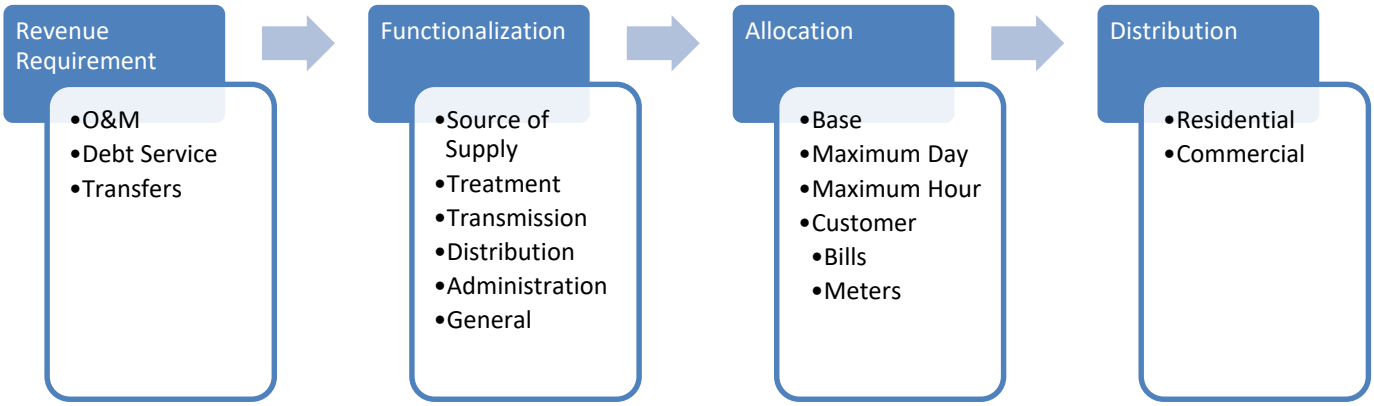
3. **Determine Customer Class Units of Service.** While Steps 1 and 2 allocate the revenue requirement according to the various types of customer demand, Step 3 determines the level of that demand for each customer class.

4. **Calculate Unit Cost of Service.** This step divides the allocated revenue requirement determined in Step 2, by the customer class units of service determined in Step 3. The result is a unit cost of service for each type of customer demand.

5. **Distribute Revenue Requirement to Customer Classes.** This step multiplies the unit cost for each type of demand by the units of service for each customer class. The result is a determination of the cost to serve each customer class based on their share of.

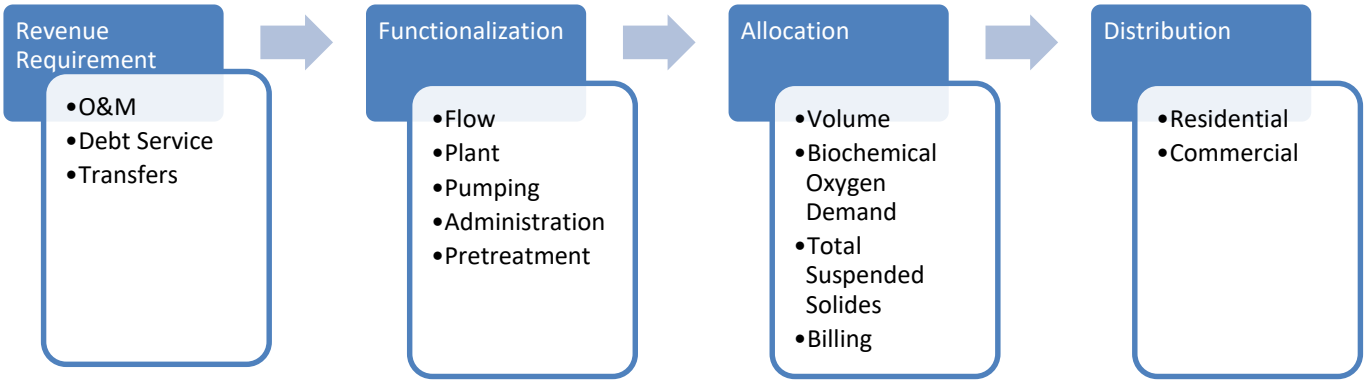
Simplified, the cost-of-service process for water is illustrated in Figure 5.

Figure 5: Water Cost of Service Process



The cost-of-service process for wastewater is illustrated in Figure 6

Figure 6: Wastewater Cost of Service Process



Water Cost of Service

Cost of service is typically determined for a single test year. The test year establishes the total revenues that must be recovered from all customers, regardless of how that revenue is distributed. The cost-of-service analysis then apportions that revenue recovery to each customer class, based on that class's use of the City's water system.

FUNCTIONALIZE REVENUE REQUIREMENT

Functionalization of the Revenue Requirement involves allocating the operating and capital components to the various functions performed by the City to provide utility service to customers. For water systems, these may include functions such as supply, treatment, storage, transmission, distribution, hydrants, services, meters, billing and collection. Three approaches were used to functionalize the revenue requirement: direct allocation, allocation using net plant investment and indirect allocation.

Direct allocation is used where a specific cost can be attributed directly to a specific function. O&M costs are generally allocated to functional cost components that best reflect the function associated with the particular expense.

For example, computer/phone user charges are associated with providing service to individual customers and are allocated to the billing portion of the customer cost component.

System assets. The use of system asset investment is common throughout the industry. Capital costs are generally allocated using plant investment, based on the presumption that the City will reinvest in the utility systems in proportion to the existing level of investment. The result is a smoother allocation of capital costs over time relative to allocating capital costs on a project specific basis. Raftelis reviewed the fixed asset records of each utility and assigned each asset to the functional categories to allocate the City's capital expenditures.

Indirect allocation was used for costs which are incurred to support all functions and are assumed to be incurred in proportion to all other costs allocated directly.

REVENUE REQUIREMENTS SUMMARY

There are two commonly accepted industry methods for developing the revenue requirement – the cash basis and utility basis. Both approaches recover operating costs in the same fashion but differ in terms of capital cost recovery. The cash basis recovers cash capital costs which include debt service, cash funded capital expenditures, addition to/use of reserves and any adjustments related to the timing of when increases are implemented. The utility basis recovers capital costs via depreciation and return on rate base. Rate base is simply the net book value of assets. The utility basis approach to rate setting allows the City to earn a rate of return on assets used to provide service to wholesale customers. The method used for this study is cash basis. Total test year cost of service includes revenue requirements net of miscellaneous revenue, investment income, change in fund balance while maintaining annual operating reserve requirements. The test year revenue requirement for the water utility equals $3,859,675 summarized using the cash basis in **Table 8**.

Table 8: Water Revenue Requirement

Description	Operating	Capital	Total
Revenue Requirements			
Water O&M	$ 2,898,777	$ -	$ 2,898,777
Existing Debt Service/Debt Service Reserve	-	283,880	283,880
Proposed Debt Service		-	
Other Expenditures and Transfers:			-
Transfer to:			
Capital Reserve		287,540	287,540
Impact Fee Fund		350,000	350,000
Cash Funded Capital	-	-	-
Equipment Replacement Fund		66,554	66,554
Total Revenue Requirements	**$ 2,898,777**	**$ 987,974**	**$ 3,886,751**
Non-Rate Revenues			
Impact Fee Revenue		(350,000)	$ (350,000)
Misc Revenue	(270,567)		$ (270,567)
Total Non-Rate Revenues	**$ (270,567)**	**$ (350,000)**	**$ (620,567)**
Other Adjustments			
Rate Adjustments	-		$ -
Surplus/Deficit	$ 593,491		$ 593,491
Operating Reserve Usage			-
Total Other Adjustments	**$ 593,491**	**$ -**	**$ 593,491**
Net Revenue Requirements	**$ 3,221,702**	**$ 637,974**	**$ 3,859,675**

ALLOCATE FUNCTIONALIZED REVENUE REQUIREMENT TO TEST DRIVERS

Once costs have been functionalized, they must then be allocated to cost components. Cost components represent the drivers of utility costs, or the types of customer demand which drive the design, operation and—in turn—cost of the water system.

A water system is designed to treat and distribute water during periods of average customer demand as well as peak demand. Peak demand occurs when many customers are using water at the same time such as in the morning as they prepare for the day. Like the interstate highway system, a water system must be designed not only to meet the average demands (such as in the middle of the day), but also peak demands (such as during rush hour traffic). If peak demand is twice that of average demand, water infrastructure must be double the size. Put another way, if no peak demand existed, a much smaller, less costly system could be built to serve customers.

Given that additional costs are incurred to serve peak demand, the question then becomes who should pay for those incremental costs, and how much should they pay. The base-extra capacity methodology is the most common method for assigning such costs for water. The base-extra capacity method allocates maximum day and maximum hour costs based on the incremental demand above average day. Thus, customers whose demand drives the need for the larger system are allocated a greater share of costs.

The cost drivers related to customer demand are as follows:

- **Base** – Demand on an average day,
- **Maximum Day Extra Capacity** – maximum day demand excluding average day,
- **Maximum Hour Extra Capacity** – maximum hour demand excluding maximum day demand and average day demand.

In addition to these categories, there are costs incurred to serve a customer regardless of how much water they use. These customer-related components include billing, collection, meter service, and customer service.

DETERMINATION OF ALLOCATION FACTORS

Based on the functional costs being allocated, there may be one-way, two-way, or three-way allocations:

Purchased water is a function of the amount of water used by customers on an annual basis, regardless of peak demand. Accordingly, it is allocated 100% to base demand.

Storage and distribution system costs, which are used to meet the peak demands of customers, are split between base demand, maximum day demand and maximum hour demand. This split is based on assumed system design criteria of average day demand for maximum day and maximum hour.

For maximum day, it is assumed that the water system is designed to deliver water at 2.50 times the average day (base) rate on maximum day. In other words, the water system needs incremental capacity to deliver water on a maximum day as compared to an average day. Accordingly, costs incurred to support base and maximum day service are allocated between base and maximum day based on the proportion of each relative to the overall capacity requirement.

A similar approach is used for costs incurred to support base, maximum day and maximum hour service. Maximum hour demand represents the incremental demand above maximum day demand, based on the design criteria outlined above the maximum hour allocation.

Meters and services costs are a function of the number of customers at each meter size. These costs are allocated to equivalent meters, which recognizes difference in capacity and cost for meters of different sizes.

ALLOCATION OF COST OF SERVICE

Table 9 provides the allocation of O&M to functional cost components. O&M costs are generally allocated to functional cost components that best reflect the function associated with that particular expense. Transmission expenses are associated with the storage and transmission of treated water and are allocated to the base, and maximum day cost components. Expenses not specifically assigned to a cost component are allocated in proportion to all other expense allocations.

Table 9: Water Allocation of Operations & Maintenance

Item	Total	Base	Extra Capacity		Customer	
			Maximum Day	Maximum Hour	Meters	Billing
Allocation of Expenses						
Admin	$ 1,076,102	$ -	$ -	$ -	$ 538,051	$ 538,051
Source of Supply	$ 1,237,427	$ 1,237,427	$ -	$ -	$ -	$ -
Pumping	$ -	$ -	$ -	$ -	$ -	$ -
Treatment	$ 30,280	$ 11,535	$ 18,745	$ -	$ -	$ -
Storage	$ -	$ -	$ -	$ -	$ -	$ -
Transmission	$ -	$ -	$ -	$ -	$ -	$ -
Distribution	$ 314,148	$ 125,659	$ 84,820	$ 103,669	$ -	$ -
Meters	$ -	$ -	$ -	$ -	$ -	$ -
Taps	$ -	$ -	$ -	$ -	$ -	$ -
Hydrants	$ -	$ -	$ -	$ -	$ -	$ -
General	$ 240,820	$ 124,545	$ 9,383	$ 9,393	$ 48,749	$ 48,749
Total O&M	**$ 2,898,777**	**$ 1,499,167**	**$ 112,948**	**$ 113,062**	**$ 586,800**	**$ 586,800**

System assets are typically allocated based on design parameters of a particular facility. For example, transmission mains are designed to meet maximum day requirements and capital costs associated with these mains are allocated to the base cost component and the maximum day cost component. The allocation is based on maximum day peaking parameters, as discussed in the Determination of Allocation Factors section. Other assets are assigned directly to their respective cost components. These include meters and services. General plant assets are allocated based on a weighted average allocation of all other assets. **Table 10** illustrates the water assets allocations to each design parameter.

Table 10: Water Allocation of System Assets

Water Assets	Total Plant in Service	Base	Extra Capacity		Customer	
			Maximum Day	Maximum Hour	Meters	Billing
Admin	$ -	$ -	$ -	$ -	$ -	
Source of Supply	$ 2,080,266	$ 2,080,266	$ -	$ -	$ -	$ -
Pumping	$ 311,297	$ 124,519	$ 84,050	$ 102,728	$ -	$ -
Treatment	$ 416,844	$ 158,798	$ 258,046	$ -	$ -	$ -
Storage	$ 18,082	$ 7,233	$ 4,882	$ 5,967	$ -	$ -
Transmission/Distribution	$ 6,579,687	$ 2,631,875	$ 1,776,515	$ 2,171,297	$ -	$ -
Meters	$ 29,634	$ -	$ -	$ -	$ 29,634	$ -
Total Water Assets	**$ 9,435,809**	**$ 5,002,690**	**$ 2,123,494**	**$ 2,279,992**	**$ 29,634**	**$ -**
Indirect Allocation	100%	53.02%	22.50%	24.16%	0.31%	0.00%

ALLOCATION OF COSTS TO CUSTOMER CLASSES

Water customers have been separated into Residential and Commercial classes. The classes group customers with similar service requirement characteristics and provide a means for allocating costs equitably to customers.

Units Of Service

Class service requirements include average daily water use projections, maximum day and maximum hour demands, and metering and billing requirements. Class base cost responsibility relates to the quantity of water used under average day load conditions. Class responsibility for extra capacity costs varies maximum day and maximum hour demands. Average day usage and capacity factors represent the estimated relationship between individual class peak demand and average day usage and are used to develop extra capacity requirements for maximum day and maximum hour demands. Estimated capacity factors are based on an analysis of each class's monthly usage characteristics. **Table 11** shows the units of service used for the residential and commercial class.

Table 11: Water Units of Service

Unit Cost Component	Base	Max Day	Max Hour	Meters	Bills
Units of Service	(1,000 gallons)	(1,000 gallons)	(1,000 gallons)	(meter equivalents)	(no. of bills)
Residential	465,975	1,273	1,275	4,019	41,822
Commercial	31,780	57	72	675	966
Total	497,755	1,330	1,347	4,694	42,788

Unit Costs Of Service

Table 12 shows the development of the cost-of-service for each functional cost component. Unit costs are calculated by dividing functionalized costs of service by the water units of service. The unit costs of service at the bottom of the table are then multiplied by each customer class's units of service to develop their respective cost of service.

Table 12: Water Cost of Service by Functional Cost Component

Unit Cost Component	Total	Base	Max Day	Max Hour	Meters	Bills
Operating Expenses	$2,898,777	$1,499,167	$ 112,948	$ 113,062	$ 586,800	$586,800
Capital Expenses	$ 987,974	$ 338,012	$ 143,476	$ 154,050	$ 352,436	$ -
Gross Revenue Requirement	$3,886,751	$1,837,178	$ 256,424	$ 267,111	$ 939,237	$586,800
Adjustments:						
Impact Fee Revenue	$ (350,000)	$ (350,000)	$ -	$ -	$ -	$ -
Miscellaneous Revenue	$ (270,567)	$ (193,167)	$ -	$ -	$ (24,480)	$ (52,920)
Surplus/(Deficit)	$ 593,491	$ 306,937	$ 23,125	$ 23,148	$ 120,141	$120,141
Total Adjustments	$ (27,075)	$ (236,229)	$ 23,125	$ 23,148	$ 95,661	$ 67,221
Cash-Basis Revenue Requirement	$3,859,675	$1,600,949	$ 279,549	$ 290,259	$1,034,897	$654,021
Unit Cost of Service - $ per Unit		$ 3.22	$ 210.22	$ 215.52	$ 220.49	$ 15.29

Customer Class Cost Of Service

Total unit cost of service, applied to class service requirements, results in the allocated class cost of service. **Table 13** shows the cost-of-service adjustments for the residential and commercial classes. Raftelis recommends making these slight adjustments in the rate design changes.

Table 13: Water Cost of Service Adjustments

Class	Allocated Cost of Service	Revenue Under Existing Rates	Difference	Overall Change %
Residential	$ 3,726,376	$ 3,760,016	$ (33,640)	-1%
Commercial	$ 133,300	$ 99,659	$ 33,640	34%

Wastewater Cost of Service

In developing an equitable schedule of charges for wastewater service, the cost of service is allocated to the City's customer classes according to class-specific service requirements. Allocation of cost of service considers the volume of wastewater contributed, strength of wastewater, and number of customers. Cost of service allocations are made for a test year representative of the period for which resultant rates are expected to be in effect.

Wastewater cost of service uses the same 5-step process as water for determining the costs for the classes. The difference is the cost functions performed by the City to provide wastewater utility service to customers. Wastewater functions include treatment, collections, lift stations, and meters.

REVENUE REQUIREMENTS SUMMARY

Total test year cost of service includes revenue requirements net of miscellaneous revenue, investment income, change in fund balance while maintaining annual operating reserve requirements. Test year COS for the utility equals $1,780,581 summarized in **Table 14** below. As indicated previously, the wastewater utility is operating at a deficit. Due to this, the deficit has been added to the revenue requirement as a rate adjustment to ensure that rates are adjusted to make up for the current shortfall.

Table 14: Wastewater Revenue Requirement

Description	*Operating*	*Capital*	*Total*
Revenue Requirements			
Wastewater O&M	$ 1,457,989	$ -	$ 1,457,989
Existing DS		$ 54,359	54,359
Proposed DS		$ 45,121	45,121
Transfer to :			-
Capital Reserve		$ 105,798	105,798
Impact Fee Fund		$ 227,979	227,979
Cash Funded Capital		$ -	-
Equipment Replacement Fund		$ 26,325	26,325
Total Revenue Requirements	**$ 1,457,989**	**$ 459,583**	**$ 1,917,572**
Non Rate Revenues			
Impact Fee Revenue	$ -	$ (227,979)	$ (227,979)
Misc Revenue	(50,790)		(50,790)
Total Other Revenue	**$ (50,790)**	**$ (227,979)**	**$ (278,769)**
Adjustments			
Rate Adjustments	**$ 141,779**		141,779
Surplus/Deficit	-		-
Operating Reserve			-
	$ 141,779	**$ -**	**$ 141,779**
NET REVENUE REQUIREMENTS	**$ 1,548,978**	**$ 231,604**	**$ 1,780,581**

ALLOCATION OF FUNCTIONALIZED REVENUE REQUIREMENT TO COST DRIVERS

Once costs have been functionalized, they must then be allocated to cost components. Cost components represent the drivers of utility costs, or the types of customer demand which drive the design, operation and—in turn—cost of the wastewater system.

The wastewater system is designed to collect, treat, and discharge customer sewage. The cost drivers related to customers are as follows:

- Volume – volume of customer sewage discharged
- Strength – concentration of strength into the system measured in biochemical oxygen demand (BOD), and total suspended solids (TSS).

In addition to these demand categories, there are costs incurred to serve a customer regardless of how much wastewater they use. These customer related components are as follows:

- Bills – costs driven by providing customer service (i.e., billing, collection, customer service)
- Meters and Services – shared costs with water and driven by maintaining customer meters and collection lines

DETERMINATION OF ALLOCATION FACTORS

Treatment costs are driven by the volume of sewage discharged by customers as well as the strength of pollutants, which must be removed via the physical and biological processes at the treatment plant. Strength costs vary with the strengths of biochemical oxygen demand (BOD), and total suspended solids (TSS) contributed. Treatment costs were

allocated based on 50% to volume, 25% to biochemical oxygen demand (BOD), 25% to total suspended solids (TSS) contributed.

Collection system costs are driven by the volume of sewage discharged by customers both directly, via indoor water use, and indirectly via the infiltration and inflow (I/I). These costs were allocated 100% to volume, 0% BOD, and 0% TSS.

Billing costs are related to billing, collection and customer service, which is a function of the number of wastewater customers. Accordingly, these costs were allocated 100% to the bills cost driver.

ALLOCATION OF WASTEWATER COST OF SERVICE ALLOCATION

Table 15 shows the allocation of O&M expenses to function cost components. O&M expenses are generally allocated to the functional cost component that reflects the design parameter associated with the expense. Treatment related expenses are associated with wastewater treatment, and are allocated to volume, BOD, and TSS, cost components. Collection main expenses are associated with the cost of collecting wastewater from customers and delivering wastewater to the treatment plant. Expenses not specifically assigned to a cost component are allocated in proportion to all other expense allocations, such as administrative costs.

Table 15: Wastewater Allocation of O&M Expense

Item	Total	Volume	Strength BOD	Strength TSS	Customer Billing
Allocation of Expenses					
Flow	$ 108,233	108,233	-	-	-
WW Plant	$ 597,949	298,974	149,487	149,487	-
WW Pumping	$ 43,021	21,511	10,755	10,755	-
Admin	$ 515,933	-	-	-	515,933
General	$ 192,852	65,352	24,427	24,427	78,647
Total O&M	$ 1,457,989	$ 494,070	$ 184,669	$ 184,669	$ 594,580

Wastewater system assets (and their accrued depreciation expense) are generally allocated to the functional cost component that reflects the design parameter associated with the asset. Treatment plant assets are designed to treat wastewater and are allocated equally to volume, BOD, and TSS cost components. Collection main assets, for example, are associated with collecting wastewater from customers and delivering it to the treatment plant. These costs are allocated equally between volume cost and local collector sewer cost components.

Table 16 illustrates the wastewater capital allocation to volume, BOD, TSS and Billing.

Table 16: Allocation of Capital Expenses

Item	Total	Volume	Strength BOD	Strength TSS	Customer Bills
Existing Debt Service	$ 54,359	$ -	$ -	$ -	$ 54,359
Proposed Debt Service	$ 45,121	$ 30,073	$ 6,869	$ 6,869	$ 1,311
Capital Reserve	$ 105,798	$ 70,513	$ 16,105	$ 16,105	$ 3,074
Impact Fee Fund	$ 227,979	$ 151,946	$ 34,704	$ 34,704	$ 6,625
Cash Funded Capital	$ -	$ -	$ -	$ -	$ -
Equipment Replacement Fund	$ 26,325	$ 17,545	$ 4,007	$ 4,007	$ 765
Total Capital Costs	$ 459,583	$ 270,077	$ 61,686	$ 61,686	$ 66,135

ALLOCATION OF COSTS TO CUSTOMER CLASSES

Wastewater customers have also been separated into Residential and Commercial classes. The classes group customers with similar service requirement characteristics and provide a means for equitably allocating costs to customers.

Wastewater Units of Service

Historical data and information provided from utility records were used to estimate projected units of service. Wastewater collected and treated consists of:

- Contributed sanitary and industrial wastewater flow
- Infiltration/inflow (I/I) of groundwater into the sewers

Contributed wastewater flow is that portion of annual water use or other discharge of each customer class that enters the wastewater system. The winter average[1] is used and therefore excludes volume that does not reach the wastewater system, such as volume used for lawn sprinkling and other outdoor use. The difference in volume is I/I of groundwater into the sewer system. It is estimated that flow entering the sewers through I/I will average approximately 5% of total wastewater flow reaching the treatment plant. Each customer class should bear its proportionate share of costs associated with I/I, as the wastewater system must be able to adequately convey and process total wastewater flow. I/I is allocated to customer classes on the premise that 100% of the total is distributable based on volume contributed by each customer. **Table 17** shows the wastewater units of service.

Table 17: Wastewater Units of Service

Unit Cost Component	Volume	BOD	TSS	Billing
Units of Service	(1,000 gallons)	(1,000 gallons)	(1,000 gallons)	(no. of bills)
Residential	255,004	397,956	521,386	25,043
Commercial	3,331	5,198	6,810	134
Total	258,334	403,154	528,196	25,177

Unit Costs Of Service

Table 18 shows the development of the cost of service for each functional cost component. Unit costs are calculated by dividing functionalized costs of service by the wastewater units of service. The unit costs of service at the bottom of the table are then multiplied by each customer class's units of service to develop their respective cost of service.

Table 18: Wastewater Cost of Service By Functional Component

Unit Cost Component	Total	Volume	BOD	TSS	Billing
Operating Expenses	$ 1,457,989	$ 494,070	$ 184,669	$ 184,669	$ 594,580
Capital Expenses	$ 459,583	$ 270,077	$ 61,686	$ 61,686	$ 66,135
Gross Revenue Requirement	$ 1,917,572	$ 764,148	$ 246,355	$ 246,355	$ 660,714
Adjustments					
Impact Fee Revenue	$ (227,979)	$ (113,990)	$ (56,995)	$ (56,995)	$ -
Miscellaneous Revenue	$ (50,790)	$ (21,025)	$ (9,353)	$ (9,353)	$ (11,060)
Surplus/(Deficit)	$ 141,779	$ 48,045	$ 17,958	$ 17,958	$ 57,819
Total Adjustments	$ (136,990)	$ (86,970)	$ (48,390)	$ (48,390)	$ 46,759
Cash Basis Revenue Requirement	$ 1,780,581	$ 677,178	$ 197,965	$ 197,965	$ 707,473
Unit Cost of Service - $ per Unit		$ 2.62	$ 0.49	$ 0.37	$ 28.10

[1] Volume was estimated using winter consumption for the months of December, January and February.

Customer Class Cost Of Service

Total unit cost of service, applied to class service requirements, results in the allocated class cost of service. **Table 19** shows the cost-of-service adjustments for the residential and commercial classes. As can be seen, there is a shortfall of about $750,000 to the wastewater cost of service. This amount was considered when developing the rate design.

Table 19: Wastewater Revenue Adjustments

Class	Allocated Cost of Service	Revenue Under Existing Rates	Difference	Overall Change %
Residential	$ 1,762,983	$ 1,023,259	$ 739,725	72%
Commercial	$ 17,598	$ 5,472	$ 12,126	222%
Total	$ 1,780,581	$ 1,028,731	$ 751,851	73%

Reuse Water

Discharges from wastewater treatment have been regulated for many years. How a utility discharges its effluent is influenced by the utility's permit. Wastewater effluent is typically discharged to a stream, river, or land. The City's permit[2] authorizes disposal of a "daily average flow not to exceed 500,000 gallons per day via surface irrigation of 280 acres of Fair Oaks Ranch Golf and Country Club land." The permit does not allow for the disposal for the effluent to any other water supply and limits it to the golf course. The effluent limitations are defined in the City's permit.

Over the years, the use of wastewater effluent has changed and has provided an additional water supply resource for water utilities. In some instance the wastewater is treated to different levels so that the effluent can provide an additional beneficial use. Today, effluent or reuse water can be used for agricultural, irrigation or even in industrial processes. The level of treatment might vary, but reuse water can augment raw water supplies. In addition, in some instances, distribution lines are required to transport the reuse water. These pipes are often referred to as "purple pipe."

PRICING REUSE WATER

Pricing reuse water follows the same cost-causation principles used when pricing potable water. In this case, reuse costs are allocated to customer classes based on how they use the reuse water. Pricing will be influenced by the objectives of the utility and will be based on the type and purpose for the reuse. Oftentimes, there will be consideration of subsidies to encourage the use of the reuse water. In other words, reuse water must be priced at a level that will favor the use of reuse water over potable water. Reuse costs can include distribution costs, incremental treatment costs and storage costs.

In considering pricing policies for reuse water, the utility must consider how the reuse water will be used. In the case of the City, currently, all the effluent from its wastewater treatment process is disposed on the golf course as part of its permit as mentioned above. Historically because of this arrangement, the effluent is provided at no cost to the golf course. In considering a price to the golf course for the City's effluent, the arrangement must be mutually beneficial to both the City and golf course. As the volume of effluent delivered by the City increases over the next few year, it will offset the volume of potable water the golf course purchases for irrigation. Further, without the golf course, the City would need another method of disposal that could have cost and permit implications to the overall wastewater system.

[2] TCEQ Permit No. WQ0011867001

In the future as additional wastewater effluent becomes available the City may want to price the additional reuse water and make it available to other customers other than the golf course. In this case, the incremental costs for providing the reuse water would be the basis for a rate.

Rate Design

Once the cost of service is calculated for each class, the rates that will recover the revenue requirement can be determined. The rates should meet the goals and objectives of the utility. As stated in Manual M1, "as an analytical framework, rates derived through cost-of-service analyses establish a benchmark for assessment of rate equity and defensibility that has been accepted by governmental entities and legal courts throughout North America." While the cost of service is a well-defined process, rate design is often referred to as the "art" of ratemaking. Utilities have a wide range of latitude when developing rates.

Rate Advisory Panel

In considering a potential change to the City's rate design, the City Council commissioned an Advisory Panel made up of 18 residents that represent various areas of the City. The Advisory Panel met four times where they were presented information about the rate study process, results of the cost-of-service and rate design scenarios. An important first step of rate design is the Pricing Objectives Workshop. Pricing objectives are a means of ensuring that community values are reflected in the way costs of providing service are recovered. In this workshop, the group was asked to consider a set of pricing objectives to rank in order of importance. The pricing objectives workshop was conducted for the City Council and the Advisory Panel. Both were presented the list of objectives and definitions, presented in **Table 20**. It is important that when the group is ranking the objectives that they have a similar understanding for each objective.

Table 20: Pricing Objectives

Objective	Definition
Revenue Stability	Generate stable and predictable revenues
Equity between classes	Each customer class pays its cost of service
Customer impact	Changes in rate structure minimize impact
Equity within the class	Customers within classes pay based on the amount of water they use
Conservation pricing signal	Contains a pricing signal that encourage wise water use
Demand management	Contains a pricing signal that encourage reduced water use during peak times
Essential use affordability	Provides essential water use at an affordable price
Customer understanding	Subject to few misinterpretations; consistent with customer communication
Ease of understanding/implementation	Compatible with billing system; based on readily available information

The results of the workshops are shown in **Table 21**. In considering the results, the objectives that are ranked as "essential" and "very important" become the goals for the rate design. For both the City Council and the advisory panel, the same four objectives were selected. Therefore, the goals that were addressed through the rate design include:

- Revenue Stability
- Customer Impact
- Equity between classes
- Conservation pricing signal

Table 21: Pricing Objectives Workshop Results

Council Ranking of Pricing Objectives

Classification	Rank	Objective	Score
Essential	1	Revenue Stability	24
	2	Customer impact	18
Very Important	3	Equity between classes	15
	3	Conservation pricing signal	15
Important	5	Essential use affordability	14
	5	Demand management	14
	7	Equity within a class	13
Least Important	8	Customer Understanding	11
	9	Ease of adminstration/implementation	10
	10	Equity between existing and new customers	9

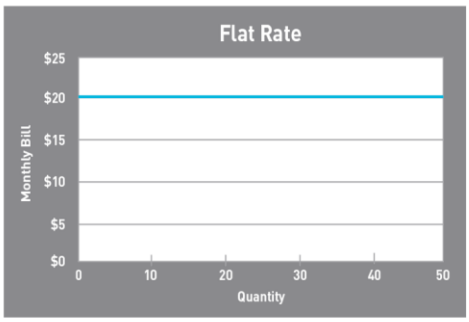
Panel Ranking of Pricing Objectives

Classification	Rank	Objective	Score
Essential	1	Equity between classes	24
	2	Customer impact	18
Very Important	3	Revenue Stability	15
	3	Conservation pricing signal	15
Important	5	Equity within a class	5
	6	Essential use affordability	4
	7	Demand management	3
Least Important	7	Customer Understanding	3
	7	Ease of adminstration/implementation	3
	10	Equity between existing and new customers	0

Water Rate Design Scenarios

Over the years, water rate design in the industry has evolved from flat rates to volume-based inclining block rates. The evolution of rates has been influenced by many factors including billing system limitations to new goals and objectives of utilities. As shown in **Table 22**, with a flat rate, customers pay the same amount each month regardless of usage. While this provides revenue stability for the utility, it is inequitable, does not provide a conservation pricing signal, and can make essential use unaffordable. A uniform rate is a volume rate that is the same for all volume. Again, this provides for revenue stability, but does not adequately send a conservation pricing signal. Uniform rates are typically used for certain classes, like commercial, where consumption may not vary from month to month. The inclining tiered rate, which is most often used for residential classes, promotes conservation and can be structured to make essential use affordable. This type of structure targets large users to encourage wise water use.

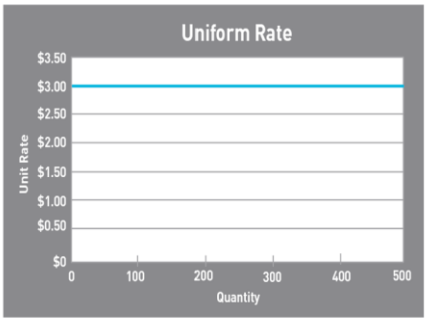
Table 22: Evolution of Water Rates



Flat Rate: $xx / month regardless of usage

Pros: Revenue stability, easy to understand

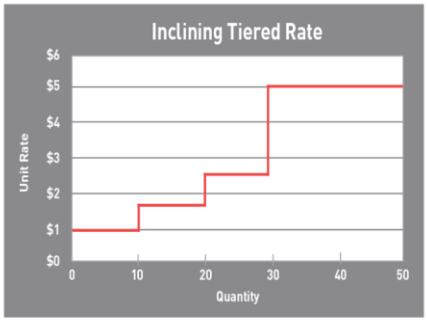
Cons: Inequitable, no conservation signal, not affordable for essential use



Uniform Rate: $xx / 1,000 gallons

Pros: Revenue stability, administrative ease, easy to understand

Cons: Weak conservation, not affordable for essential use



Inclining Tiered Rate:

Pros: Promote conservation, affordable for essential use, easy to administer, easy to understand

Cons: Target large users

EXISTING RATE STRUCTURE

The City's current water rate structure includes Service Availability Charges, Service Fees and Volumetric Charges. Rates vary between the residential and commercial classes. Because of the City's Service Availability Charges and Service Fees, the City generates about 60% of its revenue from fixed charges. Because this revenue does not fluctuate from month to month based on usage, a fair amount of the City's revenue is stable. On the contrary, although the City has inclining block rates for both the residential and commercial classes, the customer's bill is not going to vary

significantly from month to month, due to 60% of the bill being based on fixed charges. The City's existing rates are shown in **Table 23**.

Table 23: Existing Water Rates

Service Availability Charges by Meter Size	
¾"	$26.48
1"	$28.01
1 ½"	$41.02
2"	$48.33
3"	$62.94
4"	$94.42

Water Service Itemized Fees	
Surface Water Fee	$14.25
TCEQ Fee	$0.20
Debt Service	$7.43
Capital Reserve	$6.72
Total	$28.60

Residential Tiered Volume Charges	
Usage (in 1,000 gallons)	$/1,000 gallons
0 – 6	No Charge
6 – 12.5	$3.81
12.5 – 25	$4.76
25 – 50	$7.14
50 – 75	$10.72
75 – 100	$16.07
100+	$24.11

Commercial Tiered Volume Charges	
Usage (in 1,000 gallons)	$/1,000 gallons
0 – 6	No Charge
6 – 50	$3.81
50 – 100	$4.76
100 – 150	$7.14
150+	$10.72

A few observations should be made about the existing rates from an industry perspective. These observations include:

- The ratios between the service availability charges do not reflect industry meter factors[3]
- There is no charge for water usage between 0 and 6,000 gallons
- Flat rates for surface water, debt service and capital reserve mean that everyone pays the same amount for those costs and is not based on the amount of water used and does not necessarily reflect the cost of service

As recommended by the Texas Water Development Board Report 362, Section 3.1 Water Conservation Pricing, "it is not recommended that a minimum monthly water allotment be included in the minimum bill. The AWWA notes that minimum charges are often considered counter to conservation goals and are unfair to those who use less than the monthly minimum." If a customer does not use 6,000 gallons regularly, they may be inclined to use up to that amount to get full use of their allotment. This does not encourage wise water use. Through a conservation-based rate, water usage can be affected and provides incentives for less water usage, by charging less. Flat rates discourage wise water use since the customer pays the same amount regardless of usage.

PROPOSED RATE STRUCTURES

In consideration of the pricing objectives and industry practices, the Advisory Panel considered three rate structure scenarios. The residential water rate scenarios are shown in **Table 24**. Scenario 1 maintains the current rate structure of the City, while Scenarios 2 and 3 reflect changes to the existing rate structure to address the pricing objectives identified by the City Council and the Advisory Panel.

[3] AWWA *Principles of Water Rates, Fees and Charges, Manual M1,* Table VII.2-5, Meter Equivalencies

Table 24: Residential Water Rate Scenarios

Scenario 1 (Status Quo)*	Scenario 2	Scenario 3
Maintain existing rate structure for Service Availability Charge and Volumetric Fees. Water Service Fees based on Oct. 2021 adoption (Surface Water Fee, TCEQ Fee, Debt Service Fee and Capital Reserve Fund Fee)	Adjust service availability charges to reflect industry meter factors Maintain all water service fees, adjust volumetric tiers by charging for all use, adjust tier levels	Similar to Scenario 2 except eliminate Debt Service Fee and Capital Reserve Fund Fee**

*No change to existing rate structure and existing rates, other than recently adopted water service fees

**Does not eliminate Capital Reserve Fund

For commercial, the scenarios are similar to residential with a few nuances. The commercial water rate scenarios are shown in **Table 25**.

Table 25: Commercial Water Rate Scenarios

Scenario 1 (Status Quo)*	Scenario 2	Scenario 3
Maintain existing rate structure for Service Availability Charge and Volumetric Fees. Water Service Fees based on Oct. 2021 adoption (Surface Water Fee, TCEQ Fee, Debt Service Fee and Capital Reserve Fund Fee)	Adjust service availability charges to reflect industry meter factors Maintain all water service fees; Adjust volumetric tiers by charging for all use, Adjust tier levels	Similar to Scenario 2 except eliminates Debt Service Fee and Capital Reserve Fund Fee**

*No change to existing rate structure and existing rates, other than recently adopted water service fees

**Does not eliminate Capital Reserve Fund

As shown in **Table 26**, each scenario addresses the pricing objectives differently. Scenarios 2 and 3 impact customers in various ways

Table 26: How Scenarios address Pricing Objectives

Scenario	Equity	Revenue Stability	Minimizes Bill Impacts	Incentivizes Wise Use
Scenario 1 (Status Quo)	No	Yes	Yes	No
Scenario 2	Yes	Yes	No	Yes
Scenario 3	Yes	Yes	No	Yes

In addition, Scenarios 2 and 3 begin to address some of the shortcomings of the existing rate structure. First, by adjusting the Service Availability Charges to reflect the meter equivalency factors, the rates more accurately reflect the impact larger meters place on the system. Next by adjusting the volumetric tiers and eliminating the "free" 6,000 gallons, the rates become more conservation based. In Scenario 2, the Water Service Fees are maintained to continue the objective of revenue stability.

The following tables show the various water rates for each scenario.

Table 27: Water Rates by Scenario

Water Service Availability Charges

Meter Size	Scenario 1	Scenario 2	Scenario 3
¾"	$26.48	$20.00	$20.00
1"	$28.01	$33.40	$33.40
1 ½"	$41.02	$66.60	$66.60
2"	$48.33	$106.60	$106.60
3"	$62.94	$200.00	$200.00
4"	$94.42	$333.40	$333.40

Water Service Fees

Fee	Scenario 1	Scenario 2	Scenario 3
Surface Water	$14.25	$14.25	$14.25
TCEQ	$0.20	$0.20	$0.20
Debt Service	$7.43	$7.43	$ -
Capital Reserve	$6.72	$6.72	$ -
Total	$28.60	$28.60	$14.45

Residential Volumetric Rates

Scenario 1		Scenario 2		Scenario 3	
Usage (in 1,000 gallons)	Rate	Usage (in 1,000 gallons)	Rate	Usage (in 1,000 gallons)	Rate
0 – 6	$0	0 – 7	$2.17	0 – 7	$2.95
6 – 12.5	$3.81	7 – 17	$2.82	7 – 17	$3.84
12.5 – 25	$4.76	17 – 30	$6.51	17 – 30	$8.86
25 – 50	$7.14	30 – 50	$8.67	30 – 50	$11.81
50 – 75	$10.72	50+	$10.84	50+	$14.76
75 – 100	$16.07				
100+	$24.11				

Commercial Volumetric Rates

Scenario 1		Scenario 2		Scenario 3	
Usage (in 1,000 gallons)	Rate	Usage (in 1,000 gallons)	Rate	Usage (in 1,000 gallons)	Rate
0 – 6	$0	0 – 10	$3.28	0 – 10	$3.84
6 – 50	$3.81	10 – 30	$4.26	10 – 30	$4.99
50 – 100	$4.76	30+	$6.55	30+	$7.67
100 – 150	$7.14				
150+	$10.72				

Based on the information provided to the Advisory Panel, the decision was made to recommend Scenario 2 to the City Council. Rate impacts will be shown in a later section.

Wastewater Rate Scenarios

Like water, wastewater rate design has evolved over the years. Typically, wastewater rate design does not include inclining block rates. Residential wastewater rates do often include a volumetric rate that bills based on water usage during a winter period of either November, December and January or December, January and February. Because residential customers do not usually water during these winter months, it is assumed that this usage represents the amount of wastewater that a resident contributes to the wastewater system. For commercial, since water usage does not vary from month to month, a wastewater volumetric rate is usually a uniform rate. Monthly minimum charges for wastewater can vary from a flat month minimum to a minimum charge based on meter sizes.

EXISTING RATE STRUCTURE

The City's existing wastewater rate structure is a flat fee made up of a wastewater availability charge and wastewater service fees, including the TCEQ fee, a debt service fee and a capital reserve fee. In this case, all customers pay the same flat fee regardless of how much water they use. As shown in **Table 28**, 100% of revenue is fixed. With this kind of structure, customers are not paying based on their own demand on the system, instead a customer pays the same amount each month.

Table 28: Existing Wastewater Rates

Service Availability Charges	
All Meters	$40.86

Water Service Itemized Fees	
TCEQ Fee	$0.05
Debt Service	$2.30
Capital Reserve	$4.12
Total	$6.47

PROPOSED RATE STRUCTURES

In consideration of the pricing objectives and industry practices, the Advisory Panel considered three rate structure scenarios. The residential wastewater rate scenarios are shown in **Table 29**. Scenario 1 maintains the current rate structure of the City, while Scenarios 2 and 3 reflect changes to the existing rate structure to address the pricing objectives identified by the City Council and the Advisory Panel. For wastewater, one rate structure is proposed for residential and commercial customers, as the number of commercial customers is small and usage patterns of both classes do not differ significantly. In water the commercial customers are mostly Homeowner Associations that irrigate their common areas; therefore, they are not wastewater customers.

How the proposed rate structures address the pricing objectives is shown in **Table 30**. In these proposed scenarios, each one including the existing rate structure will impact customers negatively due to the need for rate increases to cover the cost of service. Each scenario will maintain the objective of revenue stability and scenarios 2 and 3 address equity by allowing customer to pay based on the demand they place on the system. The main change to the existing rate structure in the proposed scenarios is the addition of a volumetric rate to be based on winter consumption in the months of December, January and February.

Table 29: Wastewater Rate Scenarios

Scenario 1 (Status Quo)

Maintain existing Rate Structure, including all Wastewater Service Fees (TCEQ Fee, Debt Service Fee and Capital Reserve Fund Fee)

Scenario 2

Base rate is increased to cover actual cost of billing and meters

Maintains all Wastewater Service Fees

Adds a Uniform Rate for Average Winter Consumption

Scenario 3

Similar to Scenario 2 except eliminates Debt Service Fee and Capital Reserve Fund Fee*

*Does not eliminate Capital Reserve Fund

Table 30: How Scenarios address Pricing Objectives

Scenario	Equity	Revenue Stability	Minimizes Bill Impacts
Scenario 1 (Status Quo)	No	Yes	No
Scenario 2	Yes	Yes	No
Scenario 3	Yes	Yes	No

The following tables show the wastewater rates for the various scenarios.

Table 31: Wastewater Rate Scenarios

Fee Type	Existing	Scenario 1	Scenario 2	Scenario 3
Service Availability Charge	$42.08	$62.99	$28.94	$28.94
TCEQ Fee	$0.05	$0.05	$0.05	$0.05
Debt Service Fee	$2.30	$2.30	$2.30	$ -
Capital Reserve Fee	$4.12	$4.12	$4.12	$ -
Volumetric Charge per 1,000 gallons	$ -	$ -	$6.09	$7.09

Like with the water scenarios, the Advisory Panel chose Scenario 2 to recommend to the City Council.

Rate Impacts

It is important to consider the impact of rate design changes when deciding which is best suited for the City. In this section the impacts to customers at various usage levels will be presented. When considering rate impacts, it is important to know the consumption statistics of the system. In the industry, average water usage is often used to calculate a "typical" bill. That's to say that on average, a customer will pay that rate throughout the year. For wastewater, the average winter consumption of the system is used to calculate the typical bill for wastewater. For purposes of considering the rate impacts to the customers of the utility, a low, average, and high usage is considered for both the residential and commercial classes. In addition, winter versus summer usage was also considered.

For the residential class, the low, average, and high-water usage is presented in **Table 32**. In the same table the percentage of users using less than that amount of usage is provided. For calculating the sewer bill, the winter consumption is used to calculate the bill. This would represent the average winter consumption for that type of user.

The low, average, and high-water usage for commercial is in **Table 33**.

Table 32: Residential Water Usage Comparisons

Type of User	Winter		Summer	
	Usage	% of Users	Usage	% of Users
Low	4,000	26%	8,000	52%
Average	8,000	26%	17,000	23%
High	15,000	22%	30,000	17%

Table 33: Commercial Water Usage Comparisons

Type of User	Winter		Summer	
	Usage	% of Users	Usage	% of Users
Low	8,000	50%	15,000	64%
Average	16,000	14%	30,000	15%
High	30,000	15%	60,000	14%

In **Table 34**, **Table 35**, and **Table 36**, the bill impacts for the low, average, and high residential user are shown.

Table 34: Low Residential User

Scenario	Winter Bill (4,000 gallons)			Summer Bill (8,000 gallons)		
	Water	Sewer	Total	Water	Sewer	Total
Existing	$55.08	$48.55	$103.63	$62.70	$48.55	$111.25
Scenario 1	$55.08	$69.46	$124.55	$62.70	$69.46	$132.17
Scenario 2	$57.28	$59.40	$116.67	$66.60	$59.40	$126.00
Scenario 3	$46.26	$57.34	$103.60	$58.96	$57.34	$116.30

	Increase / (Decrease) over Existing Rates					
	Water	Sewer	Total	Water	Sewer	Total
Scenario 1	$ -	$20.91	$20.91	$ -	$20.91	$20.91
Scenario 2	$2.20	$10.85	$13.05	$3.90	$10.85	$14.75
Scenario 3	($8.82)	$8.79	($0.03)	($3.74)	$8.79	$5.05

Table 35: Average Residential User

Scenario	Winter Bill (8,000 gallons)			Summer Bill (17,000 gallons)		
	Water	Sewer	Total	Water	Sewer	Total
Existing	$62.70	$48.55	$111.25	$101.27	$48.55	$149.82
Scenario 1	$62.70	$69.46	$132.17	$101.27	$69.46	$170.73
Scenario 2	$66.60	$83.38	$149.98	$91.97	$83.38	$175.36
Scenario 3	$58.96	$85.69	$144.65	$93.51	$85.69	$179.20

	Increase / (Decrease) over Existing Rates					
	Water	Sewer	Total	Water	Sewer	Total
Scenario 1	$ -	$20.91	$20.91	$ -	$20.91	$20.91
Scenario 2	$3.90	$34.83	$38.73	($9.30)	$34.83	$25.53
Scenario 3	($3.74)	$37.14	$33.40	($7.76)	$37.14	$29.38

Table 36: High Residential User

Scenario	Winter Bill (15,000 gallons)			Summer Bill (30,000 gallons)		
	Water	Sewer	Total	Water	Sewer	Total
Existing	$91.75	$48.55	$140.30	$175.05	$48.55	$223.60
Scenario 1	$91.75	$69.46	$161.21	$175.05	$69.46	$244.51
Scenario 2	$86.33	$125.36	$211.69	$176.54	$125.36	$301.90
Scenario 3	$85.83	$135.30	$221.13	$208.67	$135.30	$343.97

	Increase / (Decrease) over Existing Rates					
	Water	Sewer	Total	Water	Sewer	Total
Scenario 1	$ -	$20.91	$20.91	$ -	$20.91	$20.91
Scenario 2	($5.42)	$76.81	$71.39	$1.49	$76.81	$78.30
Scenario 3	($5.92)	$86.75	$80.83	$33.62	$86.75	$120.37

In **Table 37**, **Table 38**, and **Table 39**, the bill impacts for the low, average, and high commercial user are shown.

Table 37: Low Commercial User

Scenario	Winter Bill (8,000 gallons)			Summer Bill (15,000 gallons)		
	Water	Sewer	Total	Water	Sewer	Total
Existing	$62.70	$48.55	$111.25	$89.37	$48.55	$137.92
Scenario 1	$62.70	$69.46	$132.17	$89.37	$69.46	$158.84
Scenario 2	$74.81	$83.38	$158.19	$102.64	$83.38	$186.03
Scenario 3	$65.15	$85.69	$150.84	$97.77	$85.69	$183.46

	Increase / (Decrease) over Existing Rates					
	Water	Sewer	Total	Water	Sewer	Total
Scenario 1	$ -	$20.91	$20.91	$ -	$20.91	$20.91
Scenario 2	$12.11	$34.83	$46.94	$13.27	$34.83	$48.10
Scenario 3	$2.45	$37.14	$39.59	$8.40	$37.14	$45.54

Table 38: Average Commercial User

Scenario	Winter Bill (16,000 gallons)			Summer Bill (30,000 gallons)		
	Water	Sewer	Total	Water	Sewer	Total
Existing	$93.18	$48.55	$141.73	$146.52	$48.55	$195.07
Scenario 1	$93.18	$69.46	$162.65	$146.52	$69.46	$215.99
Scenario 2	$106.90	$131.36	$238.26	$166.51	$131.36	$297.87
Scenario 3	$102.75	$142.39	$245.15	$172.60	$142.39	$314.99

	Increase / (Decrease) over Existing Rates					
	Water	Sewer	Total	Water	Sewer	Total
Scenario 1	$ -	$20.91	$20.91	$ -	$20.91	$20.91
Scenario 2	$13.72	$82.81	$96.53	$19.99	$82.81	$102.80
Scenario 3	$9.57	$93.84	$103.41	$26.08	$93.84	$119.92

Table 39: High Commercial User

Scenario	Winter Bill (30,000 gallons)			Summer Bill (60,000 gallons)		
	Water	Sewer	Total	Water	Sewer	Total
Existing	$146.52	$48.55	$195.07	$270.32	$48.55	$318.87
Scenario 1	$146.52	$69.46	$215.99	$270.32	$69.46	$339.79
Scenario 2	$166.51	$215.31	$381.82	$363.03	$215.31	$578.34
Scenario 3	$172.60	$241.62	$414.22	$402.84	$241.62	$644.46

	Increase / (Decrease) over Existing Rates					
	Water	Sewer	Total	Water	Sewer	Total
Scenario 1	$ -	$20.91	$20.91	$ -	$20.91	$20.91
Scenario 2	$19.99	$166.76	$186.75	$92.71	$166.76	$259.47
Scenario 3	$26.08	$193.07	$219.15	$132.52	$193.07	$325.59

Council Recommendation

The Rate Advisory Panel, through several meetings, underwent a review of the rate study and its results. Through these meetings they gained a thorough understanding of the challenges facing the utility. Through the process, they provided input about the pricing objectives of the community and considered these objectives when reviewing the proposed rate design scenarios. Rate design is the "art of ratemaking." Through rate design, a utility can influence how customers might use water, send messages about essential use and consider the risk aversion of the utility. From a regulatory perspective, once the cost of service for a customer class is established, the utility has flexibility on the rate design that it selects for its customer classes.

As mentioned above, the Rate Advisory Panel recommends that the Council consider Scenario 2 of the proposed rate design scenarios. Before addressing why scenario 2 was selected for both the water and wastewater rates, it's important to consider the essential and very important pricing objectives. As mentioned above, these 4 pricing objectives were the same for the City Council and Rate Advisory Panel. The 4 objectives and their definitions, as shown in Table 20 include:

- Revenue Stability – Generate stable and predictable revenues,
- Equity between classes – Each customer class pays its cost of service
- Customer Impact – Changes in rate structure minimize impact, and
- Conservation Pricing Signals – Contains a pricing signal that encourages wise water use.

Scenarios 2 and 3 were developed to address the pricing objective of the City Council and the Rate Advisory Panel. Each scenario as addressed above in Table 26 and Table 30 meet some of the pricing objectives but not others. In the next sections, how Scenario 2 addresses each of these objectives will be discussed.

Water Rates

In considering the changes to the water rates, Raftelis first considered what the existing rates did well. Through the Service Availability Charges and the Water Service Fees, the utility collects a fixed amount of revenue consistently every month. As a result of this, the utility's revenue is very stable. The utility's existing volumetric charges are inverted block rates, which means that as a customer uses more water, the customer pays more on a cost per thousand gallons. This, however, does not necessarily send a pricing signal. The current tiered structure has a few problems. First, the first 6,000 gallons are "free" and included in the Service Availability Charge. This contradicts the objective of conservation. To receive a pricing signal, a customer should pay for all water usage. Further, the existing structure has 7 tiers, or blocks, with very few customers using in some of the higher tiers. The break in the tiers also does not reflect how the utility's current water customers use water.

REVENUE STABILITY

Scenario 2 essentially maintains the utility's current revenue recovery from fixed charges by maintaining the Service Availability Charges and the Water Service Fees. In addition, by adjusting the Service Availability Charges to reflect the industry standards, larger meters will now pay their fair share based on their meter size. By maintaining the Water Service Fees, the utility will continue to collect a fee that is based on its actual debt service cost and assumed funding for the Capital Reserve. As capital investment increases those fees will increase ensuring that the revenue collected for those costs will not fluctuate based on usage and every customer pays the same amount.

EQUITY BETWEEN CLASSES

Raftelis developed the rate structures based on each class's cost of service. Through the cost-of-service analysis, the impact of each class on the system was evaluated and considered. The rate structure presented in Scenario 2 is based on the residential and commercial cost of service.

CUSTOMER IMPACT

In Scenario 2, the impact to the customers will vary based on the amount of water that they use. As mentioned earlier, not all the pricing objectives would necessarily be met. For scenario 2, minimizing customers impact was not met, as shown in Table 26. This is due to keeping the Service Availability Charges and Water Service Fees in place. From a volumetric perspective, because customers will now start paying for all water usage, a customer that use water in the 0 – 6,000 gallon block will see an increase because they will now start paying for that water.

CONSERVATION PRICING SIGNAL

In determining how to send a conservation pricing signal, it was important to consider the actual consumption for each class. The blocks developed for Scenario 2 considered how the customers of each class use water on average. Water systems are sized to serve peak usage not average usage. If peaking is significant, water systems must be sized larger and result in larger investments. Through tiered rates, the utility will charge customers that impact the system through peaking (higher summer consumption) more than customers that only use the system for essential use. Residential customers have differing consumption patterns that are dependent on the household. There is essential use for cooking, washing and everyday household needs. Then there is discretionary usage that is often for outdoor irrigation use, whether for watering lawns or gardens or for filling swimming pools. Commercial customers tend to use water as part of the business. In that sense the water usage of commercial customers typically does not tend to fluctuate month over month. For the City, many of its commercial customers are Homeowners Associations (HOAs) whose water usage tends to increase in the summertime, much like residential customers. This was taken into account when considering the rate structure for commercial customers.

Residential Volumetric Water Rates

Because residential consumption is measured through one meter, it is not possible to know what amount of water is used indoors and what is used for irrigation purposes. Industry practice is to determine what the winter average usage is for the residential class. This is used as a surrogate for essential water use because it is assumed that during the winter months customers are not irrigating. The winter average usage of the residential class is about 7,000 gallons. This was used as the first tier so that essential use would be charged at a lower rate per 1,000 gallons. The next tier, 7,000 – 17,000 was meant to capture essential use of larger households but could also include some discretionary outdoor usage. Only 25% of customers use greater than 17,000 gallons, so Raftelis considers the next two blocks as being entirely discretionary. To send a pricing signal three additional blocks were proposed, so that consumption that increases up to 50,000 gallons will be charged at a higher cost per gallon.

Commercial Volumetric Water Rates

Typically, commercial volumetric water rates are charged through a uniform rate. For Fair Oaks Ranch, the commercial class is made up of small businesses and HOAs. The small businesses tend to use less water and the HOAs tend to use little water in the winter and more water in the summer for irrigation. Although the usage of the HOAs increases in the summer, it is part of doing business. At the same time, it is good to encourage efficient water use. The first tier of 0 – 10,000 gallons was set to capture the use of the smaller businesses. The next two tiers were based on higher commercial usage and to send a signal for efficient water usage.

Wastewater Rates

The existing wastewater rates are all fixed charges. They include the Service Availability Charges and the Wastewater Service Fees, only. In this case the revenue is very stable in that it is the same every month. Under this type of rate structure, all customers pay the same amount regardless of their usage on the system. Although wastewater is not metered, the industry uses winter average as a method of measuring wastewater. Much like the essential use measurement, winter average is a good measure for the amount of wastewater that a customer will put into the wastewater system. One aspect of the proposed wastewater rate structure is the fact that an increase in wastewater revenue is warranted to recover costs of the wastewater system. This aspect will be discussed below. For the wastewater rate structure, a single rate was maintained and not separated into classes. This was due to not having much differing characteristics between the residential and commercial customers. In wastewater, the HOAs are not wastewater customers.

REVENUE STABILITY

As mentioned above the existing wastewater rates are all fixed. In considering the revenue stability objective, Raftelis maintained the Service Availability Charges and the Water Service Fees but added a volumetric charge that will be charged to customers based on their winter average consumption. While this addition of a volumetric charge means that the Service Availability Charge will be less, 41% of the revenue will remain fixed.

EQUITY BETWEEN CLASSES

Although classes were not created, the equity between the types of customers is maintained through the volumetric charge. Customers are paying based on their impact to the system, which achieves equity.

CUSTOMER IMPACT

As mentioned above a revenue increase is required to meet the costs of the wastewater system. Because of this needed increase, all customers will be impact by the rate change. Although, it must be noted that based on a customer's usage, the amount of the increase will be less for a lower user.

Other Rate Advisory Panel Considerations

In addition to considering the various rate scenarios, the Advisory Panel discussed the water surplus, as shown in Figure 2 above. Currently, the utility collects revenue through the Capital Reserve Fee. Scenario 2 assumes that the Capital Reserve Fee will be maintained. In addition to the revenue from the Capital Reserve Fee, the utility collects a surplus from the water system. Historically, this surplus has funded the shortfall of the wastewater system. With the adjustment of the wastewater rates to full cost recovery, the water surplus will be available for the water system. The cost-of-service analysis, as well as the proposed Scenarios 2 and 3, assume that the utility will maintain that surplus. In finalizing the rate scenarios, the Advisory Panel considered the following about the surplus:

- Maximize the contribution to capital,
- Eliminate the surplus by reducing water rates, and
- Use the surplus for a transfer to the General Fund.

Of these three considerations, the Rate Advisory Panel recommended additional contribution to capital.

ADDITIONAL CONTRIBUTION TO CAPITAL

As mentioned above the utility transfers funds to the Capital Reserve to cash-fund capital. With the additional surplus now available to the water utility, the Advisory Panel considered and recommended using the surplus to increase the

amount available for cash-funding capital beyond the amount available from the capital reserve fee. This additional contribution to capital has several positive effects, including:

- Reducing future debt service,
- Water customers pay for future water system needs,
- Cash is available to the water system if growth does not occur, and
- Future rate adjustments should be minimal.

REDUCTION OF WATER RATES

The Advisory Panel considered reducing water rates to a level that would only meet the O&M, debt service and operating reserve costs of the water utility and limit the contribution to the capital reserve to only the amount that is collected through the capital reserve fee. This change would result in a reduction of the water rates. On the other hand, this reduction would make future revenues dependent on growth, which could result in the need for future rate increases if the growth does not occur. It would also limit the additional cash available for reinvestment into the water system.

GENERAL FUND TRANSFER

The Advisory Panel also considered using some of the surplus for a transfer to the general fund. While some utilities are in the practice of transferring surplus funds from the water utility to the general fund, the methodology for determining the appropriate level of the transfer can be dubious. The methodologies for calculating an appropriate amount of the transfer include a PILOT (Payment in Lieu of Taxes) or the application of an appropriate Franchise Fee.

These types of transfers will benefit the taxpayers of the city and not the ratepayer. In addition, by transferring funds to the General Fund, less funds will be available for reinvestment into the water system. Further, to remain equitable, the wastewater system should also make a transfer to the General Fund, which would result in further rate increases to the wastewater system.

Conclusion

It is important to keep in mind that a utility has much flexibility on rate design. As objectives change the rate design should be evaluated to determine whether they are still sending the message desired by the utility. The proposed rates provided in this report were developed through a process that considered leadership's objectives as well as the objectives of the community. While those objectives can be met in many different ways, the Rate Advisory Panel came to the conclusion that Scenario 2 provided the most effective way of meeting the current objectives.

APPENDIX A:

FINANCIAL POLICY REVIEW

RAFTELIS

Memo

To: Sarah Buckelew, Finance Officer, City of Fair Oaks Ranch
From: Angie Flores, Project Manager, Raftelis
Date: July 16, 2021
Re: Financial Policy Review

Introduction

The City of Fair Oaks Ranch (City) engaged Raftelis Financial Consultants, Inc. (Raftelis) to review the City's financial policies and provide observations and recommendations for the City's Financial Policy update. The focus of this financial policy update includes:

- Debt financing policies – review and evaluate the City's current method(s) and practices for financing the City's long-term debt. Policies related to funding sources, bond issuance timing and terms, interest rates, debt service structuring, debt service reserve funding practices (cash, bonds, etc), debt service coverage requirements and other issues will be reviewed with recommendations provided to enhance these practices, as deemed appropriate.
- Operating, emergency and capital reserves – review and evaluate all current reserve policies for funding operating (working capital), emergency (contingency) and future capital improvements (major infrastructure repair and replacement) needs. Provide recommendations to the City regarding changes to reserve target levels and annual contributions that better meet the needs of the City..
- Rates and Charges – review the City's rates and charges policies. Provide recommendations for rate stability, revenue stability, affordable essential use, equitability and water conservation incentives.

This memo summarizes the observations and recommendations resulting from Raftelis's analysis of the City's financial policies and recommendations to address key elements of the City's objectives.

Summary

Utility financial policies can help ensure long-term stability so that the utility is able to maintain operations when unexpected problems arise. Financial policies can also guide future financial and rate decisions. Since each utility has unique operations and service characteristics, financial policies should be tailored to the utility's circumstances. A utility's financial policy document is often reviewed by credit rating agencies and is considered a utility best management practice. Certain aspects of the document may help enhance the City's rating and ensure that there is a continuous stream of revenue for debt service.

Financial policy documents can have several elements and the utility's financial policy document can be a part of the City's overall comprehensive financial policy document. The document typically addresses cash reserves, debt-related policies, accounting, capital and rate policies. In the overview below, Raftelis considers best practices for the utility.

Overview of Best Practices

Raftelis reviewed industry best practices related to utility financial strength. A key source of industry best practices related to financial metrics are bond rating agency criteria scorecards. The three primary bond rating agencies include Moody's, Fitch, and Standard and Poor's (S&P). Each rating agency publishes rating criteria or scorecards used specifically for rating water and wastewater utilities. In addition to the bond rating agencies, the Government Finance Officers Association (GFOA) publishes best practices for the government management sector.

All water utilities face the inherent industry risk related to revenue volatility. Some agencies experience a higher level of revenue uncertainty depending on their distribution of fixed versus variable rate revenue. In the City's case, revenues are collected via a minimum charge, a tiered volumetric charge, a fixed surface water fee, a fixed Texas Commission on Environmental Quality (TCEQ) fee, a fixed Debt Service Fee, and a fixed Capital Reserve Fund Fee. As a part of the engagement with the City, Raftelis analyzed the revenue associated with each of these fees and how they impact key financial metrics for the City.

Evaluating financial sustainability involves two key financial performance metrics: unrestricted fund balance as a % of utility operating expenditures, and debt service coverage.

Unrestricted Fund Balance as a % of Utility Operating Expenses is a common measure of liquidity. It is a measure of the ability of the utility to deal with unanticipated declines in revenue or emergency expenditures without reducing service quality or dramatically increasing rates. It is determined by dividing the dollar amount of unrestricted fund balance by projected operating expenditures. It is not uncommon for utilities to maintain balances much higher than this minimum. Utilities with the strongest ratings from debt rating agencies (S&P, Fitch and Moody's) frequently maintain balances of 100% of annual operating expenses. The City's operating reserve is typically the equivalent to the unrestricted fund balance.

Debt Service Coverage is a measure of a utility's ability to support ongoing operations and repay bondholders, with room to spare. A typical ratio is calculated by dividing net revenues (revenues, less operating expenses) by annual principal and interest payments. A ratio above 1 indicates that current net revenues (operating revenues less expenses) are sufficient to meet current debt service obligations with room to spare for unforeseen emergencies. A ratio of less than 1 would mean that the utility does not have sufficient current revenues to cover operating expenses and meet debt service payment obligations. Debt Service Coverage targets are often defined in the City's bond documents.

Establishing and maintaining reserves is an important part of utility financial management. Historically, operating reserves have been the primary means for utilities to account for any lag

between expenses incurred and revenues received. Other common reserves include capital/construction/depreciation reserves and bond reserves. Emerging trends in the water industry include additional reserves to address revenue stability concerns through a revenue stabilization fund. Lower consumption results in lower revenue from volumetric rates. The number of reserves maintained by a water utility to address revenue instability should correlate to the potential volatility of rate revenues. It is important to note, that if a governing body elects to fund such a reserve, in years where the reserve is tapped to cover any shortfall in revenues, rates would need to be adjusted in the following rate setting period to restore the reserve with contributions. This allows the utility to draw on the fund balance in years when revenue is lower than projected due to lower consumption.

When assessing a utility's financial health, and specifically its ability to handle revenue volatility and meet current obligations, the reserve levels, and their corresponding liquidity ratios, are the best measure of financial strength. Liquidity can be measured by a utility's level of unrestricted cash available to fund operating, capital, and other expenses including unforeseen or emergency spending. Industry associations and rating agencies measure the financial strength of utilities based on liquidity metrics, including days cash on hand and days working capital. Both metrics assess the utility's liquidity, or financial flexibility to pay term debt. Specifically, days cash on hand is a measurement of the number of days the utility could continue to operate if it were to suddenly cease collection of revenues. The measure of working capital indicates the relatively liquid portion of the utility's capital, which constitutes a margin or buffer for meeting obligation. The formulas for each metric are as follows:

1) *Days Cash on Hand (DCOH):*

$$DCOH = \frac{Unrestricted\ cash\ and\ liquid\ investments}{Opertating\ and\ maintenance\ expenses\ less\ depreciation} \times 365$$

2) *Days Working Capital (DWC):*

$$DWC = \frac{Current\ assets - Current\ liabilities}{Operating\ and\ maintenance\ expense} \times 365$$

Industry Best Practices

A key consideration in the development of financial targets and policies for use in the multi-year financial plan is industry best practices. Two sources of financial best practices in the water and wastewater utility industry come from bond rating criteria scorecards and the GFOA. Each best practice source is discussed in detail below.

Bond Rating Agency Scorecards

Rating agencies recognize the significant risk inherent to water and wastewater utilities. As Fitch states[1], "numerous factors can cause financial volatility, including variations in water supply, weather related demand and economic cycles. Highly rated utilities set goals for appropriate margins, including debt service coverage, debt affordability, and reserve funding (rate stabilization, R&R, operating), and set rates that comply with these goals. Utilities operating in areas especially prone to rainfall volatility that consider the effect of such variability on their revenues and establish financial cushions or rate structures to deal with potential weather events are considered stronger than those that do not consider such risks."

The rating agencies quantify liquidity for local government utilities by comparing available cash (excluding debt service reserve amounts) to annual cash O&M expenses, or days cash on hand. Additionally, S&P reviews the actual cash balance when assessing a utility's risk profile, recognizing the economy of scale benefits recognized by larger utilities.

The following three tables summarize the three rating agency liquidity scorecard metrics - days cash on hand and actual cash balance.

Moody's Rating Scorecard						
Financial Target	**Aaa**	**Aa**	**A**	**Baa**	**Ba**	**B and below**
Days Cash on Hand	> 250	250 - 150	150 - 35	35 - 15	15 - 7	< 7

Fitch Rating Scorecard			
Financial Target	**Stonger**	**Midrange**	**Weaker**
Rating	*(AAA)*	*(AA)*	*(A and Below)*
Days cash on hand	> 120	75	< 60

S&P Rating Scorecard						
Financial Target	**1**	**2**	**3**	**4**	**5**	**6**
Days cash on hand	> 150	150 - 90	90 - 60	60 - 30	30 - 15	< 15
Cash Balance	> $75 MM	$75 - $20 MM	$20 - $5 MM	$5 - $1 MM	$1 - $0.5 MM	< $0.5 MM

The ratings agency thresholds for the strongest score vary from 120 to 250 days of cash on hand. The days cash on hand is just one factor of many that go into determining a utility's bond rating but is nevertheless useful for establishing reserve best practices. The average of the three strongest thresholds equals approximately 180 days.

rating agencies complete due diligence on utilities across the U.S. when they are issuing debt. The rating agencies' recommendations are designed for credit investors, but their guidelines are used across the utility industry as a benchmark. Both utilities that plan on issuing debt and those that do not plan on issuing debt use these standards to guide their financial decision making. Utilities that do not plan on issuing debt must rely more heavily on cash financing. The highly rated credit

[1] Fitch Ratings. U.S. Water and Sewer Rating Criteria, November 30, 2017

recommendations emphasize high cash reserve levels, which relate directly to utilities that most rely on cash financing.

Government Finance Officers Association

The GFOA's published best practice of working capital targets for enterprise funds is relevant to the City. An enterprise fund in governmental accounting is a fund that provides goods or services to the public for a fee that makes the entity self-supporting, meaning no subsidization from a general fund. GFOA recommends that governments adopt a working capital target for enterprise funds. A working capital target is a measure of an enterprise fund's liquidity and ability to meet obligations. The calculation is equal to current assets minus current liabilities, expressed in days of operating expenses.

Specific considerations for calculating working capital include the utility's collection process, and only current assets that are anticipated to be realized in cash in the next year should be included in the calculation.

GFOA recommends starting with a baseline working capital target of 90 days of annual operating expenses (which includes depreciation expense) and adjust based on characteristics of the utility. As an absolute minimum, GFOA recommends 45 days of working capital. Additionally, GFOA best practices suggest segregating reserves for specific purposes, such as a capital reserve fund.

The GFOA lists the following considerations for adjusting the 90 days working capital target:

- Support from local government
    - If the enterprise fund is supported by taxes or transfers from general government, the target may be adjusted down.
- Transfers out
    - If the enterprise fund is expected to make transfers to general government, higher levels of working capital may be warranted.
- Cash cycles
    - Volatile cash position throughout the year may warrant higher working capital targets. Water utilities are used as an example in the GFOA best practices standard, pointing out that they may have higher cash positions in the summer compared to winter, when higher consumption volumes result in higher revenue in summer months. These higher summer revenue months are in turn when the utility is at the most risk for revenue volatility, as high rainfall can drive down outdoor irrigation consumption. Also, the length of the billing cycle may warrant an adjustment in working capital.
- Demand for services
    - The level of volatility in demand. While water is relatively stable as it will always be necessary to customers, the amount used by the customers, however, can fluctuate greatly from year to year.
- Asset age and condition

    - Enterprise funds with newer and/or well-maintained assets may be able to adjust working capital target down but will still need capital emergency reserves.
- Volatility of expenses
    - The more stable expenses, the lower working capital target can be.
- Control over expenses
    - High fixed costs, such as the proposed annual debt service expenses, warrant a higher working capital target.
- Management plans for working capital
    - If there are internally restricted funds, even though they may be reported as unrestricted on balance sheet, a utility may want to adjust these values out of the calculation to be conservative.
- Separate targets for operating and capital needs
    - Highly capital intense enterprise funds should consider designating operating and capital reserves separately.
- Debt position
    - Highly leveraged enterprise funds with variable debt service payments may warrant higher working capital targets.

Observations and Recommendations

Raftelis evaluated the City's current Financial Management Policy (Policy), most recently updated on Seeptember 2021. The Policy is a comprehensive document that defines the City's various financial requirements including Accounting and Financial Reporting, Internal Controls, Budgeting process and Reserve targets. Raftelis would consider the City's Policy as meeting the recommendation of GFOA and industry standards. In this section we provide a few observations where the policy may be enhanced to meet the unique circumstances of the Fair Oaks Ranch utility.

Operating Reserves

As stated above, the industry best standard is to have on average of 180 days of cash on hand. The City currently exceeds this requirement. Currently, as will be discussed below, the City recovers most of its revenues through fixed fees, which would imply that revenue volatility is low due to this. Still, the City has 634.8days of cash on hand, which indicates a healthy reserve. The City's policy defines its operating reserve target at one year. [2]

Debt Service Coverage

The City currently has a debt service coverage requirement according to its bond covenants. There may be a desire to have a coverage target above 1.00 times to generate cash to fund future capital and repair and replacement.

Debt Service Reserve

Debt service reserve requirements are typically defined in bond covenants. These requirements range from maximum annual debt service or an average annual debt service payment. The City's policy states that the reserve should include a minimum amount equal to the City's principal and

[2] Section V.B.1 of the City's Financial Management Policy

interest payment. The City is currently meeting this requirement. As more debt is issued, the City should consider the impact of this reserve if it is to be cash-funded.

Rates and Charges

Revenues are currently collected via a minimum charge, a tiered volumetric charge, a fixed surface water fee, a fixed Texas Commission on Environmental Quality (TCEQ) fee, a fixed Debt Service Fee, and a fixed Capital Reserve Fund Fee. As a result of this structure, over 70% of the City's revenue is collected via fixed fees. This provides a revenue stability but can hurt the City's objectives of customer impact and essential use affordability while not sending clear pricing signals (such as conservation) to rate payers. To properly provide recommendations, Raftelis looked at the rate structure, pricing objectives and industry standards to determine what changes the City may want to consider.

Fees

Observation: As mentioned above, the City charges a number of fees in addition to the typical volumetric and minimum charge fees that appear on every bill. These fees include:

Water

- Surface Water Fee: The cost of water distributed by the Guadalupe-Blanco River calculated in dollars per one-thousand gallons' time 6,000 gallon minimum.
- TCEQ Fee: The annual TCEQ water fee divided by number of service connections the month the payment is made to TCEQ
- Trinity Glen Rose Groundwater Conservation District: The ratio of total monthly water produced divided by total monthly water billed times the TGRGCD prevailing rate per thousand gallons.
- Debt Service: The water portion of the total bond payment (including principal and interest) in the upcoming fiscal year divided by number of service connections as determined on June 1st.
- Capital Reserve: The budget goal divided by number of service connections as determined on June 1st.

Wastewater

- TCEQ Fee: The annual TCEQ wastewater fee divided by number of service connections the month the payment is made to TCEQ
- Debt Service: The wastewater portion of the total bond payment (including principal and interest) in upcoming fiscal year divided by number of service connections as determined on June 1st.
- Capital Reserve: The budget goal divided by the number of service connections as determined on June 1st.

These fees provide a level of revenue stability by charging fixed amounts per bill. It is not uncommon to have fees to recover specific amounts of the revenue requirement. Based on our current analysis and discussions with City staff, these amounts are not currently being separated into specific funds to pay for the costs associated with the fees, which would be a GFOA best practice.

Additionally, the master plan for the City is projected to increase debt service dramatically over the next several years which may make the debt service fee unaffordable going forward. Major projects such as the new wastewater treatment plant are projected to more than double the City's current level of debt service which can pose rate shock and essential use affordability issues to rate payers.

Recommendation: It is recommended that the fee structure is simplified going forward. Revenues from fees associated with specific expenses should also be segregated into a separate fund to make sure they are being used for the intended purpose. We recommend that the debt service fee, Trinity Glen Rose Groundwater Conservation District Fee and Surface Water Fee be recovered in the minimum charge and volumetric charges instead of recovered in separate fees. Changes to the rate structure would enable the City to still accomplish the objective of revenue stability while simplifying the overall rate structure.

It is recommended that the Capital Reserve Fee continue to be charged separately. The revenues from this fee should be put into a separate Capital Reserve to be used for new projects along with repair and replacement projects. The financial planning model can be used to forecast uses for this fund. This separate reserve is considered a GFOA best practice.

Rates

Observation: A well-stated rate policy describes the cost of service underpinning the rates and gives a timeframe for rate increases. A stated rate policy defining the general timing of rate decisions gives stakeholders the ability to easily plan for rate changes. Regularly updating and reviewing rates allows utilities to plan for future capital expenditures and adequately cover costs. The City's current policy states that there will be an "annual review of fees and charges to ensure that fees provide adequate coverage of costs of services."[3]The City may consider providing more details in this section in addition to the annual review. One consideration would be the addition of a cost-of-service analysis being completed at least every five year to ensure equity of cost recovery between classes.

The development of reasonable rates and pricing must start with the premise that all expenditures including operating expenses, maintenance, debt service, and non-debt financed capital additions will be covered. However, beyond the coverage of costs, the reasonable rate goal may include factors such as competition and essential use affordability concerns. Additionally, rates must be set to maintain adequate financial reserves. These financial reserve objectives are laid out in the beginning of this memo and the objective should be consistent with industry best practices.

Conclusion

Recommendations for reserves and working capital have not significantly changed over the years. Having reserves and cash on hand that are needed to maintain the financial soundness of the agency remain important. Industry-standards provide a framework for meeting the goals of the City. In developing any new short-term or long-term goals, the City should consider how current policies

[3] Section VII.H of the City's Financial Management Policy.

are performing. If current policies are not being met, it must be understood why that is occurring. Changes in policy must have attainable goals and objectives.

RAFTELIS

City of Fair Oaks Ranch, TX

Water/Wastewater/Reuse Rate Study Council Presentation

March 3, 2022

For Council to Consider Today

1

Rate Design Scenarios

Consider Rate Design Scenarios

2

Advisory Panel Recommendation

Consider Scenario 2 as recommended by Advisory Panel

Will seek Council approval for rate design (May)

3

Rate Comparison

Review Scenario 2 against other utilities

4

Communication Plan

Next steps for Communication

Review

Project Timeline

FEB - APR

Task 1

Project Initiation / Kick-off Meetings

MAY - JUN

Task 2 / Task 3

- Brief the Council
- Conduct Influencer Interviews
- Appoint Advisory Panel
- Determine Pricing Objectives
- Develop Financial Plan for Budget Use

JUL - AUG

Task 3 / Task 4

- Finalize Financial Plan and Policies and Cost of Service
- Conduct Advisory Panel Meetings #1 and #2

SEP - NOV

Task 5

- Present Financial Plan Results to Council
- Complete Rate Design
- Conduct Advisory Panel Meetings #3 and #4
- Complete Communication Plan

MAR 2022

Task 5

- Present Rate Design and Final Report to Council

MAY 2022

Final

- Rate Recommendation Presentation to Council

Financial Plan findings based on Existing Rates

1

Combined Utility

FY 2022 and current forecast revenue is **sufficient** to cover costs

2

Water Utility

Water revenue is **sufficient** to cover current costs

3

Wastewater Utility

FY 2022 revenues **sufficient** to cover costs; forecast is **insufficient**

Pricing Objectives

Council Ranking of Pricing Objectives

Classification	Rank	Objective	Score
Essential	1	Revenue Stability	24
	2	Customer impact	18
Very Important	3	Equity between classes	15
	3	Conservation pricing signal	15
Important	5	Essential use affordability	14
	5	Demand management	14
	7	Equity within a class	13
Least Important	8	Customer Understanding	11
	9	Ease of adminstration/implementation	10
	10	Equity between existing and new customers	9

Panel Ranking of Pricing Objectives

Classification	Rank	Objective	Score
Essential	1	Equity between classes	24
	2	Customer impact	18
Very Important	3	Revenue Stability	15
	3	Conservation pricing signal	15
Important	5	Equity within a class	5
	6	Essential use affordability	4
	7	Demand management	3
Least Important	7	Customer Understanding	3
	7	Ease of adminstration/implementation	3
	10	Equity between existing and new customers	0

Water Rate Design Scenarios

Residential Water Rate Scenarios

Scenario 1 (Status Quo)*

Maintain existing rate structure for Service Availability Charge and Volumetric Fees.

Water Service Fees based on Oct. 2021 adoption (Surface Water Fee, TCEQ Fee, Debt Service Fee and Capital Reserve Fund Fee)

Scenario 2

Adjust service availability charges to reflect industry meter factors

Maintain all water service fees, adjust volumetric tiers by charging for all use, adjust tier levels

Scenario 3

Similar to Scenario 2 except eliminate Debt Service Fee and Capital Reserve Fund Fee**

*No change to existing rate structure and existing rates, other than recently adopted water service fees

**Does not eliminate Capital Reserve Fund

Commercial Water Rate Scenarios

Scenario 1 (Status Quo)*

Maintain existing rate structure for Service Availability Charge and Volumetric Fees.

Water Service Fees based on Oct. 2021 adoption (Surface Water Fee, TCEQ Fee, Debt Service Fee and Capital Reserve Fund Fee)

Scenario 2

Adjust service availability charges to reflect pricing by meter size

Maintain all water service fees; Adjust volumetric tiers by charging for all use,

Adjust tier levels

Scenario 3

Similar to Scenario 2 except eliminates Debt Service Fee and Capital Reserve Fund Fee**

*No change to existing rate structure and existing rates, other than recently adopted water service fees

**Does not eliminate Capital Reserve Fund

How do these scenarios meet pricing objectives?

	Equity	Revenue Stability	Minimizes Bill impacts	Incentivizes Wise Use
Existing (Status Quo)	✗	✓	✓	✗
Scenario 2	✓	✓	✗	✓
Scenario 3	✓	✓	✗	✓

Service Availability Charges

Service Availability Charges			
Meters	Scenario 1 (Status Quo)	Scenario 2	Scenario 3
3/4"	$ 26.48	$ 20.00	$ 20.00
1"	$ 28.01	$ 33.40	$ 33.40
1.5"	$ 41.02	$ 66.60	$ 66.60
2"	$ 48.33	$ 106.60	$ 106.60
3"	$ 62.94	$ 200.00	$ 200.00
4"	$ 94.42	$ 333.40	$ 333.40

Water Service Fees

Water Service Fees			
Fee	Scenario 1 (Status Quo)	Scenario 2	Scenario 3
Surface Water	$ 14.25	$ 14.25	$ 14.25
TCEQ	$ 0.20	$ 0.20	$ 0.20
Debt Service	$ 7.43	$ 7.43	$ -
Capital Reserve	$ 6.72	$ 6.72	$ -
Total	$ 28.60	$ 28.60	$ 14.45

Volumetric Rates- Residential

Residential Volumetric Rates (In KGal)					
Scenario 1 (Status Quo)		Scenario 2		Scenario 3	
0-6	$ -	0-7	$ 2.17	0-7	$ 2.95
6-12.5	$ 3.81	7-17	$ 2.82	7-17	$ 3.84
12.5-25	$ 4.76	17-30	$ 6.51	17-30	$ 8.86
25-50	$ 7.14	30-50	$ 8.67	30-50	$11.81
50-75	$ 10.72	50+	$10.84	50+	$14.76
75-100	$ 16.07				
100+	$ 24.11				

Volumetric Rates- Commercial

Commercial Volumetric Rates (In KGal)					
Scenario 1 (Status Quo)		Scenario 2		Scenario 3	
0-6	$ -	0-10	$3.28	0-10	$3.84
6-50	$ 3.81	10-30	$4.26	10-30	$4.99
50-100	$ 4.76	30+	$6.55	30+	$7.67
100-150	$ 7.14				
150+	$10.72				

Wastewater Rate Design Scenarios

Review Wastewater Rate Scenarios

Scenario 1 (Status Quo)

Maintain existing Rate Structure, including all Wastewater Service Fees (TCEQ Fee, Debt Service Fee and Capital Reserve Fund Fee)

Scenario 2

Base rate is increased to cover actual cost of billing and meters

Maintains all Wastewater Service Fees

Adds a Uniform Rate for Average Winter Consumption

Scenario 3

Similar to Scenario 2 except eliminates Debt Service Fee and Capital Reserve Fund Fee*

*Does not eliminate Capital Reserve Fund

How do these scenarios meet pricing objectives?

	Equity	Revenue Stability	Minimizes Bill impacts
Existing (Status Quo)	✗	✓	✗
Scenario 2	✓	✓	✗
Scenario 3	✓	✓	✗

Recommend: Rates based on Average Winter Consumption

- Method of billing wastewater
- Representative of Indoor Water Use
- Calculate average of water consumption in the months of December, January and February
- Assumes Outdoor Water Usage is significantly reduced in the Winter months of December, January and February
- Allows utilities to bill customers in proportion to the amount of wastewater they generate which enters the sewer system

Wastewater Rates

Wastewater Rates				
Scenarios	Existing	Scenario 1 (Status Quo)	Scenario 2	Scenario 3
Service Availability	$ 42.08	$ 62.99	$ 28.94	$ 28.94
Fees	$ 6.47	$ 6.47	$ 6.47	$ 0.05
Volumetric (Per Kgal)	$ -	$ -	$ 6.00	$ 7.09

- Volume based on Average Winter Consumption of December, January and February
- Rate Increase considers O&M reduction of $350,000 for Sludge Handling

Bill Impacts

Residential Bill Impacts Summary

	Existing	Scenario 1 Status Quo (Dollar change)	Scenario 2 (Dollar change)	Scenario 3 (Dollar change)
Low Residential (4,000 gallons)	$103.63	+21	+13	-.03
Ave Residential (8,000 gallons)	$111.25	+21	+39	+33
High Residential (15,000 gallons)	$140.30	+21	+71	+81

Commercial Bill Impacts Summary

	Existing	Scenario 1 Status Quo (Dollar change)	Scenario 2 (Dollar change)	Scenario 3 (Dollar change)
Low Commercial (8,000 gallons)	$111.25	+21	+47	+40
Ave Commercial (16,000 gallons)	$141.73	+21	+97	+103
High Commercial (30,000 gallons)	$195.07	+21	+187	+219

Bill Impacts- Low Residential

Low Residential User						
4k Gallon Winter Usage and 8k Summer Usage						
	Winter Bill			Summer Bill		
Scenario	Water	Sewer	Total	Water	Sewer	Total
Existing	$ 55.08	$ 48.55	$103.63	$ 62.70	$ 48.55	$111.25
Scenario 1 (Status Quo)	$ 55.08	$ 69.46	$124.55	$ 62.70	$ 69.46	$132.17
Scenario 2	$ 57.28	$ 59.40	$116.67	$ 66.60	$ 59.40	$126.00
Scenario 3	$ 46.26	$ 57.34	$103.60	$ 58.96	$ 57.34	$116.30

On average, 26% of customers use equal to or less than 4,000 gallons and 52% use equal to or less than 8,000

Bill Impacts- Average Residential

Average Residential User						
8k Gallon Winter Usage and 17k Summer Usage						
	Winter Bill			Summer Bill		
Scenario	Water	Sewer	Total	Water	Sewer	Total
Existing	$ 62.70	$ 48.55	$111.25	$101.27	$ 48.55	$149.82
Scenario 1 (Status Quo)	$ 62.70	$ 69.46	$132.17	$101.27	$ 69.46	$170.73
Scenario 2	$ 66.60	$ 83.38	$149.98	$ 91.97	$ 83.38	$175.36
Scenario 3	$ 58.96	$ 85.69	$144.65	$ 93.51	$ 85.69	$179.20

On average, 52% of customers use equal to or less than 8,000 gallons and 74% use equal to or less than 15,000

Bill Impacts- High Residential

High Residential User						
15k Gallon Winter Usage and 30k Summer Usage						
	Winter Bill			Summer Bill		
Scenario	Water	Sewer	Total	Water	Sewer	Total
Existing	$ 91.75	$ 48.55	$140.30	$175.05	$ 48.55	$223.60
Scenario 1 (Status Quo)	$ 91.75	$ 69.46	$161.21	$175.05	$ 69.46	$244.51
Scenario 2	$ 86.33	$125.36	$211.69	$176.54	$125.36	$301.90
Scenario 3	$ 85.83	$135.30	$221.13	$208.67	$135.30	$343.97

On average, 74% of customers use equal to or less than 15,000 gallons and 92% use equal to or less than 30,000

Bill Impacts- Low Commercial

Low Commercial User						
8k Gallon Winter Usage and 15k Summer Usage						
	Winter Bill			Summer Bill		
Scenario	Water	Sewer	Total	Water	Sewer	Total
Existing	$ 62.70	$ 48.55	$ 111.25	$ 89.37	$ 48.55	$ 137.92
Scenario 1 (Status Quo)	$ 62.70	$ 69.46	$ 132.17	$ 89.37	$ 69.46	$ 158.84
Scenario 2	$ 74.81	$ 83.38	$ 158.19	$ 102.64	$ 83.38	$ 186.03
Scenario 3	$ 65.15	$ 85.69	$ 150.84	$ 97.77	$ 85.69	$ 183.46

On average, 50% of customers use equal to or less than 8,000 gallons and 64% use equal to or less than 15,000

Bill Impacts- Average Commercial

Average Commercial User 16k Gallon Winter Usage and 30k Summer Usage						
	Winter Bill			Summer Bill		
Scenario	Water	Sewer	Total	Water	Sewer	Total
Existing	$ 93.18	$ 48.55	$ 141.73	$ 146.52	$ 48.55	$ 195.07
Scenario 1 (Status Quo)	$ 93.18	$ 69.46	$ 162.65	$ 146.52	$ 69.46	$ 215.99
Scenario 2	$ 106.90	$ 131.36	$ 238.26	$ 166.51	$ 131.36	$ 297.87
Scenario 3	$ 102.75	$ 142.39	$ 245.15	$ 172.60	$ 142.39	$ 314.99

On average, 64% of customers use equal to or less than 15,000 gallons and 79% use equal to or less than 30,000

Bill Impacts- High Commercial

High Commercial User						
30k Gallon Winter Usage and 60k Summer Usage						
	Winter Bill			Summer Bill		
Scenario	Water	Sewer	Total	Water	Sewer	Total
Existing	$ 146.52	$ 48.55	$ 195.07	$ 270.32	$ 48.55	$ 318.87
Scenario 1 (Status Quo)	$ 146.52	$ 69.46	$ 215.99	$ 270.32	$ 69.46	$ 339.79
Scenario 2	$ 166.51	$ 215.31	$ 381.82	$ 363.03	$ 215.31	$ 578.34
Scenario 3	$ 172.60	$ 241.62	$ 414.22	$ 402.84	$ 241.62	$ 644.46

On average, 79% of customers use equal to or less than 30,000 gallons and 93% use equal to or less than 60,000

Advisory Panel Recommendation

Advisory Panel Recommendations

Rate Structure Scenarios

- Scenario 2 – Rate Structure changes and maintain Service Fees, including Average Winter Consumption
- Maximize use of excess cash for cash-funding capital

Communication

- Structured communication that includes:
  - Reasons for increases
  - Clear descriptions of changes

Future Reuse Pricing Options

- Price it competitively with potable water
- Price it to cover cost of treatment

Other Advisory Panel Considerations – Use of Water Surplus

Reduce Water Rates

- Rates set to meet revenue requirement
- Capital Reserve Fund contribution limited to amount recovered through the Capital Reserve Fee
- Maintain adequate Operating Reserve

Maintain Water Rates

- Contribute additional amount to Capital Reserve to Cash-Fund more capital
  - Reduces proposed debt service

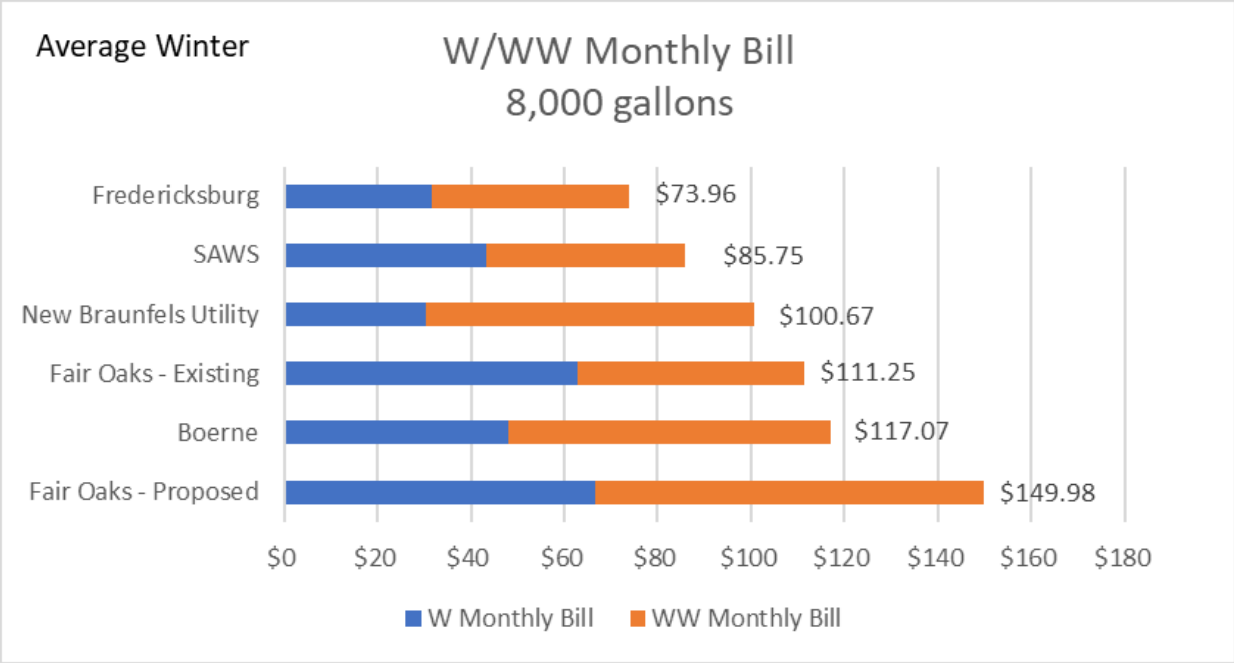
Maintain Water Rates with GF* Contribution

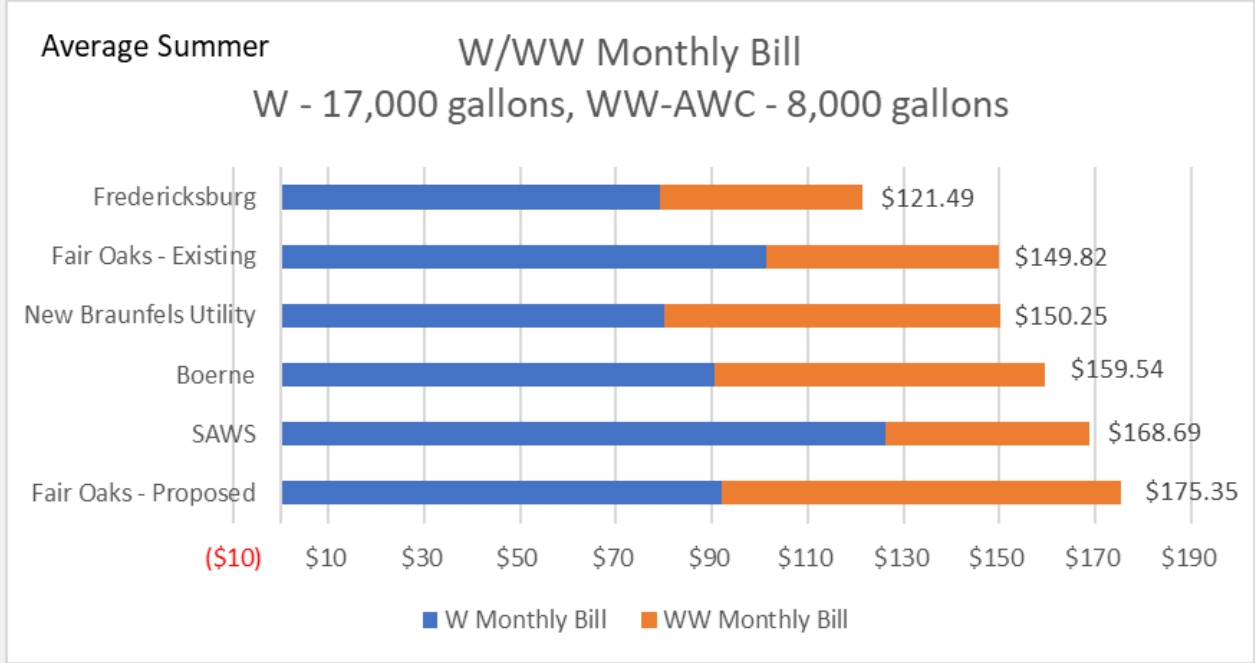
- Contribute additional amount to Capital Reserve
- Consider contribution to General Fund based on Return on Investment

*General Fund

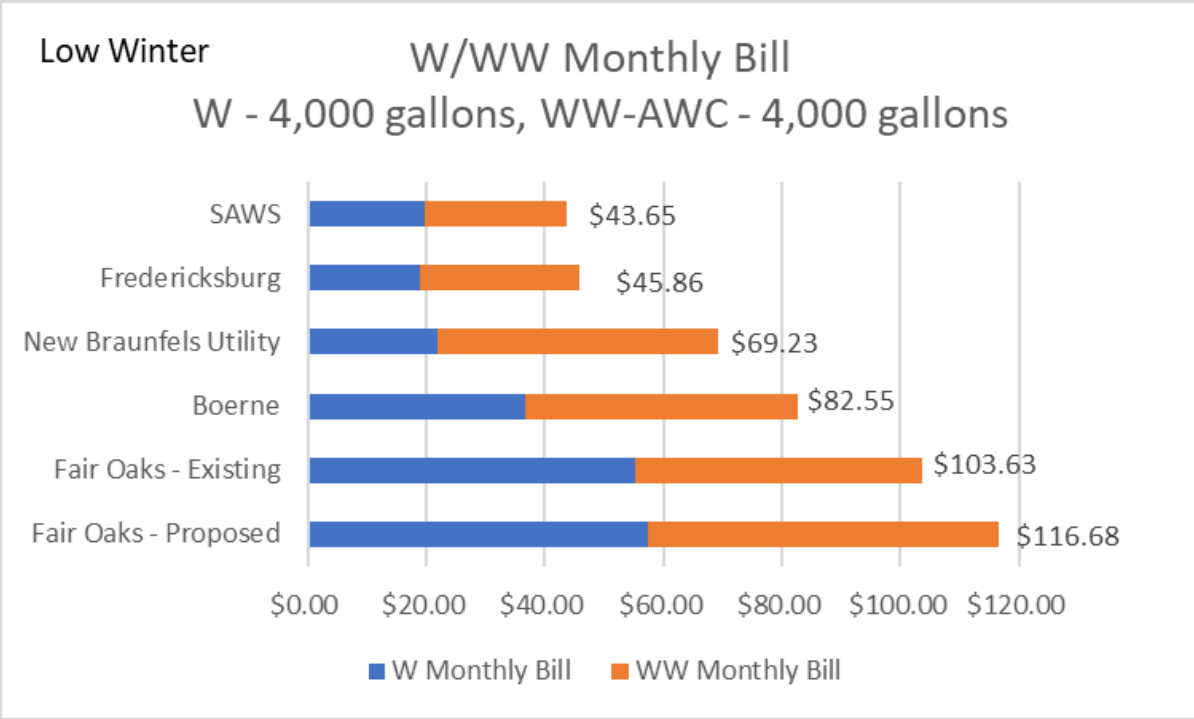
Residential Rate Comparisons

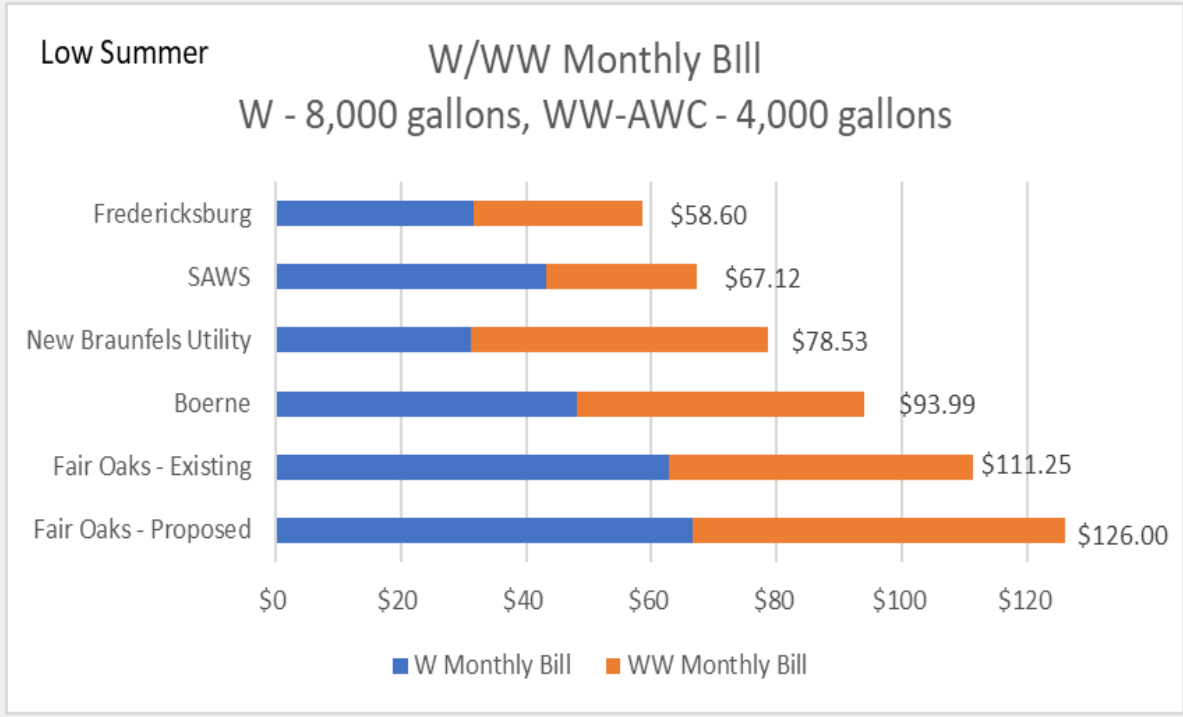
Average Winter / Summer Consumption – 8,000 gallons / 17,000 gallons



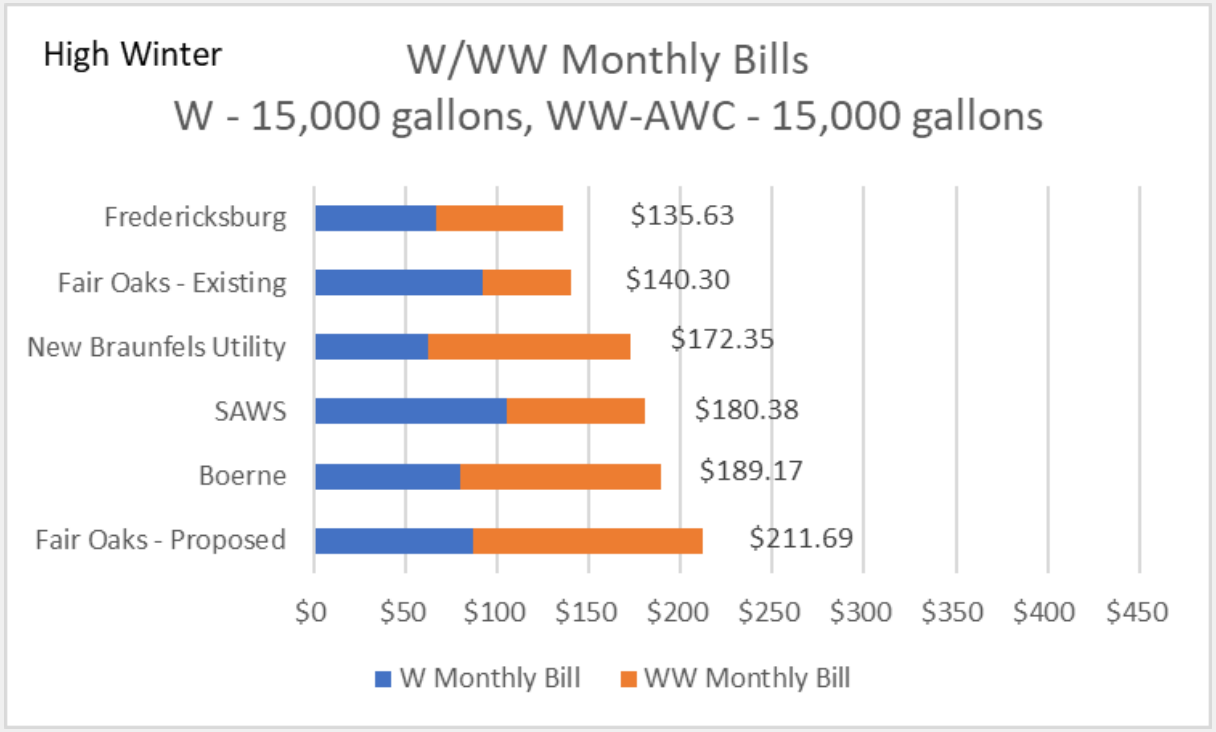


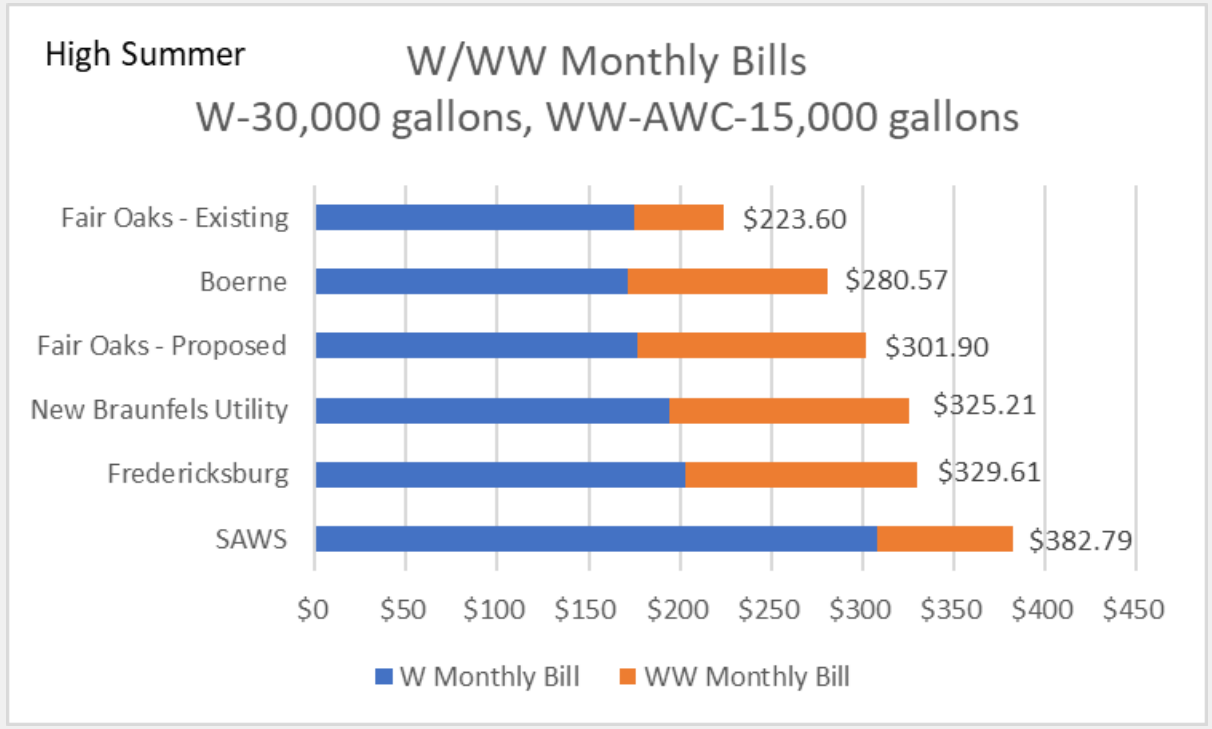
Low Winter / Summer Consumption – 4,000 gallons / 8,000 gallons



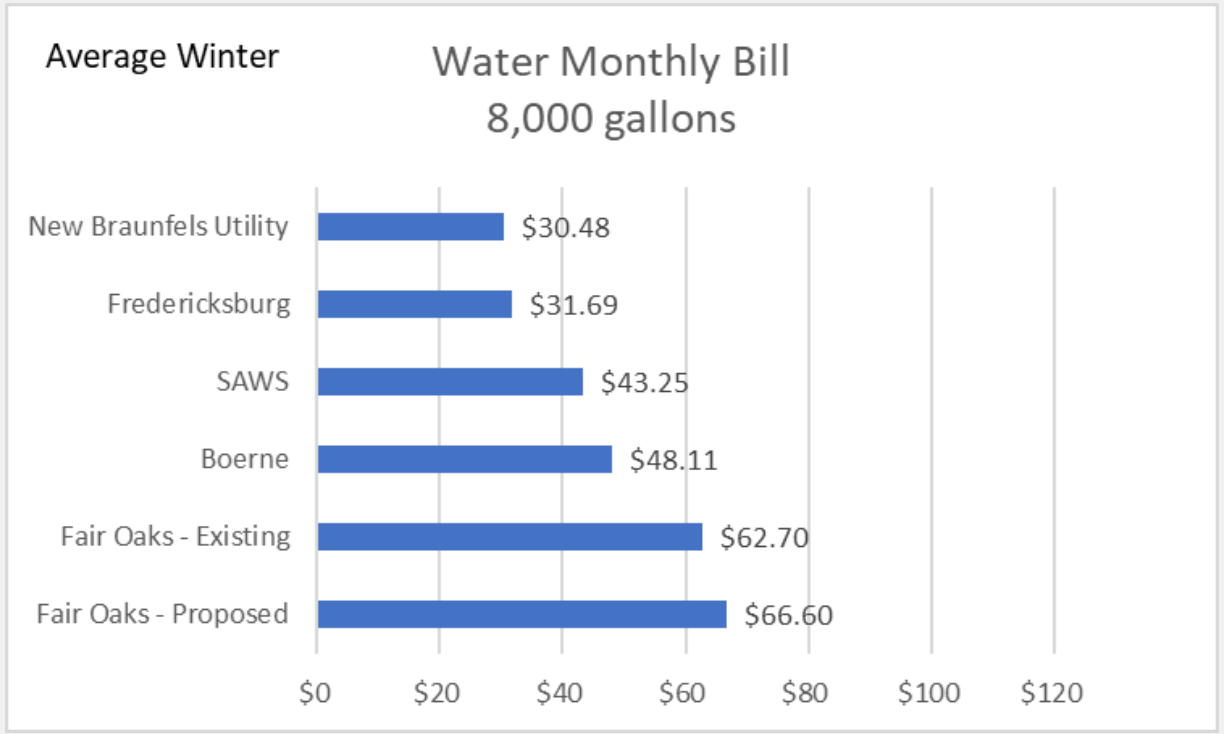


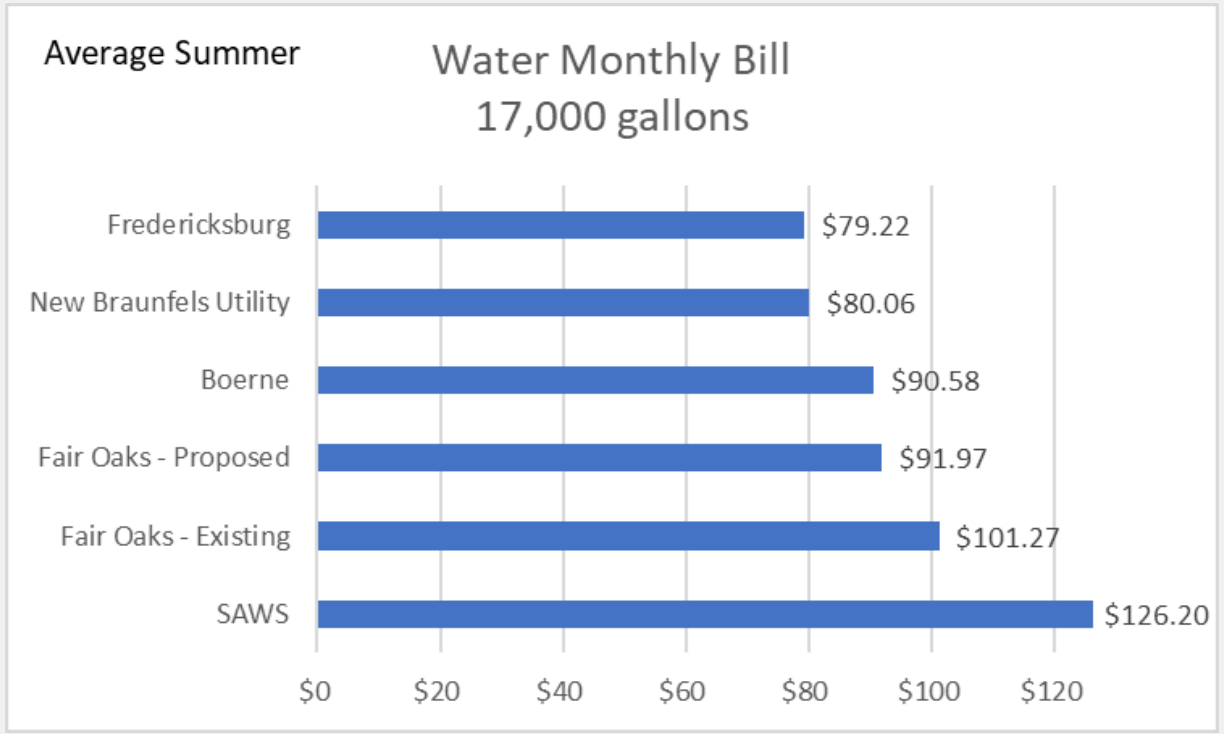
High Winter / Summer Consumption – 15,000 gallons / 30,000 gallons



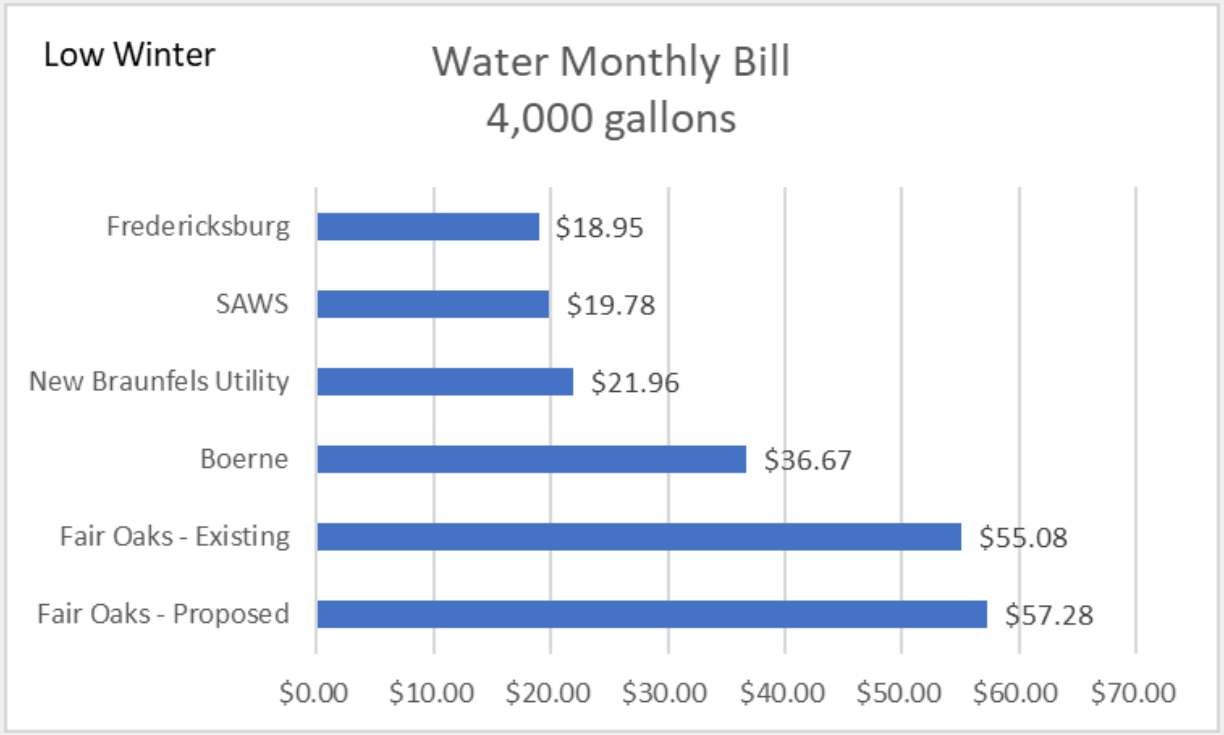


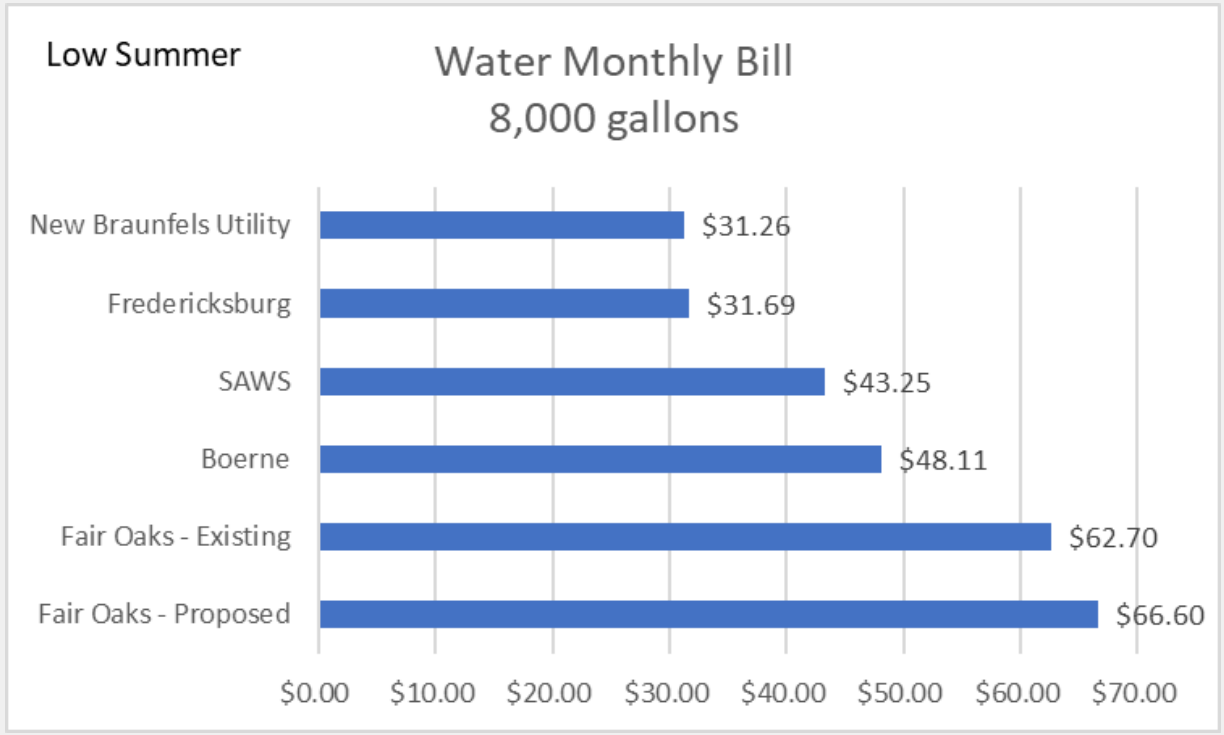
Water Only Average Winter / Summer Consumption 8,000 gallons / 17,000 gallons



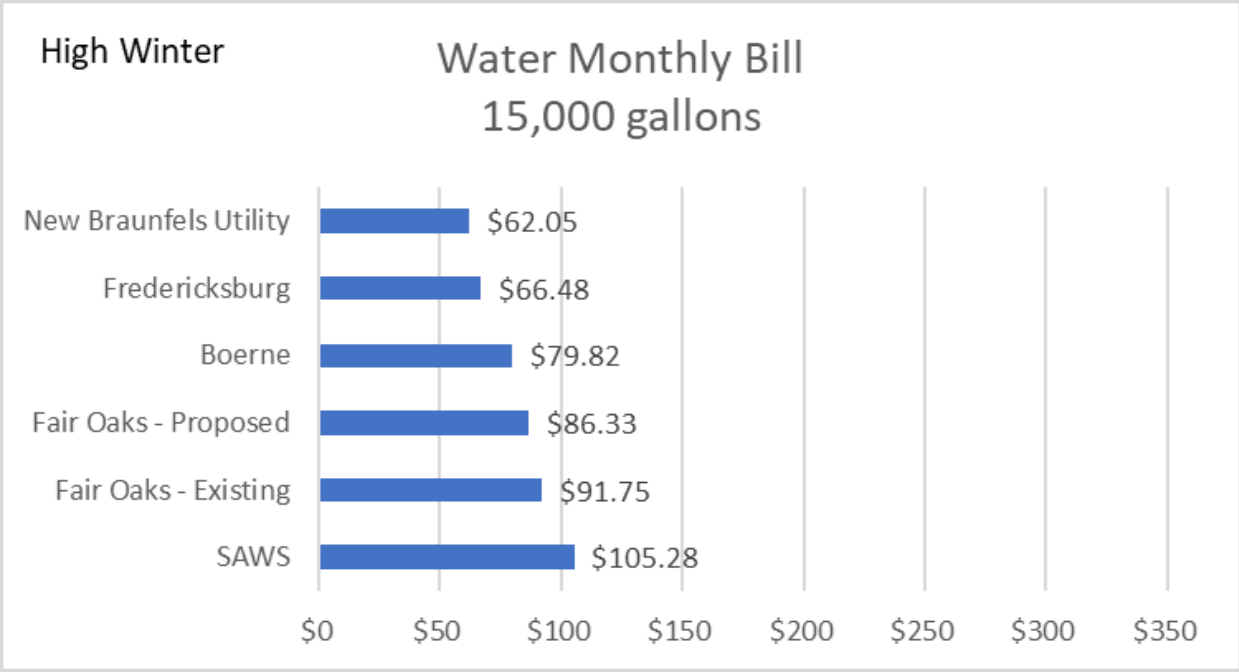


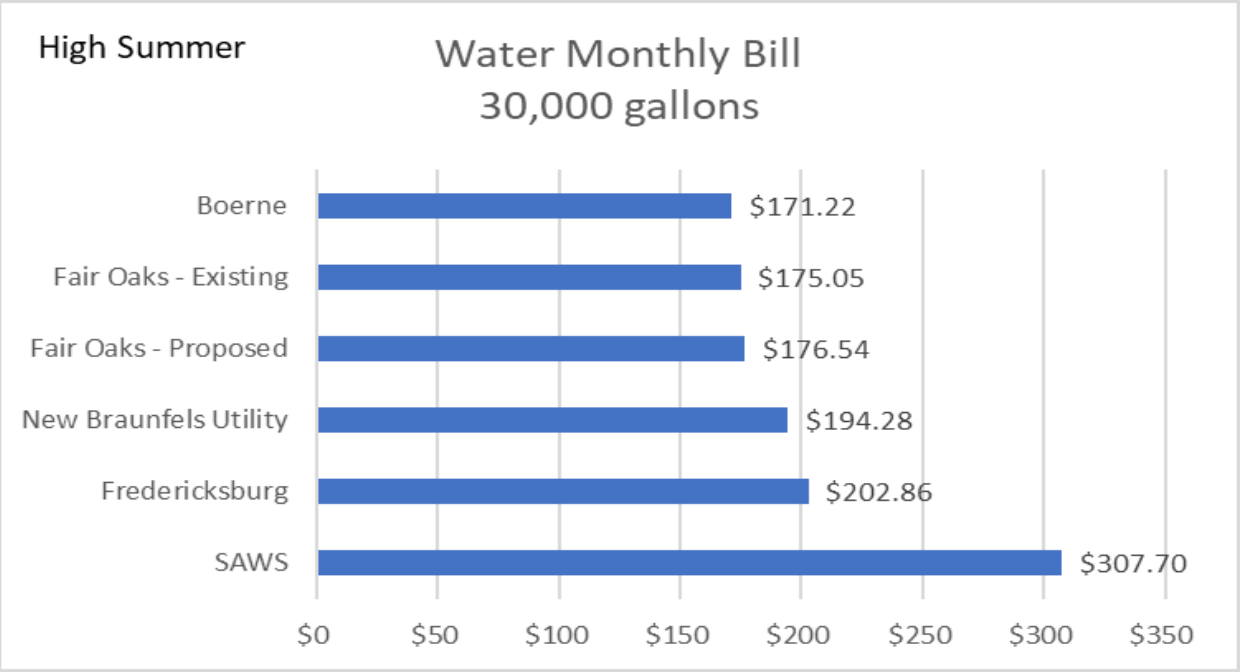
Water Only Low Winter / Summer Consumption 4,000 gallons / 8,000 gallons





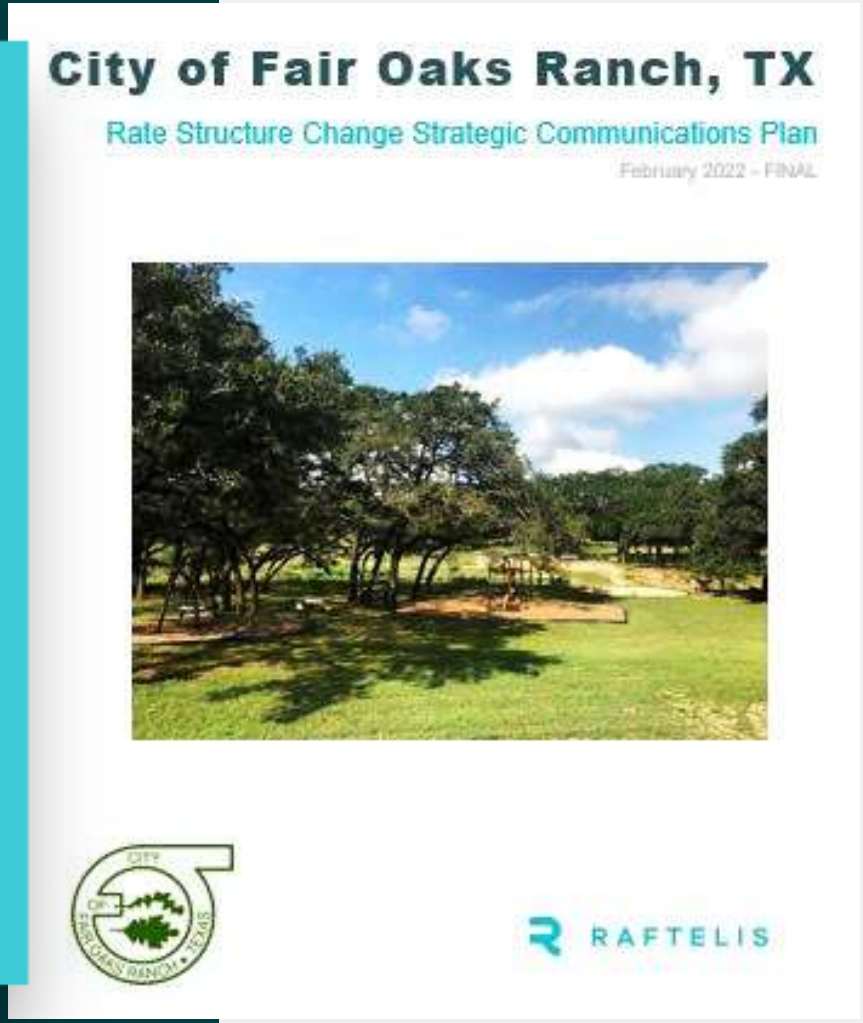
Water Only High Winter / Summer Consumption 15,000 gallons / 30,000 gallons





Communication Plan

Communications Plan



Goals and Objectives

Key channels to monitor customer feedback and sentiment are not inundated with questions and concerns.

There appears to be solid understanding of the changes needed and comments made online and in person are factual and accurate.

Rate structure and rate recommendations made by Raftelis are supported by residents, City Staff and adopted by City Council.

Insights and Challenges Identified from Interviews and Panel Members

- **Some confusion as to how water and wastewater services are funded**
  - Messaging to clarify service is funded through rates, not taxes
- **Customers focus on the "Bottom Line"; may not really understand how the bill is "built"**
  - Messaging to be simple and clear; Focus on how rates are set.
- **A desire for minimal impacts to rates, awareness of FOR rates vs neighbors**
  - Messages will explain trade offs between pricing objectives; efforts made to minimize impacts; the factors (such as service area size) that influence rates.
- **A concern that wastewater costs are being subsidized by water customers**
  - Messages to explain how the new rate structure addresses this issue to improve equity among customer groups
- **A perception of that utility investments promote growth**
  - Messages to address that **i**nfrastructure investment decisions are made after city policy decisions are made about growth

Strategies for empowering staff and Council and communicating with customers (March-May)

Channel	Audience
Meetings (using PPT)	Staff and Council
Talking points (via handout or email)	Staff and Council
Open House Events (drop-in format)	Customers
HOA/Civic Group Presentations	Customers
Website	Customers
Postcard and Mayor’s News Article	Customers
Fact sheet	Customers
Social media	Customers
Video	Customers

Strategies for communicating with customers (After Council decision)

Channel	Audience
Rate calculator	**Customers**
Meetings (using PPT)	Staff and Council
Talking Points (via handout or email)	Staff and Council
HOA/Civic Group Presentations	Customers
Website	Customers
Postcard and Mayor’s News Article	Customers
Mock Bill / Notification on Billing Statements	Customers
Local Media/HOAs (articles/news release)	Customers
Social Media	Customers

Communications Timeline

Q&A

CITY OF FAIR OAKS RANCH

CITY COUNCIL REGULAR MEETING

Thursday, February 17, 2022 at 6:30 PM
City Hall Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch

MINUTES

OPEN MEETING

1. Roll Call - Declaration of a Quorum

Council Present: Mayor Maxton and Council Members: Stroup, Elizondo, Bliss, Koerner, Parker, and Muenchow

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

2. Pledge of Allegiance – The Pledge of Allegiance was recited in unison.

CITIZENS and GUEST FORUM

3. Citizens to be heard.

Dave Neighbor, Candidate for Kendall County Pct 2 Justice of the Peace, spoke of his background and desire to serve his community.

Teal Harris expressed appreciation to everyone for showing up and making a difference in the community.

Rich Nichols, member of the ZBOA, spoke of the three vacancies on the board and contacted four qualified individuals that expressed interest in serving: Tom Jaster, Michael Rey, Jonathan Lisenby, and Dale Pearson.

Joe DuMenil, representative and elected official for Trinity Glen Rose Groundwater Conservation District, announced the Sentinel Landscape designation for Camp Bullis. A press release and FAQ is being prepared regarding the lifetime designation.

Mayor Maxton read an email from Emily Brown expressing concern about the rock crusher activity in the City and the company operating without permits. Ms. Brown asked that they be held accountable and asked Council to reject a permit.

PRESENTATIONS

4. Joanna Merrill, Director of Human Resources and Communications, presented to Investigator Stacy Love a 10-Year Employee Service Award.

CONSENT AGENDA

5. **Approval of the January 20, 2022 Regular City Council meeting minutes.**
6. **Approval of a Resolution to approve the 2021 Property Tax Levy.**
7. **Approval of a Resolution ordering a General Election to be held May 7, 2022, for the election of Council Member Places 3, 4, and 5.**

8. **Approval of a Resolution authorizing a Joint Election Agreement with Kendall County Elections relating to the May 7, 2022 election and authorizing the City Manager to execute all documents in connection therewith.**

MOTION: Made by Council Member Koerner, seconded by Council Member Parker, to approve the Consent Agenda.

VOTE: 7-0; Motion Passed.

CONSIDERATION/DISCUSSION ITEMS

9. **Consideration and possible action accepting the FY 2020-2021 financial statement audit.**

MOTION: Made by Council Member Elizondo, seconded by Council Member Muenchow, to accept the Fiscal Year 2020-2021 annual audit as presented by ABIP, PC.

VOTE: 7-0; Motion Passed.

10. **Consideration and possible action approving a Resolution allocating the Fiscal Year 2020-21 General Fund balances and carryover of encumbrances and continuing appropriations.**

MOTION: Made by Council Member Bliss, seconded by Council Member Stroup, to approve a Resolution allocating portions of the General Fund balance and authorizing the Finance Director to carry forward continuing appropriations for year-end encumbrances, contractual commitments, and capital projects.

VOTE: 7-0; Motion Passed.

11. **Consideration and possible action authorizing the City Manager to sign Professional Service Agreements for On-Call Engineering Services in support of Roadway CIP, Drainage CIP, Water, Wastewater and Reuse CIP, and general civil engineering projects.**

MOTION: Made by Council Member Elizondo, seconded by Council Member Koerner, to authorize the City Manager to sign Professional Services Agreements with the selected consultants and for future work authorizations to be issued utilizing these agreements provided work authorizations are for approved projects included in our annual budgets.

VOTE: 7-0; Motion Passed.

12. **Consideration and possible action on filling the Planning & Zoning Commission's Place 5 unexpired term.**

MOTION: Made by Mayor Maxton, seconded by Council Member Koerner, to fill Place 5 P&Z Commissioner's unexpired term by direct appointment or by utilizing the city's standardized appointment process.

VOTE: 7-0; Motion Passed.

13. **Consideration and possible action on filling the open Zoning Board of Adjustment Place 1 and Alternate Places 6 and 7.**

MOTION: Made by Council Member Muenchow, seconded by Council Member Bliss, to fill Place 1 and Alternate Places 6 & 7 of the Zoning Board of Adjustment by utilizing the City's standardized appointment process.

VOTE: 7-0; Motion Passed.

REPORTS FROM STAFF AND COMMITTEES

14. **Chief of Police, Tim Moring, provided to Council the Police Department's Annual Report.**

15. **Scott Huizenga, Assistant City Manager for Administrative Services, provided to Council a presentation on the Financial Update and Quarterly Investment Report for Quarter 1 of Fiscal Year 2022.**

REQUESTS AND ANNOUNCEMENTS

16. **Announcements and reports by Mayor and Council Members.**

Council Member Stroup thanked City Manager, Tobin Maples, for making himself available to be at the Fair Oaks Ranch Elementary cowboy breakfast.

Council Member Koerner announced that the Leon Springs Fire Department is running an autism awareness fundraiser selling t-shirts and encouraged everyone to purchase by contacting the board.

Council Member Muenchow announced that she and Council Member Parker met with residents for coffee before the Council meeting.

Council Member Elizondo commended staff for a great job communicating information to the community under the great leadership by City Manager Maples.

Mayor Maxton complimented the City Manager and staff on being thoroughly prepared for the winter storm. He also applauded the City Manager and the HR team for the great job communicating with citizens during the storm and in response to the air quality permit through TCEQ.

17. **Announcements by the City Manager.**

City Manager Maples announced that materials and equipment for live streaming has shipped. Installation will commence as soon as it is received.

Monday, February 21, 2022, City Offices are closed in observation of President's Day.

Mr. Maples clarified that the ZBOA application discussed during the meeting is not related to the rock crushing facility.

18. **Requests by Mayor and Council Members that items be placed on a future City Council agenda.**

None.

CONVENE INTO EXECUTIVE SESSION

City Council convened into Executive Session at 8:53 PM regarding:

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

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

20. To receive legal advice advice from the City Attorney regarding the Bobcat Trucking, Inc. application (Permit Application No. 167675) to the Texas Commission On Environmental Quality (TCEQ) for an air quality standard permit for permanent rock and concrete crushers.
21. Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs. Edward I. Hill, Robert E. Heckendorn, Craig M. Luitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.
22. Development issues related to the development agreement for Boerne Ranch Estates/The Reserve.

Sec. 551.072 (Deliberation Regarding Real Property)

23. The City Council will meet in closed session to deliberate the purchase, exchange, lease, or value of real property that may be considered for future location of water and wastewater system improvements.

Sec. 551.074 (Personnel Matters)

24. To deliberate the possible removal of an appointed public officer; to wit: MDD Board Member Place 3. The board member may request the deliberation by the City Council be held in public rather than closed session.

City Council did not convene into Executive Session regarding:

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

19. To receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.

RECONVENE INTO OPEN SESSION

City Council reconvened into Open Session at 10:06 PM.

MOTION: Made by Council Member Stroup, seconded by Council Member Elizondo, to approve Denton, Navarro, Rocha, Bernal & Zech law firm to represent the City of Fair Oaks Ranch in reference to litigation with Boerne Ranch Estate if representation is not provided by TML.

VOTE: 7-0; Motion Passed.

MOTION: Made by Council Member Koerner, seconded by Council Member Elizondo, to approve the removal of Rene Gallegos from appointment to the MDD Board for failure to meet requirements of the City Charter for the appointment to this board.

VOTE: 7-0; Motion Passed.

ADJOURNMENT

Mayor Maxton adjourned the meeting at 10:07 PM.

ATTEST: Gregory C. Maxton, Mayor

Christina Picioccio, TRMC, City Secretary

CERTIFICATION OF UNOPPOSED CANDIDATES
CERTIFICACION DE CANDIDATOS UNICOS

As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on May 7, 2022:

(Como autoridad a cargo de la preparacion de la boleta de votacion oficial, por la presente certifico que los siguientes candidatos son candidatos unicos para eleccion para un cargo en la eleccion que se llevara a cabo el Mayo 7, 2022):

Office (Cargo)	Candidate (Candidato)
Council Member, Place Three	Michelle Bliss
Council Member, Place Four	Laura Koerner
Council Member, Place Five	Scott Parker

Christina Picioccio, TRMC, City Secretary
City of Fair Oaks Ranch, Texas

CITY OF FAIR OAKS RANCH • TEXAS

Dated this 25th day of February, 2022.

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Presentation of the Certificate of Unopposed Candidates and consideration and possible action approving a Resolution declaring unopposed candidates, in the May 7, 2022 General Election, elected to office and to cancel said General Election
DATE:	March 3, 2022
DEPARTMENT:	City Secretary
PRESENTED BY:	Christina Picioccio, TRMC, City Secretary

INTRODUCTION/BACKGROUND:

Council seats 3, 4, and 5 are up for the May 7, 2022 General Election. The current incumbents: Michelle Bliss, Place 3, Laura Koerner, Place 4, and Scott Parker, Place 5 remain unopposed after the March 18, 2022 ballot candidacy period and the March 22, 2022 write in candidacy period.

Pursuant to Chapter 2 of the Election Code the procedure to declare the candidates unopposed as elected and to cancel the General Election is as follows:

Subchapter C. Election of Unopposed Candidate

- Step 1 – Sec. 2.052 – Certification of Unopposed Status
    - (a) The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.
    - (b) The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.
- Step 2 – Sec. 2.053. – Action on Certification
    - (a) On receipt of the certification, the governing body of the political subdivision by order or ordinance shall declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.
    - (b)If a declaration is made under Subsection (a), the election is not held.
- Step 3 – Sec 2.053
    - (e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The

candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

Subchapter D. Cancellation of Elections

- Step 4 – Sec. 2.081 Cancellation of Moot Measure
    - (a) If an authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.
    - (b) If a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

This agenda item is to initiate the steps as outlined above.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Compliance with State Election Laws
2. Financial savings to the general budget

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

$38,222.00 has been set aside in the FY 2020-2021 election budget. These unused funds will be placed back into the general fund.

LEGAL ANALYSIS:

Resolution approved as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to accept the Certificate of Unopposed Candidates and to approve a Resolution declaring the unopposed candidates in the May 7, 2022 General Election, elected to office and to cancel said General Election.

A RESOLUTION

OF THE CITY OF FAIR OAKS RANCH, TEXAS DECLARING UNOPPOSED CANDIDATES IN THE MAY 7, 2022 GENERAL ELECTION, ELECTED TO OFFICE; CANCELLING SAID ELECTION; CONTAINING OTHER PROVISIONS RELATING TO THE ELECTION; AND PROVIDING FOR SEVERABILITY CLAUSE

WHEREAS, On February 17, 2022 the City Council of Fair Oaks Ranch called for, by Resolution 2022-04 a General Election for the purpose of electing three Council Members: Places 3, 4, and 5 for the City of Fair Oaks Ranch, Texas; and,

WHEREAS, notice of said election was given in accordance with the law; and,

WHEREAS, pursuant to Resolution 2022-04, Section 1 and Section 146.054 of the Texas Election Code, the deadlines for the filing applications for a place on the ballot of the City's General Election have expired; and,

WHEREAS, the City Secretary, in accordance with Section 2.052, Texas Election Code, has certified to the City Council, in writing, (attached hereto as **EXHIBIT A**) that Michelle Bliss is unopposed for the election to the office of Council Member Place 3, and Laura Koerner is unopposed for the election to the office of Council Member Place 4, and Scott Parker is unopposed for the election to the office of Council Member Place 5; and,

WHEREAS, the City Council hereby finds and determines that each candidate whose name is to appear on the ballot in said election is unopposed, and under these circumstances, Section 2.053 of the Texas Election Code authorizes the City Council to declare the candidates elected to office and to cancel the General Election.

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

SECTION 1. That the facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

SECTION 2. That, in accordance with Section 2.053 of the Texas Election Code, the following unopposed candidates are hereby declared elected to the respective offices shown, and shall be issued a certificate of election following the time the election would have been canvassed:

- Council Member Place 3 – Michelle Bliss
- Council Member Place 4 – Laura Koerner
- Council Member Place 5 – Scott Parker

SECTION 3. That it is declared to be the intent of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this resolution are severable, and if any phrase, clause, sentence, paragraph or section of this resolution is declared invalid by the judgement or decree of a court of competent jurisdiction, the invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this resolution, since the City Council would have enacted them without the invalid portion.

PASSED, APPROVED and ADOPTED this 3rd day of March 2022.

_____

Gregory C. Maxton, Mayor

ATTEST:

_____

Christina Picioccio, TRMC, City Secretary

APPROVED AS TO FORM:

_____

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

Attachment A

CERTIFICATION OF UNOPPOSED CANDIDATES
CERTIFICACION DE CANDIDATOS UNICOS

As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on May 7, 2022:

(Como autoridad a cargo de la preparacion de la boleta de votacion oficial, por la presente certifico que los siguientes candidatos son candidatos unicos para eleccion para un cargo en la eleccion que se llevara a cabo el Mayo 7, 2022):

Office (Cargo)	Candidate (Candidato)
Council Member, Place Three	Michelle Bliss
Council Member, Place Four	Laura Koerner
Council Member, Place Five	Scott Parker

Christina Picioccio, TRMC, City Secretary
City of Fair Oaks Ranch, Texas

Dated this 25th day of February, 2022.

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action authorizing the City Manager to execute a Guaranteed Maximum Price Amendment to the agreement between the City of Fair Oaks Ranch and Waterman Construction, LLC as Construction Manager at Risk for City Hall Renovation construction services
DATE:	March 3, 2022
DEPARTMENT:	Administration
PRESENTED BY:	Carole Vanzant, CPM, TRMC, Assistant City Manager

INTRODUCTION/BACKGROUND:

In February 2020 City Council authorized the advancement of a Civic Center and City Hall Renovation project utilizing the Construction Manager at Risk method. This delivery method includes:

- Design Architect/Engineer selected on qualifications
- Construction Manager (CM) selected on qualifications or qualifications and general conditions costs
- Owner holds separate contracts with designer and CM (can be same entity under Texas Law)
- CM holds contracts with subcontractors and suppliers

In April 2020, the City entered into a Professional Services Agreement with Studio S Architekts to provide customary architectural design services for this project. Upon receipt of 30% design plans, a Request for Proposals was issued soliciting proposals from qualified firms to provide Construction Manager at Risk services. On January 21, 2021, the City entered into a Professional Services Agreement with Waterman Construction, LLC to provide Construction Manager at Risk services. The agreement authorized the firm to begin work and incur pre-construction and general condition fees up to $134,000 with a future Guaranteed Maximum Price Amendment brought before Council for approval.

On April 30, 2021, Waterman Construction presented city staff with an initial project cost of $2,679,894 based on the current design and subcontractor bids. Based on the scope of the work designed, the cost of construction materials, and current economic conditions produced an unexpected increase. Waterman Construction was asked to continue working on the project by identifying ways to meet the city's budget of $1,200,000. In June 2021, after careful consideration of the current economic conditions, inclusive of significant material and labor cost increases within the construction sector, and after receiving multiple options, the City Manager determined meeting the original budget without making drastic concessions to the original scope would not be attainable. Accordingly, the City Manager ordered an official Stop Work Order on the design and pre-construction services of the Civic Center and City Hall Renovation. City Council, on July 1, 2021, after receiving a project update from the City Manager, provided direction to set aside the

Civic Center portion and focus on the City Hall renovation. On February 24, 2022, Waterman Construction submitted an updated project proposal. **Exhibit A** attached provides a breakdown of the following construction cost:

Construction Cost	**$ 652,406**
Pre-Construction Services Fee	$ 2,500
General Conditions (10.98%) Fee	$ 71,634
CMAR Fee (1.63%) Fee	$ 11,843
Owner Contingency (5.0%) Fee	$ 36,919
Total GMP	**$ 775,302**

Recently, staff identified pertinent items essential in improving the safety and security of the building and the need to upgrade cabling to today's industry standards. These enhanced items were not part of the original scope of the project. Below are three alternates for City Council consideration:

1. (Safety): Upgrade exterior stairs to a non-combustible material: $ 35,529
2. (Safety and Security): Provide access controls and cameras: 118,428
3. (Industry Standards): Upgrade cabling to Cat6: 23,686

$177,643

The above alternate costs are not included in the total GMP amount of $775,302. If all or some of the alternates are approved, the GMP Amendment would increase accordingly. **Exhibit B** attached provides the available funding sources for this project including the staff alternate items.

A guaranteed maximum price contract sets a limit, *or maximum price*, that the City of Fair Oaks Ranch pays the contractor. Costs beyond the guaranteed maximum price is covered by the contractor. If the project comes in under budget, in accordance with the original Agreement, the City will reap the benefit. As design documents are typically less than 100% complete prior to a GMP amendment agreement, there needs to be a mechanism in place for flexibility. Based on the status of our design documents at 95% completion, a 5% contingency is included for possible changes during the finalization of the mechanical, electrical, and plumbing drawings.

In addition to material samples on display, Hollie Sanchez with Studio S Architekts will present conceptual renderings of the renovated City Hall.

This agenda item brings forth a cost proposal for a Guaranteed Maximum Price (GMP) Amendment to the Agreement. Subject to City Council approval of a budget amendment, staff recommends authorizing the City Manager to execute the Guaranteed Maximum Price Amendment for the City Hall Renovation Project.

POLICYANALYSIS/BENEFIT(S) TO CITIZENS:

1. Complies with the City Council directive from July 1, 2021.
2. The General Fund Strategic Action Plan fund has sufficient resources to accommodate the project cost; accordingly, fiduciary responsibility of public funds has been achieved.

3. Will provide long-term efficiencies in accommodating current City Hall staff.
4. Reduces the need and costs of the current temporary space.
5. Will achieve Strategic Objective 3.5 under Reliable and Sustainable Infrastructure to Enhance & Ensure Continuity of Reliable City facilities.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

Exhibit B provides available project funding sources of $971,575. If the project cost proposal, including the three alternates are approved, total project cost proposal is $952,945.

LEGAL ANALYSIS:

N/A

RECOMMENDATION/PROPOSED MOTION:

Subject to City Council approval of a budget amendment, I move to authorize the City Manager to execute a GMP Amendment in the amount of _____ between the City of Fair Oaks Ranch and Waterman Construction, LLC for construction services.

WATERMAN CONSTRUCTION

February 24, 2022

Carole Vanzant
Assistant City Manager
City of Fair Oaks Ranch
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

RE: City of Fair Oaks Ranch – City Hall Renovation
Budget Update 02/22/2022 – Summary Letter

Dear Ms. Vanzant,

We are pleased to provide the following budget update for the City of Fair Oaks Ranch – City Hall Renovation project located Fair Oaks Ranch, Texas. Our team is projecting a total duration of **twenty-four** weeks for the construction in three phases and allowed for time between phasing for your staffing relocation. We will provide staffing adequate for the scope of the project.

This proposal is prepared by following the drawings, specifications and addendum presented by Studio S Architekts (95% Construction Documents, October 14, 2021) & RGM Engineering (April 09, 2021).

Our team will work with your staff and Architect to mitigate any cost increases from the 95% Construction Documents to the final 100% Construction Document issuance through collaboration and value engineering alternatives to stay within the budget listed below.

General Items:

- Allowances: See items below for allowances included within the budget update.
- Permits: We have not included any permit costs with the local AHJ.
- Schedule: Based on the dates provided the scheduled duration of 24 weeks is anticipated for the project. The scope of work will be broken into three phases. This does not include unforeseen supply chain issues due to unpredictable market conditions. Schedule refenced above is not inclusive of any selected alternates or unforeseen conditions.
- Exterior Scope: No exterior scope of work is included in our pricing except for the “area of refuge on the North-East corner of the building, two window replacements, one door infill. Excludes exterior painting, re-roofing, ADA improvements, etc.
- Relocation & Moving: All existing FF&E moving, or temporary facilities is excluded from the budget. As discussed, this will be completed by City of Fair Oaks Ranch staffing. Temporary walls between phasing is included. Existing exits for the building to be utilized during construction for access of staff.
- Sales Tax: We excluded sales tax on the entire project.
- Testing: Third Party Testing is not included in our proposal, as per the drawings and specifications.
- Owner Contingency: Based on the status of the design documents, we recommend a 5% Owner Contingency be carried for changes during the finalization of the Architectural and MEP drawings. This is currently included in our budget.

4204 Gardendale Street, Suite 209 San Antonio, TX 78229
Office: (210) 762-5600 Fax: (210) 762-6737
watermangc.com

This pricing is based on the scope of work listed above and attached. Any work not listed above is considered excluded from this proposal.

P&P bond is included in our proposal.

Breakdown

CSI Breakdown	2/22/2022 Budget
Div 02 - Interior Demo	$ 23,500
Div 01 - Direct Project Costs and Temp Phasing Costs	$ 44,900
Div 03 - Area of Refuge Concrete	$ 4,500
Div 04 - Masonry	$ 7,500
Div 06 - Millwork	$ 59,360
Div 08 - Doors/Frames/Hardware	$ 46,335
Div 08 - Glazing	$ 9,780
Div 09 - Flooring	$ 85,000
Div 09 - Drywall & Painting	$ 107,682
Div 10 - Toilet Accessories	$ 4,706
Div 12 - Fixtures, Furnishings & Equipment (Owner Vendor)	$ 106,000
Div 22 - Plumbing Allowance - Design/Build	$ 23,300
Div 23 - Mechanical Allowance - Design/Build	$ 24,443
Div 26 - Electrical Allowance - Design/Build	$ 78,700
Div 27 - Structured Cabling - Renovation Areas	$ 26,700
Construction Costs Sub-Total	**$ 652,406**
Pre-Construction Services	$ 2,500
General Conditions (10.98%)	$ 71,634
CMAR Fee (1.63%)	$ 11,843
Owner Contingency (5.0%)	$ 36,919
Project Budget Update	**$ 775,302**
Owner Requested Alternates:	
Costs shown below include General Conditions, CMAR Fee and Owner Contingency	
Alternate 1 - Stair Allowance	
Upgrade Exterior Stairs to Steel Structure	$ 35,529
Design forthcoming	
Alternate 2 - Cabling Upgrade Allowance	
Upgrade of CAT 5 to CAT 6 in Existing Areas	$ 23,686
Alternate 3 - Access Control Allowance	
Access Control (Owner Vendor)	$ 118,428
Project Budget + Alternates 1, 2 & 3	**$ 952,945**

Waterman Construction, LLC is available to provide a complete, turnkey, service on this project.

Thank you for the opportunity to provide this pricing information.

We look forward to working with you on this project.

Sincerely,

Arthur Waterman
Vice President
Waterman Construction, LLC

cc: Mrs. Hollie Sanchez
Mr. Andrew Waterman

4204 Gardendale Street, Suite 209 San Antonio, TX 78229
Office: (210) 762-5600 Fax: (210) 762-6737
watermangc.com

Exhibit B - Total City Hall Renovation Funding

Account	Account Name	Amount
02-504-103	City Hall Renovation	$ 400,000
02-506-107	IT Infrastructure Improvements	40,000
02-509-303	Personal Property	260,000
	General Fund Transfer	83,900
	SAP Unallocated Fund Balance	187,675
		971,575

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action approving the first reading of an Ordinance Adopting Fiscal Year 2021-22 Budget Amendments for the City Hall Renovation project
DATE:	March 3, 2022
DEPARTMENT:	Finance
PRESENTED BY:	Scott Huizenga, Assistant City Manager, Administrative Services

INTRODUCTION/BACKGROUND:

The purpose of this agenda item is to bring forward for consideration and possible action to adopt a budget amendment for Fiscal Year 2021-22. This represents the first reading of the proposed ordinance adopting the budget amendment as discussed below.

The adopted FY 2021-22 budget includes certain appropriations in the General Fund associated with the City Hall Renovation project. These appropriations include department-specific furniture in the Minor Equipment accounts totaling $16,800 and costs for a second portable trailer in the Shared Department Facility Contracts account totaling $67,100. This budget amendment would transfer these budgets to the SAP Fund for the City Hall Renovation project.

Additionally, the SAP Fund has unallocated fund balance from prior years project savings totaling $187,675. This ordinance appropriates the unallocated fund balance to the City Hall Renovation project.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

The ordinance provides for a total increase of up to $187,675 from the FY 2021-22 Adopted Budget. The City Hall Renovation project will provide for long-term efficiencies in accommodating all current staff in City Hall while reducing the need and costs of providing temporary space. The SAP Fund has sufficient resources to accommodate this budget amendment.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

This ordinance has no impact on the General Fund. As proposed, the ordinance consolidates City Hall-related appropriations in the SAP Fund for the City Hall Renovation project.

The ordinance increases appropriations in the SAP Fund by $271,575, of which 83,900 is transferred from the General Fund, and $187,675 is from Unallocated Fund Balance. **Exhibit A** provides the line-item detail of the transfer.

The total maximum budget authorization as proposed is $971,575, as shown in **Exhibit B**.

LEGAL ANALYSIS:

Ordinance approved as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the first reading of an Ordinance Adopting Fiscal Year 2021-22 Budget Amendments for the City Hall Renovation project.

EXHIBIT A

PROPOSED BUDGET AMENDMENTS
CITY OF FAIR OAKS RANCH
FISCAL YEAR 10/1/2021 - 9/30/2022

Proposed Increases to Budgeted Expenditures

Dep't	Acct #	Acct Name	Item	Amount
SAP	02-509-303	Personal Property	Dep't specific furniture for renovation	$ 16,800
SAP	02-504-103	City Hall Renovation	Construction costs utilizing 2nd portable budget	$ 67,100
SAP	02-504-103	City Hall Renovation	Construction costs utilizing unallocated fund balance	$ 187,675
			Total Proposed Expenditure Increases	**$ 271,575**

Proposed Decreases to Budgeted Expenditures

	Acct #	Acct Name	Reason for Budget Surplus	Amount
Administration	01-611-201	Minor Equipment	Dep't specific furniture for renovation	$ 4,250
Human Resources	01-613-201	Minor Equipment	Dep't specific furniture for renovation	$ 5,750
Finance	01-614-201	Minor Equipment	Dep't specific furniture for renovation	$ 1,000
Information Tech	01-615-201	Minor Equipment	Dep't specific furniture for renovation	$ 3,500
Building Codes	01-641-201	Minor Equipment	Dep't specific furniture for renovation	$ 1,800
Engineering	01-642-201	Minor Equipment	Dep't specific furniture for renovation	$ 500
Shared	01-690-700	Facility Contracts	2nd portable during renovation	$ 67,100
			Total Proposed Revenue Increases/Expenditure Decreases	**$ 83,900**

Transfers Required Between Funds

	Acct #	Acct Name	Item	Amount
General Fund	01-690-805	Transfer to SAP Fund	City Hall Renovation construction	$ 83,900
SAP Fund	02-400-986	Transfer From General Fund	City Hall Renovation construction	$ (83,900)
			Total Net Transfers between Funds	**$ -**

Exhibit B - Total City Hall Renovation Funding

Account	Account Name	Amount
02-504-103	City Hall Renovation	$ 400,000
02-506-107	IT Infrastructure Improvements	40,000
02-509-303	Personal Property	260,000
	General Fund Transfer	83,900
	SAP Unallocated Fund Balance	187,675
		971,575

AN ORDINANCE

AMENDING THE BUDGET OF THE CITY OF FAIR OAKS RANCH, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022

WHEREAS, the budget for the City of Fair Oaks Ranch, Texas for FY 2021- 2022 has heretofore been approved as provided by law and filed with the City Secretary under Ordinance 2021-04

WHEREAS, per above said Ordinance 2021-04, the City Manager may move amounts within the same fund but budget amendments between funds must be approved by City Council by ordinance; and,

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

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

WHEREAS, the City Council finds the budget amendments as detailed in the attachment are warranted in conjunction with the City Hall Renovation project.

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

PART 1. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

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

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

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

PART 5. This ordinance shall take effect following a second reading on March 17, 2022 and after passage, adoption and publication as may be required by governing law.

PART 6. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED and APPROVED on first reading this 3rd day of March 2022.

PASSED, APPROVED AND ADOPTED on second reading the 17th day of March 2022.

_____
Greg Maxton, Mayor

ATTEST:

_____
Christina Picioccio, TRMC, City Secretary

APPROVED AS TO FORM:

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

CITY COUNCIL STAFF REPORT
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action authorizing the City Manager to sign a Professional Services Agreement for a Wastewater Treatment Plant Engineering Feasibility Study
DATE:	March 3, 2022
DEPARTMENT:	Public Works Department
PRESENTED BY:	Clayton Hoelscher, Procurement Manager Grant Watanabe, P.E., Director of Public Works & Engineering Services

INTRODUCTION/BACKGROUND:

The City of Fair Oaks Ranch is seeking a consulting firm to provide professional engineering services for a Wastewater Treatment Plant feasibility study. This study will build upon previous work done in the development of the city's Water, Wastewater and Reuse Master Plan. While our Master Plan recommended construction of a new WWTP, there are challenges related to the remoteness of the proposed site, and other alternatives should be evaluated before committing to such a large investment. The overall objectives of the study include the following:

- Field investigation and Master Plan validation
    - Confirm flow volume and load projections
    - Conduct site survey of existing WWTP and refine hydraulic model
    - Build existing WWTP treatment process model to determine if existing process unit efficiencies can be improved
- Evaluation of the following alternatives to expand treatment capacity to meet build-out requirements:
    - Upgrade and expansion of existing WWTP
    - Construct a new greenfield facility at proposed 5-acre site
    - A combination of above options (Rehab existing WWTP and build smaller plant at proposed 5-acre site)
    - Rehab existing WWTP and build scalping plant to serve new growth areas. A scalping plant draws wastewater from a sewer trunk/main, treats it to produce reuse water for irrigation purposes, and returns solids back to the sewer trunk/main for processing at the existing WWTP.
    - Rehab existing WWTP and send excess flow to SAWS
- Develop a matrix showing the benefits and drawbacks of each alternative, considering collection system modifications, buffer zone requirements, odor control, regulatory discharge permit requirements, real estate and easement requirements, and estimated cost.
- After selection of preferred alternative, develop preliminary site layout, optimum transition schedule, and refine cost estimates.

- Prepare and provide Council presentations at key points throughout the study (analysis of alternatives, final comprehensive report).

To support this effort, the City issued a Request for Qualifications (RFQ) for these services in October 2021. The RFQ was published on our city's website, the Boerne Star, and by Integrated Marketing Systems (IMS) which specializes in providing advanced notice of public sector bid opportunities to architectural, engineering and construction firms nation-wide. A total of seven submittals were received, and consultants were scored, ranked, and selected based on the following criteria published in the RFQ:

- Team Qualifications and Experience (25 points)
- Project Manager Experience (25 points)
- Project Approach and Work Plan (30 points)
- Quality Control/Quality Assurance (10 points)
- Overall Proposal Quality (10 points)

After evaluation, the City selected Garver LLC as the most qualified and began negotiations with this firm. After agreeing upon the study's scope of work, a fee proposal was requested, negotiated, and determined to be fair and reasonable by the City.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

- Supports Strategic Action Plan items for Responsible Growth Management and Reliable and Sustainable Infrastructure.
- Evaluates additional alternatives to meet build-out wastewater treatment capacity requirements which may be more cost-effective than construction of a new WWTP.
- Complies with Texas Professional Services Procurement Act guidelines.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

The total negotiated amount for this study is $251,931.00. The current approved budget amount is $200,000. Additional unallocated funds in the amount of $51,931.00 from the Wastewater Strategic and Capital Fund are available and can be used to cover the remaining balance.

LEGAL ANALYSIS:

Modifications to the City's Standard Professional Service Agreement were made and approved by the City Attorney. Garver LLC will be required to sign and adhere to the Professional Service Agreement prior to the commencement of work.

RECOMMENDATION/PROPOSED MOTION:

I move to authorize the City Manager to sign a Professional Services Agreement with Garver LLC for a Wastewater Treatment Plant Engineering Feasibility Study, in the amount of $251,931.00.

CITY OF FAIR OAKS RANCH
STANDARD PROFESSIONAL SERVICES AGREEMENT

THE STATE OF TEXAS §
§
KENDALL COUNTY §

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

Section 1. Duration.

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

Section 2. Scope of Work.

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

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

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

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

Section 3. Compensation.

(A) The Professional shall be paid in the manner set forth in Exhibit "B' and as provided herein.

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

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

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

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

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

(C) *Equitable Adjustment*: Notwithstanding anything in this Agreement, Professional shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Professional, including modifications in the scope of services, applicable law, codes, or standards after the effective date of this Agreement.

Section 5. Time of Completion.

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

Section 6. Insurance.

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

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

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

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

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

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

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

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

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

Section 7. Miscellaneous Provisions.

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

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

(C) *Professional's Seal.* To the extent that the Professional has a professional seal it shall

placed on all documents and data furnished by the Professional to the City. All work and services provided under this Agreement will be performed in accordance with the accepted standards and practices of the Professional's industry Standard of Care. The plans, specifications and data provided by Professional shall be sufficient to enable those performing the actual work to perform the work as and within the time contemplated by the City and Professional. City shall not be responsible for discovering deficiencies in the technical accuracy of Subconsultant's services. Garver shall promptly correct deficiencies in technical accuracy without the need for an Amendment unless such corrective action is directly attributable to deficiencies in Owner-furnished information. The City acknowledges that Professional has no control over the methods or means of work nor the costs of labor, materials or equipment. Unless otherwise agreed in writing, any estimates of costs by the Professional are for informational purposes only and are not guarantees.

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

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

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

(G) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar

acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven

(7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

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

Section 8. Termination.

(A) This Agreement may be terminated:

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

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

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

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

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

Section 9. Indemnification.

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

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

Section 10. Notices.

Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii)

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

Section 11. No Assignment.

Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

Section 12. Severability.

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

Section 13. Waiver.

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

Section 14. Governing Law; Venue.

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

Section 15. Paragraph Headings; Construction.

The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this

Agreement shall not be construed either more or less strongly against or for either party.

Section 16. Binding Effect.

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

Section 17. Gender.

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

Section 18. Counterparts.

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

Section 19. Exhibits.

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

Section 20. Entire Agreement.

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

Section 21. Relationship of Parties.

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

Section 22. Right To Audit.

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

Section 23. Dispute Resolution.

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

Section 24. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire.

Professional represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

Section 25. Boycott Israel.

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

Section 26. Energy Company Boycotts.

Professional represents and warrants that: (1) it does not, and will not for the duration of the

contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Professional shall promptly notify City.

Section 27. Firearm Entities and Trade Association Discrimination.

Professional verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Professional shall promptly notify City.

Section 28. Limitations of Liability.

28.1 In regards to claims between the contracting parties, the parties agree that any claim or suit for damages made or filed by one party against the other party will be made or filed solely against City or Engineer respectively, or their successors or assigns, and that no personnel of the respective party shall be personally liable for damages under any circumstances.

28.2 Mutual Waiver. Notwithstanding anything in the agreement to the contrary, neither party (including its subconsultants, agents, assignees, affiliates and vendors) shall be liable to the other for any special, consequential, indirect, punitive, exemplary or incidental damages of any kind regardless of the cause or action (including negligence of any kind or character including gross negligence).

28.3 Limitation. In recognition of the relative risks and benefits of the project to both City and Engineer, City hereby agrees that Engineer's and its personnel's total liability under this agreement shall be limited to one hundred percent (100%) of the collectible insurance proceeds up to the limits explicitly stated in section 6 of this agreement regardless of the cause or action (including negligence of any kind or character including gross negligence).

EXECUTED, by the City on _____.

CITY:	**PROFESSIONAL:**
By: _____	By: _____
Name: Tobin Maples, AICP	Name:
Title: City Manager	Title:

ADDRESS FOR NOTICE:

CITY	**PROFESSIONAL**
City of Fair Oaks Ranch Attn: City Secretary 7286 Dietz Elkhorn Fair Oaks Ranch, TX 78015	Garver LLC Attn: 13750 San Pedro Ave. # 350 San Antonio, TX 78232

EXHIBIT A
SCOPE OF SERVICES

City of Fair Oaks Ranch
WWTP Study

Project Background

The City owns and operates one wastewater treatment plant (WWTP) which has a current permitted capacity of 0.5 million gallons per day (MGD). In 2019, the City completed a Water, Wastewater, and Reuse System Master Plan (Master Plan).

The existing WWTP is a conventional extended aeration wastewater treatment facility. During the master planning effort, the City identified a number of issues they would like to resolve if the WWTP is upgraded in its current location. These issues include:

- Finer influent screening and the addition of a screenings wash press.
- Addition of grit removal.
- Oxidation ditch aerators, motors, and gearboxes which are nearing the end of their useful life.
- No digestion within treatment process.
- Sludge drying beds which are nearing capacity, leading to costly sludge hauling.
- Odor complaints from nearby neighbors.
- Potential buffer zone infringements.
- Effluent pumping capacity.
- Delivery of reuse water to effluent storage ponds.

In addition to the operational concerns listed above, capacity limitations at individual treatment units were noted in the Master Plan that require upgrades in order to meet the existing 0.5 MGD permitted capacity. The City has recently pursued a solids handling project which includes the installation of a volute dewatering press to increase the solids content of the sludge to be disposed of by landfilling. The City intends to re-use the volute dewatering press in any of the concepts developed within this study. The electrical feed and distribution system will require improvements at the existing facility to support the additional treatment process units required for the additional capacity.

It is planned that up to five (5) alternatives will be evaluated as part of the site feasibility analysis and one (1) alternative will be evaluated as part of the comprehensive report.

Scope of Services

Basic Services

TASK 1 - PROJECT MANAGEMENT AND QUALITY ASSURANCE

This task is for the study phase and is anticipated to be seven (7) months long. Garver shall provide professional project management and quality assurance services as follows:

1. Prepare a Project Work Plan (Garver Form), a document to be used to ensure communication on understanding of project goals, scope, and tasks. This project plan will address:

- Project schedule
- Project budget
- Quality Management Plan
  (GIC support)

2. Schedule and direct regular coordination meetings with the design team to coordinate task assignments and action items, and to prepare for progress meetings with the Owner. Maintain an Action Item Log/ Decision Log to monitor activity. Coordinate with subconsultants to confirm all project elements are compatible and integrated. Coordinate with the Owner as needed.

3. Schedule and conduct up to nine (9) progress meetings (two (2) meetings in person; planned that there will be more meetings than project duration) with the Owner. In addition to reviewing progress at each meeting, review project deliverable status, current schedule, outstanding action items and project bottlenecks that could impact schedule, budget status, outstanding decisions, and decisions made. Prepare agenda and meeting materials, direct and document meetings to review progress, and facilitate the exchange of ideas and information. Prepare draft meeting minutes, to include action lists and decision lists, to submit to the Owner. Final minutes will be issued after receipt of review comments. The first progress meeting will include a project start up meeting (virtual) to confirm project scope, personnel, lines of communication, security protocols, change management, and schedule. *(GIC support)*

4. Prepare monthly Project Summary Reports and submit with monthly invoice. The report shall contain the following elements:

   a. Summary of work completed to date
   b. Project Schedule update with slip notification
   c. Summary of action items/decisions
   d. Upcoming activities
   e. Potential changes in scope, costs, or schedule

5. Provide Quality Assurance (QA) / Quality Control (QC)

   Conduct internal QA/QC of each deliverable prior to delivery to the Owner. Prepare for, plan, and participate in two (2) QC review meetings with the Owner. The QC review discussions will occur in conjunction with the Site Feasibility Analysis Workshop and the Comprehensive Report Workshop. Project documents appropriate to the submittal stage will be provided a minimum of five (5) working days before the review meeting. Prepare a meeting memorandum documenting major revisions and decisions made during each of the meetings. *(GIC support)*

TASK 2 – FIELD INVESTIGATIONS AND EXISTING SITE MASTER PLAN VALIDATION

1. Conduct site visits to become familiar with the existing WWTP. It is expected that the engineering team would include the following professionals:
    a. Process
    b. Process Mechanical
    c. Structural
    d. Electrical/Instrumentation & Control
    e. Operations

2. Conduct a survey (spot elevations, not full survey) of the existing WWTP site and structures. This survey is intended to capture all flow control elevations to develop a hydraulic profile. *(Bain Medina Bain support)*
3. Historical Data Analysis. Complete a data request for all historical data, process information and logs, record drawings, reports, and studies. Develop and evaluate historical data to be used for developing loads and flows for the City. *(GIC Support)*
4. Perform Master Plan Validation. It is anticipated that this would include:
    a. Population projections, using TWDB and City provided data
    b. Flow projections derived from population projections, and historical data
    c. Sampling protocol and development of load projections
    d. Review of collection system information provided by the City to confirm gravity or pumped conditions.
    e. Existing WWTP Hydraulic Model
    f. Existing WWTP Process Model, to determine if existing process unit efficiencies can be improved.
    g. Complete TCEQ Chapter 217 review and check
    h. Validation of findings in the Master Plan related to opportunities and constraints at the existing WWTP, including individual process treatment capacities
    (GIC Support)

Additional Services (After completion of the Basic Services, the City of Fair Oaks Ranch will provide notice to proceed for the Additional Services. The notice to proceed will include the selection of options as noted in Task 3, Item 1 below).

TASK 3 – SITE FEASIBILTIY ANALYSIS

Site Feasibility Analysis

1. Evaluate and discuss options for expanding treatment capacity. The options to be considered are:
    a. Construction of 100% of the required capacity at the City's existing WWTP site. *(GIC support)*
    b. A new greenfield facility on the proposed 5 acre site (City owned property on east side of the City, along Ralph Fair Road). Consider site access and easements.

c. A combination of Options A and B, whereas the existing site would remain at calculated capacity, and new capacity would be constructed at the new site.
d. A scalping plant which would serve potential new growth areas. The scalping plant would focus on treating and reusing water, while sending solids into the existing collection system.
e. Evaluation of connecting into the SAWS system for flow beyond existing WWTP capacity. *(GIC support)*

2. The analysis should include the following:

a. Collection system modifications to send flow to each of the plants or connection location based on collection system invert information. *(GIC support)*
b. Buffer zone considerations.
c. Regulatory considerations for discharge permits, including the consideration if the reuse customer (golf course) is no longer a discharge location and effluent flows are discharged to Cibolo Creek. Consider increase in terminal storage at the golf course site.
d. Odor control methods for each facility.
e. Identification of one viable treatment process scenario (technology) and potential limitations (if any).
f. Real estate and easement requirements for the proposed facilities. *(Contract Land Staff support)*
g. Real estate and easement requirements for the sewer system collection improvements. *(Contract Land Staff support)*
h. Planning level cost analysis (Opinion of Probable Cost). *(GIC support)*
i. Development of a technical memorandum to summarize the findings of the analysis. *(GIC support)*
j. An electrical service evaluation for the existing site (including off-site utilities if required). Include power draw and required power needs.
k. Development of a matrix showing the benefits and drawbacks of each of the alternatives, including economic and non-economic factors. *(GIC support)*

3. After completing the high-level analysis of the five (5) options noted above, select (1) alternative for further evaluation.

a. Develop Preliminary Site Layout.
b. Develop optimum transition schedule.
c. Evaluate phasing.
d. Complete a desktop environmental review for the option.
e. Refine planning level cost analysis (OPCC) for the alternative developed.

4. Prepare a comprehensive report summarizing the results of the study. *(GIC support)*

5. Workshops and Council Meetings
    a. Prepare for and conduct two (2) workshops to report findings to City Staff. Workshops are anticipated to be conducted at the Site Feasibility Analysis and the Comprehensive Report Phase.
    b. Prepare for and provide two (2) council presentations. Presentations are anticipated to be conducted at the Site Feasibility Analysis and the Comprehensive Report Phase.

Deliverables:

PDF copy of the Draft Site Feasibility Technical Memorandum
PDF copy of the Final Site Feasibility Technical Memorandum
PDF copy of the Draft Comprehensive Report
PDF copy of the Final Comprehensive Report

Extra Work

The following items are not included under this agreement but will be considered as Extra Work. Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and the Engineer.

1. Meetings, outside of those listed.
2. Trips for additional site exploration in addition to those listed.
3. Historic resources PCR.
4. Individual 404 Permit.
5. Mitigation for adverse effects to SAL-eligible archeological sites.
6. Project coordination under Section 106 with the USACE or any federal agency.
7. Coordination of ROE and landowner letters.
8. Survey work beyond the spot elevations noted in the scope above.
9. Alternative evaluations for each process area; does not include life cycle cost development, energy consumption analysis, or detailed evaluations except where specifically noted.

Project Schedule

The proposed timeline for completion of the major tasks in the Scope of Work is as follows. Schedule shall begin after notice to proceed (NTP).

Task	Description	Schedule
Task 1	**Project Management and Quality Assurance**	NTP through Project Completion
	Project Kick-off Meeting (virtual)	1 week after NTP
Task 2	**Field Investigations and Existing Site Master Plan Validation**	
1.	Site Visit	2 weeks after NTP
2.	Spot Survey	6 weeks after NTP
3.	Historical Data Analysis	3 weeks after receipt of data from the City
4.	Master Plan Validation	7 weeks after Task 2, Item 3
Task 3	**Site Feasibility Analysis**	
1.	Options Confirmation	4 weeks after NTP
2.	Options Analysis	6 weeks after completion of Task 2
	Site Feasibility Technical Memorandum	4 weeks after completion of Task 3, Item 2
3.	Selected Alternative Evaluation	4 weeks after completion of Task 3, Item 2
4.	Comprehensive Report	4 weeks after completion of Task 3, Item 3.
5.	Workshops and Council Mtgs	
	City Staff Site Feasibility Analysis	During Task 3, Item 2
	City Staff Comprehensive Report	During Task 3, Item 4
	City Council Site Feasibility Analysis	At completion of Task 3, Item 2
	City Council Comprehensive Report	At completion of Task 3, Item 4

EXHIBIT B
COMPENSATION

Fair Oaks Ranch
WWTP Study

LUMP SUM FEE SUMMARY

Basic Services Section	Estimated Fees
TASK 1-Project Management and Quality Assurance	$ 23,404.00
TASK-2 Field Investigations and Existing Site Master Plan Validation	$ 78,626.00
Subtotal for Basic Services Section	**$ 102,030.00**
Additional Services Section	
TASK 3-Site Feasibility Analysis	$ 149,901.00
Subtotal for Additional Services Section	**$ 149,901.00**
Total All Services	**$ 251,931.00**

Fair Oaks Ranch

WWTP Study

Lump Sum

All Tasks

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	D-3	D-1	X-2	P-3	P-2	P-1	GARVER	GARVER	SUBCONSULTANT	TOTAL
Basic Services Section																
TASK 1-Project Management and Quality Assurance																
1. Project Schedule, Budget, Qulaity Management Plan	2			3		4							$1,517		$3,242	$4,759
2. Coordination Meetings	2												$540			$540
3. Progress Meetings (up to 9; 2 in person)	2			9		9			4				$3,486	$500	$2,022	$6,008
4. Monthly Invoice, Project Summary	2			4		4			7				$2,335			$2,335
5. QA/QC, Two Review Meetings	20			6									$6,402		$3,360	$9,762
													$0			$0
													$0			$0
Subtotal - TASK 1-Project Management and Quality Assurance	**28**	**0**	**0**	**22**	**0**	**17**	**0**	**0**	**11**	**0**	**0**	**0**	**$14,280**	**$500**	**$8,624**	**$23,404**
TASK-2 Field Investigations and Existing Site Master Plan Validation																
1. Site Visit - Process, Process Mechanical, Structural, E I&C, Operations	3			24									$4,818	**$1,500**	O	$6,318
2. Survey - Spot Elevations	1			2		2							$842		**$10,540**	$11,382
3. Historical Data Analysis	1			8		32							$5,414		**$4,188**	$9,602
4. Master Plan Validation													$0		**$3,672**	$3,672
a. Population projections	1			16		8							$3,894			$3,894
b. Flow Projections	1			16		16							$4,846			$4,846
c. Sampling protocol, load projections	1			2		8							$1,556			$1,556
d. Review of collection system informaiton	1			12		16							$4,178			$4,178
e. Existing WWTP hydraulic model	1			24		48							$9,990			$9,990
f. Exisitng WWTP process model	2			30		74							$14,356			$14,356
g. TCEQ Ch. 217 check	1			4		12							$2,366			$2,366
h. Validation of findings	1			20		24							$6,466			$6,466
													$0			$0
													$0			$0
Subtotal - TASK-2 Field Investigations and Existing Site Master Plan Validation	**14**	**0**	**0**	**158**	**0**	**240**	**0**	**0**	**0**	**0**	**0**	**0**	**$58,726**	**$1,500**	**$18,400**	**$78,626**
Subtotal - Basic Services Section	**42**	**0**	**0**	**180**	**0**	**257**	**0**	**0**	**11**	**0**	**0**	**0**	**$ 73,006**	**$ 2,000**	**$ 27,024**	**$ 102,030**
Additional Services Section																
TASK 3-Site Feasibility Analysis																
1. Expand Treatment Capacity													$0	**$1,500**		$1,500
a. Expanded capacity at the existing WWTP site	1			4		8							$1,890		**$674**	$2,564
b. New greenfield WWTP at the City owned 5 acre site	1			4		8							$1,890			$1,890
c. Maintain calculated capacity at exisiting site and new capacity at City owned site	1			4		8							$1,890			$1,890
d. Scalping plant for new growth area; solids flow to collection system	1			4		8							$1,890			$1,890
e. Conneciton to SAWS system for flow beyond exisinting capacity	1			4		2							$1,176		**$2,267**	$3,443
2. Analysis													$0			$0
a. Collection system modifications	2			8		4							$2,352		**$4,963**	$7,315
b. Buffer zone restrictions	2			20		8							$4,832			$4,832
c. Regulatory considerations for discharge permits	2			20		16							$5,784			$5,784
d. Odor control considerations	2			16		18							$5,354			$5,354
e. Identification of one viable treatment process and potential limitations	2			16		16							$5,116			$5,116
f. Real estate and easement requirements for proposed facilites	1			8		6							$2,320		**$6,000**	$8,320
g. Real estate and easement requirements for collection system improvements	1			8		6							$2,320		**$4,000**	$6,320
h. Planning level cost	2			10		32							$6,018		**$1,294**	$7,312
i. Development of technical memorandum	2			20		68	8	8	8				$14,836		**$9,382**	$24,218
j. Electrical service evaluation for the exisitng WWTP site	2			32		12							$7,312			$7,312
k. Development of a matrix for each alternative	1			10		34							$5,986		**$1,712**	$7,698
3. One Alternative Detail Evaluation													$0			$0
a. Develop preliminary site layout	2			8		16	4	4	1				$4,933			$4,933
b. Develop optimum transition schedule	2			8		16							$3,780			$3,780
c. Evaluate phasing	1			8		16							$3,510			$3,510
d. Complete a desktop environmental review for the option	1					12				4	16	24	$8,866			$8,866

e. Refine planning level cost analysis				8		16							$3,240			$3,240
													$0			$0
4. Comprehensive Report													$0			$0
Develop comprehensive report	2			12		40	2	2	4				$8,206		**$4,520**	$12,726
5. Workshop Meetings													$0			$0
a. Prepare and conduct up to two workshops with City staff	8			10		6							$4,544	**$500**		$5,044
b. Prepare and provide up to two council presentations	8			10		6							$4,544	**$500**		$5,044
Subtotal - TASK 3-Site Feasibility Analysis	**48**	**0**	**0**	**252**	**0**	**382**	**14**	**14**	**13**	**4**	**16**	**24**	**$112,589**	**$2,500**	**$34,812**	**$149,901**
Subtotal - Additional Services Section	**48**	**0**	**0**	**252**	**0**	**382**	**14**	**14**	**13**	**4**	**16**	**24**	**$ 112,589**	**$ 2,500**	**$ 34,812**	**$ 149,901**
Project Totals	**90**	**0**	**0**	**432**	**0**	**639**	**14**	**14**	**24**	**4**	**16**	**24**	**$185,595**	**$4,500**	**$61,836**	**$251,931**

EXHIBIT "C"

REQUIREMENTS FOR ALL INSURANCE DOCUMENTS

The Professional shall comply with each, and every condition contained herein. The Professional shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City. Any Subcontractor(s) hired by the Professional shall maintain insurance coverage commensurate with the Subcontractor's scope of work. It is the responsibility of the Professional to assure compliance with this provision. The City of Fair Oaks Ranch accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Professional shall specifically endorse applicable insurance policies as follows:

1. The City of Fair Oaks Ranch shall be named as an additional insured with respect to General Liability and Automobile Liability to the extent of the indemnities agreed between the parties in Section 9 of this Agreement, **on a separate endorsement.**
2. A waiver of subrogation in favor of The City of Fair Oaks Ranch shall be contained in the Workers Compensation and all liability policies and must be provided **on a separate endorsement**.
3. All insurance policies shall be endorsed to the effect that The City of Fair Oaks Ranch will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name The City of Fair Oaks Ranch as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
5. **Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.**
6. All insurance policies shall be endorsed to require the insurer to notify The City of Fair Oaks Ranch of material change in the insurance coverage within five (5) business days of said change.
7. All liability policies shall contain no cross-liability exclusions or insured versus insured restrictions.
8. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
9. Professional may maintain reasonable and customary deductibles, subject to approval by The City of Fair Oaks Ranch.
10. Insurance must be purchased from insurers having a minimum AmBest rating of B+.

11. All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2010/05). Coverage must be written on an occurrence form, with the exception of Professional Liability insurance coverage.
12. Contractual Liability must be maintained covering the Professionals obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
13. Upon request, Professional shall furnish The City of Fair Oaks Ranch with certified, redacted copies of all insurance policies.
14. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Fair Oaks Ranch within ten (10) business days after contract award and prior to starting any work by the successful Professional's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Fair Oaks Ranch, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Fair Oaks Ranch. The certificate of insurance and endorsements shall be sent to:

    City of Fair Oaks Ranch
    emailed to: choelscher@fairoaksranchtx.org
    Attn: Clayton Hoelscher, Procurement Manager
    7286 Dietz Elkhorn
    Fair Oaks Ranch, TX 78015

EXHIBIT “D”

EVIDENCE OF INSURANCE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/4/2022

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

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

PRODUCER Stephens Insurance, LLC 111 Center Street, Suite 100 Little Rock, AR 72201 www.stephensinsurance.com	**CONTACT NAME:** **PHONE (A/C, No, Ext):** 1-800-643-9691 **FAX (A/C, No):** 501-377-2317 **E-MAIL ADDRESS:**
INSURED Garver LLC 13750 San Pedro Suite 350 San Antonio TX 78232	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Charter Oak Fire Insurance Company (A++XV) 25615 **INSURER B :** Travelers Property Casualty Co of America (A++XV) 25674 **INSURER C :** Travelers Casualty Ins Co of America (A++XV) 19046 **INSURER D :** Starr Surplus Lines Insurance Company (A XV) 13604 **INSURER E :** Tokio Marine Specialty Insurance Company 23850 **INSURER F :** Underwriter at Lloyd's AA-112010

COVERAGES **CERTIFICATE NUMBER:** 66613710 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	✓ **COMMERCIAL GENERAL LIABILITY** ☐ CLAIMS-MADE ✓ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ✓ PRO-JECT ☐ LOC ✓ OTHER: -0- Deductible			P-630-1G052988-COF-21	7/1/2021	7/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 2,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 4,000,000 $ 4,000,000 $
A	**AUTOMOBILE LIABILITY** ✓ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ✓ HIRED AUTOS ONLY ✓ NON-OWNED AUTOS ONLY			810-1N886537-21-43-G	7/1/2021	7/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ $ $ $
B	✓ **UMBRELLA LIAB** ✓ OCCUR ✓ **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ✓ RETENTION $ 10000			CUP-6J09853A-21-43	7/1/2021	7/1/2022	EACH OCCURRENCE AGGREGATE 	$ 10,000,000 $ 10,000,000 $
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		UB-7K425966-21-43-G	7/1/2021	7/1/2022	✓ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
D	Professional Liability- Claims Made Including Pollution Liability			1000634123211 Full Prior Acts applies.	7/1/2021	7/1/2022	Each Claim Aggregate	$2,000,000 $2,000,000
E	Contractor's Pollution Liability			80915866	7/1/2021	7/1/2022	Occurrence & Aggregate	$2,000,000
F	Maritime Employer's Liability			PSR083498	7/1/2021	7/1/2022	Combined Single Limit	$1,000,000

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

See Attached
RE: Garver Project: 21W07165

CERTIFICATE HOLDER

Garver Project: 21W07165

City of Fair Oaks Ranch, TX
7286 Dietz Elkhorn
Fair Oaks Ranch TX 78015

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Ted Grace

AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Stephens Insurance, LLC	Garver LLC 13750 San Pedro Suite 350 San Antonio TX 78232
POLICY NUMBER P-630-1G052988-COF-21	
CARRIER / **NAIC CODE** Charter Oak Fire Insurance Company (A++XV) / 25615	**EFFECTIVE DATE:** 7/1/2021

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability (03/16)

HOLDER: City of Fair Oaks Ranch, TX

ADDRESS: 7286 Dietz Elkhorn Fair Oaks Ranch TX 78015

The following policy endorsements apply to the Certificate Holder and other named person or organization if you have agreed in written contract:

Certificate Holder is an Additional Insured on the General Liability per Blanket Endorsement CGD414 and Primary & Non-contributory basis by Blanket Endorsement CGD037 Includes Completed Operations.

Certificate Holder is an Additional Insured on a Primary & Non-contributory basis per Blanket Auto Endorsement CAT474.

Certificate Holder is an Additional Insured under the Umbrella policy on a Primary & Non-contributory basis per the follow form wording.

Waiver of Subrogation applies in favor of the Certificate Holder under the General Liability by Blanket Endorsement CGD379.

Waiver of Subrogation applies in favor of the Certificate Holder under the Automobile by Blanket Endorsement CAT353.

Waiver of Subrogation applies under the Umbrella per follow form wording if required by written contract.

Waiver of Subrogation applies in favor of the Certificate Holder under the Worker's Compensation by Blanket Endorsement WC000313. Form WC420304 Texas. Form WC9903J9 Kansas. WC430306 Utah.

Waiver of Subrogation applies in favor of the Certificate Holder under the Professional Liability. This is provided within the Starr Professional Liability policy form.

30 day notice will be provided to the Certificate Holder in the event of Cancellation, Non-renewal, Material Change per Blanket Endorsement ILT804-General Liability & ILT354 (03/98) on the Automobile.
Notice of Cancel, Non-renewal, Material Change will be sent per WC Blanket Endorsement WC9906R5.
Notice of Cancel, Non-renewal and Reduction of Limits will be provided by the Professional Liability Carrier per Blanket Endorsement.
Notice of Cancel for non-payment of premium is provided if Certificate Holder is specifically endorsed to the Professional Liability policy (Endt to be attached with this certificate if applicable).

***(Notice of Cancel for non-payment of premium will not be provided to the Certificate Holder by Travelers Ins. Co. (applies to the General Liability, Automobile Liability and Umbrella policies).

Valuable Papers is provided under policy P-630-1G052988-COF-21 shown above with a limit of $500,000.

General Liability policy form CGT001 includes Severability (Separation) of Interest (Insured's)Clause and includes Work within railroad by endorsement CG D3 79.

Worker's Compensation Policy includes coverage for USL&H exposures without endorsement to the policy per endorsement WC000106.

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action approving a request to create a flag shaped rear lot and a rear lot with a depth greater than five times the lot frontage on the street located northwest of the intersection of Rolling Acres Trail and Ammann Rd
DATE:	March 3, 2022
DEPARTMENT:	Public Works and Engineering Services
PRESENTED BY:	Katherine Schweitzer, P.E., Manager of Engineering Services

SUMMARY:

The request (Exhibit A & B) involves a 27-acre lot located northwest of the intersection of Rolling Acres Trail and Ammann Rd. The lot is currently not platted and contains a single-family residence. The applicant is proposing to subdivide the 27-acre parcel into two lots:

- A front 8-acre lot facing Ammann Road encompassing the existing single-family residence; and,
- A rear 19-acre lot to include a future new single-family residence.

The parcel is currently zoned rural residential and is served by a private well and a private septic system. The city's Unified Development Code (UDC) requires each lot to have a minimum width of 150' and a minimum lot size of 5 acres. The proposed front 8-acre lot will have an approximate width of 229' and an approximate area of 8 acres meeting the zoning requirements.

The rear 19-acre lot is configured as a flag shaped lot with a width of 70' on Ammann Rd. and a depth of approximately 3000'. In accordance with the UDC Section 5.4 (4) city regulations, the lot cannot be platted as proposed without approval from the City Council:

"Flag shaped lots generally will not be approved in any subdivision. Lots that have a long dimension (depth) greater than five times the lots street frontage (width) will only be permitted with City Council approval."

The purpose of tonight's agenda item is for City Council to consider the following:

a. Creation of a flag shaped rear lot.
b. Platting a rear lot with a depth (3000') that is greater than five times the lot frontage on the street (70').

As per UDC Section 5.4, lots served by a private septic system are required to have a minimum street frontage of 150 feet. In addition to the request from the City Council above, the last step for the rear lot creation will be a variance approval by the Zoning Board of Adjustment reducing the minimum street frontage (lot width) requirement from 150' to 70'.

LEGAL\POLICY ANALYSIS:

The City of Fair Oaks Ranch's UDC requires the following prior to the submittal of the subdivision plat as proposed:

a. City Council approval of a flag shaped rear lot.
b. City Council approval of platting the rear lot with a depth (3000') that is greater than five times the lot frontage on the street (70').
c. Zoning Board of Adjustments approval of a variance to reduce the minimum street frontage (lot width) requirement from 150' to 70'.

STAFF ANALYSIS:

a. Both lots create less density than the minimum requirements allowed in the city's rural residential zoning
b. One water connection versus 7 authorized in the city's Master Water Plan
c. Consistent with the characteristics of rural residential zoning
d. Neighboring property access is not affected

PROPOSED MOTION:

I move to recommend approval of the request as follows:

a. Creation of a flag shaped rear lot
b. Creation of a rear lot with a depth (3000') that is greater than five times the lot frontage on the street (70')).

Exhibit A: Letter of Intent

Date 1/31/22

City of Fair Oaks Ranch
7286 Dietz Elkhorn Rd,
Fair Oaks Ranch, TX 78015

Re: 423A Ammann Rd Flagged Lot Request
Letter of Intent

To whom it may concern,

The purpose of this letter is to request our lot at 423A Ammann Rd be permitted by City Council Per UDC Section 5.4(4) "Flag shaped lots generally will not be approved in any subdivision. Lots that have a long dimension (depth) greater than five times the lots street frontage (width) will only be permitted with City Council approval." I am requesting the approval of City Council to permit 423A Ammann Rd as a flagged lot.

Sincerely,

Thomas C Dechert

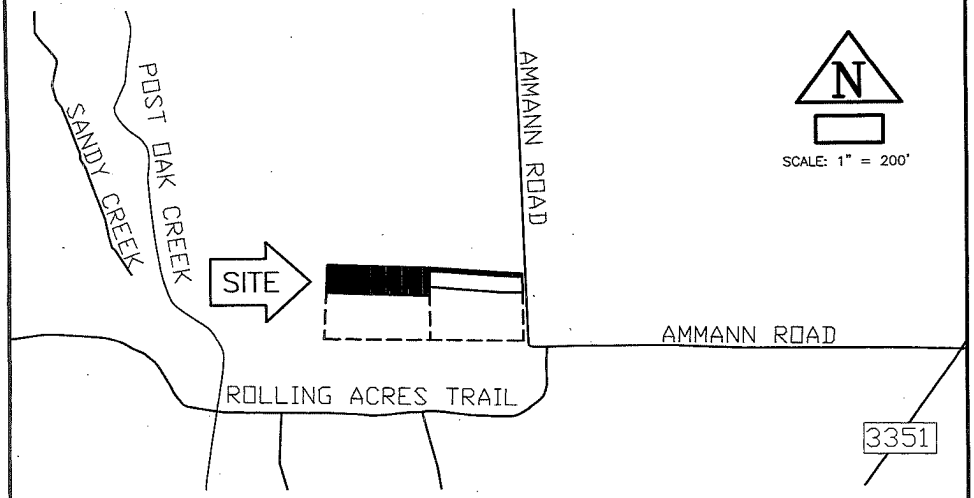
Exhibit B: Survey (as provided by the applicant)

Sheet 1 of 2

AFFIDAVIT OF LAND LOCATION

Pursuant to Request for Relief granted by
Commissioners Court on August 9, 2021

LOCATION MAP



NOTE:

This property cannot be further divided without complying with the Kendall County Development Rules and Regulations in effect at the time of the division.

We, Thomas C. Dechert and Terrie Jean Dechert, hereby affirm that this plat is a true and correct copy of the plat prepared by a Registered Professional Land Surveyor and that it depicts 19.17 and 7.99 Acre Tract out of the William D Lusk Survey Number 211, Abstract Number 306, Kendall County, Texas.

Owner Owner

Subscribed and sworn to before me this 13th day of August, 2021.

JEAN RHODES
Notary ID #132948373
My Commission Expires
February 8, 2025

Notary Public, State of Texas

Reviewed:

Kendall County Development Manager
Date:

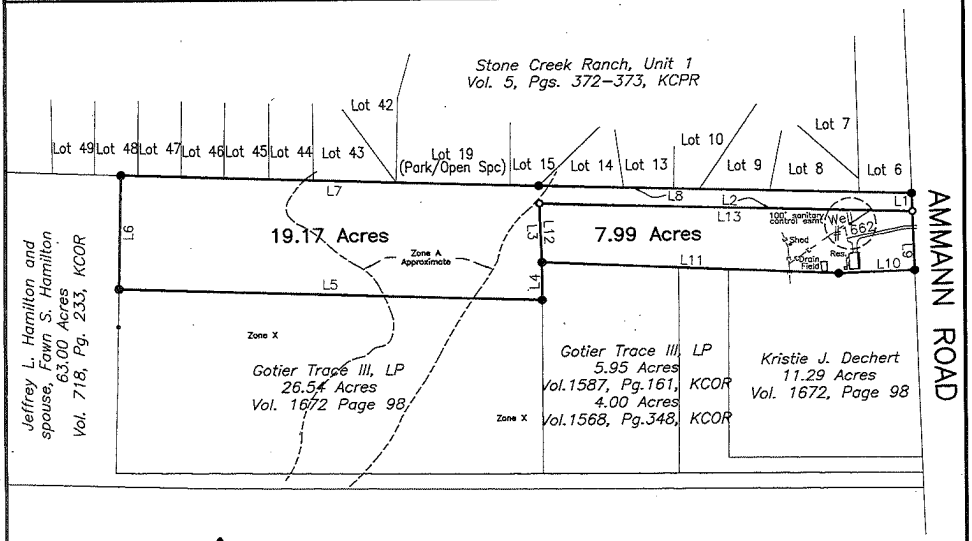
Schwarz
Land Surveying & Development, Inc.
723 NORTH MAIN, BOERNE, TEXAS 78006
PHONE: (830) 816-8907 Metro FAX: (830) 584-0445
FIRM LICENSE NO. 10132600

Job No. 21–079

Sheet 2 of 2

AFFIDAVIT OF LAND LOCATION

A 19.17 ACRE TRACT OF LAND OUT OF THE WM. D. LUSK SURVEY NO. 211, ABSTRACT NO. 306, KENDALL COUNTY, TEXAS, BEING ALL OF A 16.83 ACRE TRACT DESCRIBED IN PARTITION DEED RECORDED IN VOLUME 1672, PAGE 98, KENDALL COUNTY OFFICIAL RECORDS AND A PORTION OF A 10.00 ACRE TRACT DESCRIBED IN DEED RECORDED IN VOLUME 986, PAGE 221, KENDALL COUNTY OFFICIAL RECORDS
A 7.99 ACRE TRACT OF LAND OUT OF THE WM. D. LUSK SURVEY NO. 211, ABSTRACT NO. 306, KENDALL COUNTY, TEXAS, BEING THE REMAINDER OF A 10.00 ACRE TRACT AND ALL OF A 0.32 ACRE TRACT DESCRIBED IN VOLUME 986, PAGE 221, KENDALL COUNTY OFFICIAL RECORDS.



N

Scale 1"=500'

Course	Bearing	Distance
L1	S 01°51'49" E	70.15'
L2	N 88°10'18" W	1454.98'
L3	S 01°45'57" E	230.42'
L4	S 00°16'23" W	145.80'
L5	N 88°11'02" W	1653.33'
*L6	N 01°26'24" E	445.73'
L7	S 88°11'02" E	1633.55'
L8	S 88°10'18" E	1454.86'
L9	S 01°51'49" E	229.86'
L10	S 88°08'28" W	297.14'
L11	N 87°15'20" W	1158.97'
L12	N 01°45'57" W	230.42'
L13	S 88°10'18" E	1454.98'

STATE OF TEXAS
REGISTERED
JAMES E. SCHWARZ
4760
PROFESSIONAL
LAND SURVEYOR

I certify that this plat is of a survey completed on the ground under my supervision on July 27, 2021.

James E. Schwarz
Registered Professional
Land Surveyor No. 4760

Notes:
1. o indicates 1/2" steel rod set with a red plastic cap stamped "Schwarz 4760", unless otherwise • noted.
2. indicates 1/2" steel rod found.
3. KCPR = Kendall County Plat Records.
4. KCOR = Kendall County Official Records.
5. * This bearing, used as the bearing basis for this survey, was established by GPS.
6. POB indicates point of beginning of the Metes and Bounds Description prepared for the indicated tract.
7. Ammann Road is a county road as evidenced by public notice regarding county roads dated April 18, 2006.
8. These tracts lie within Zone X (area determined to be outside the 0.2% annual chance floodplain) and Zone A (area determined to be subject to flooding by the 1% annual chance flood; no base flood elevations determined) as shown on FIRM Panel No. 48259C0420F dated December 17, 2010.

Schwarz
Land Surveying & Development, Inc.
723 NORTH MAIN, BOERNE, TEXAS 78006
PHONE: (830) 816-8907 Metro FAX: (830) 584-0445
FIRM LICENSE NO. 10132600

Job No. 21–079

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action approving a Law Enforcement & Patrol Agreement between the City of Fair Oaks Ranch and Elkhorn Ridge Homeowners Association Inc.
DATE:	March 3, 2022
DEPARTMENT:	City Council and Police Department
PRESENTED BY:	Tim Moring, Chief of Police

INTRODUCTION/BACKGROUND:

Our city is a bedroom community which desires to retain that flavor. As a council and staff, we are committed to fulfilling our residents expressed desires to protect our quality of life, provide for public health and safety, and protect existing investment and valued community assets. In April 2021, the city found it to be in the best interest of the citizens whom reside within gated (private) communities to enter into an agreement with the city to provide legal means of proactive police patrols and other police services within their respective communities.

Article III, Section 52 and Article XI, Section 3 of Texas Constitution prevent any city from lending credit, granting public money, or making any appropriation or donation to any private entity. In other words, cities may not spend public money for a private purpose and would therefore be prohibited from performing public services in the gated community, such as road maintenance and traffic enforcement. This does not prevent police from answering a community generated call in those gated communities, but does prevent police from conducting proactive/preventative patrols to deter crime and enforce traffic laws. Exceptions are placed within the law that allow municipalities to enter into agreements with private communities to allow proactive patrols and traffic enforcement. This agreement may be done with 25% of the property owners in agreement or by the consent the developer and/or managing party in control of the current homeowner's association.

In December 2021, the director of community management for Front Gate Homeowners Association reached out to city staff in reference to complaints from residents regarding safety within the gated neighborhood. The director was provided a copy of the law enforcement agreement drafted by the City Attorney's office and advised on the process of approval by City Council. In January 2022, Mr. Kyle Coldeway, board member for Elkhorn Ridge Homeowners Association Inc., submitted a signed law enforcement agreement (attached) to the city with the request that it be presented to City Council for approval. This agreement would allow the Fair Oaks Ranch Police Department to conduct preventative/proactive patrols, traffic enforcement, home watches, and other services provided by the city's police force within the Elkhorn Ridge subdivision.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Preservation of quality-of-life characteristics through compliance with state law by ensuring the same services are available to all residents of Fair Oaks Ranch.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

None at this time.

LEGAL ANALYSIS:

Agreement drafted, reviewed, and approved by City Attorney's office.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the agreement between the City of Fair Oaks Ranch and Elkhorn Ridge Homeowners Association Inc. for police services within the gated community of Elkhorn Ridge.

LAW ENFORCEMENT AGREEMENT
(NAME OF HOMEOWNERS ASSOCIATION)

This Law Enforcement Agreement (the "Agreement") between the City of Fair Oaks Ranch, Texas, a Texas Municipal Corporation (the "City") and the Elkhorn Ridge Homeowners Association, Inc.. (the "Association"), collectively, Parties, is entered into as of the date of the final signature of the parties (the "Effective Date") and approval by the City Council.

WITNESSETH:

WHEREAS, Elkhorn Ridge Homeowners Association, Inc. is a private gated community in the City of Fair Oaks Ranch, Bexar County, Texas, generally located at 8907 Dietz-Elkhorn Rd and containing a total of one hundred thirty-two (132) residences; and

WHEREAS, the Association is the owner of the private streets in Elkhorn Ridge Homeowners Association, Inc. (the "Private Streets") and is responsible for the maintenance thereof; and

WHEREAS, the Association acknowledge that Elkhorn Ridge Homeowners Association, Inc is a subdivision within the City limits of the City and in accordance with the Texas Transportation Code Section 542.008 (the "Statute"), the Association presented a petition to the City Council of the City (the "City Council") seeking to cause the traffic rules and laws related to operation of motor vehicles on public thoroughfares of the City to apply to the Private Streets in Elkhorn Ridge Homeowners Association, Inc (the "Petition"); and

WHEREAS, the City Council has found the Petition in the best interest of the City generally, has accepted the Petition, and directed the City staff to draft an ordinance and this Agreement, according to the requirements of the Statute to provide for the enforcement of the traffic rules and laws related to operation of motor vehicles on public thoroughfares of the City to apply to Private Streets in the Elkhorn Ridge Subdivision; and,

WHEREAS, the Association further requests and authorizes the City to allow the residents of Elkhorn Ridge Homeowners Association, Inc. to participate in the Home Watch program offered by the Fair Oaks Ranch Police Department ("Department"); and

WHEREAS, nothing herein is intended by the Parties to limit the authority of the Department to respond to any call for service, report of suspicious activity, or any other situation requiring an immediate investigative response, solely because the subdivision is gated.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Association agree as follows:

1. **Term.** Pursuant to the Statute, the City has extended the traffic rules and laws related to operation of motor vehicles on public thoroughfares of the City to apply to the Private Streets in Elkhorn Ridge Homeowners Association, Inc. The Association agrees that, pursuant to this Agreement, the Private Streets are considered to be public streets for purposes of the application and enforcement of the traffic rules and laws addressed herein and that this Agreement shall remain

in effect until such time as the City should determine, by ordinance, that it is not in its interest to enforce the traffic rules and laws within the subdivision.

2. Traffic Signs. The Association shall install subdivision traffic signs and street name blade signs in compliance with both the Texas Manual of Uniform Traffic Control Device standards and the City's standards. The Association shall be solely responsible for all costs and expenses of the signs and the installation thereof.

3. City Patrol. Effective on the date an ordinance is adopted to extend traffic laws, rules, general patrol and the Home Watch program, police officers of City will be authorized to begin general patrol of the subdivision for the purposes stated herein and for issuing traffic citations for violations of traffic laws occurring on the roads within the subdivision when appropriate and in the discretion of police officers of City, such police officers having the sole discretion in such matters.

4. No Warranties or Representations. Neither City nor City's Police Department or City's police officers make any representations or warranties to the Association or to anyone else in relation to City patrols or City enforcement of traffic laws on the roads within the subdivision. City disclaims any responsibility to maintain or improve the roads within the subdivision or any street signs or traffic signs on said roads, said maintenance and improvement responsibility to be and remain solely that of the Association.

5. Speed Humps. The Association agrees that all speed humps on the Private Streets must comply with the City's standards. New speed humps must receive approval through the normal City process and are the discretion of the City of Fair Oaks Ranch based on City policies and standards. The Association shall be solely responsible for all costs and expenses necessary to bring and keep the speed humps in compliance.

6. Plans, Installation, and Approval. Prior to installation of the subdivision traffic signs and street name blade signs and prior to work being done on the speed humps, the Association shall submit plans for the design and specifications of such traffic and street name or other signage and such speed humps and obtain written approval from the City. The Association shall construct, repair, and/or install, or cause the construction, repair, and/or installation of, such signage and speed humps in accordance with the approved plans.

7. Association Obligations. The Association will pay for all repairs, replacement, and maintenance of all signage and speed humps to maintain compliance with the applicable standards set forth herein. All maintenance performed by the Association will meet the specifications of the codified requirements of the City related to traffic signage and speed humps in residential subdivisions. If the City determines that repairs, replacement, and/or maintenance are required, the City shall inform the Association in writing of the need for said repairs, replacement, and/or maintenance, and the Association shall commence said repairs, replacement, and/or maintenance within fourteen (14) calendar days of such notice and diligently pursue the work thereon, with completion thereof not to exceed forty-five (45) calendar days.

8. Traffic Control Devices. Pursuant to the authority granted under the Statute, the City may place official traffic control devices on property abutting the Private Streets if (1) those devices

relate to a specified traffic rule; and (2) the consent of the owner of that property is obtained or an easement is available for the placement. The Association hereby consents to the placement of any such devices on the property owned by them. No additional consent shall be required.

9. Payment. The Association will not be required to pay any additional cost for the services requested herein, unless such services are requested in excess of the services provided to City citizens that do not reside in private gated communities in the City. Notwithstanding the foregoing, the Association shall be required to pay those costs and expenses discussed in Sections 2, 5, 6, and 7, and 8 of this Agreement.

10. INDEMNIFICATION. THE ASSOCIATION ON BEHALF OF EACH OF THEIR SUCCESSORS, ASSIGNEES, GRANTEES, AND/OR TRUSTEES DOES HEREBY AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND ITS CITY COUNCILMEMBERS, OFFICERS, AGENTS, REPRESENTATIVES, AND EMPLOYEES (THE "INDEMNIFIED PARTIES") FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE ASSOCIATION IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, IN WHOLE OR IN PART, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE CITY (HEREINAFTER "CLAIMS"). THE ASSOCIATION IS EXPRESSLY REQUIRED TO DEFEND THE INDEMNIFIED PARTIES AGAINST ALL SUCH CLAIMS.

IN ITS SOLE DISCRETION, THE CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY THE ASSOCIATION IN FULFILLING THEIR OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY THE CITY IN WRITING. THE CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER THE CITY IS UNDER NO OBLIGATION TO DO SO.

THIS SECTION 10. SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT WITH RESPECT TO ANY INCIDENT OCCURRING DURING THE TERM HEREOF.

11. Miscellaneous.

(a) Breach. In the event of a breach of this Agreement by any party, any other party may pursue any remedies available at law or in equity, including without limitation, specific performance.

(b) Assignment, Binding Nature, and Recording. This Agreement may not be assigned by the Association.

(c) Notices. Any notice required or permitted by this Agreement is effective when personally delivered in writing or two (2) business days after notice is deposited with the U.S. Postal Service, postage prepaid, certified mail with return receipt requested, and addressed as follows:

City:

City of Fair Oaks Ranch, Texas
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas 78015
Attention: City Manager

with copy to:

Denton Navarro Rocha Bernal & Zech, P.C.
2517 N. Main Avenue
San Antonio, Texas 78212
Attention: T. Daniel Santee

Association:

Elkhorn Ridge Homeowners Association, Inc.
3424 Paesanos Parkway, Ste 100
San Antonio, TX 78231
Attention: Julie Rincon

with copy to:

_____
_____
_____
Attention: _____

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of change is provided to the other party in accordance with the provisions of this Section 11.(c).

(d) Capacities. The person executing this Agreement on behalf of the Association represents and warrants that he/she has the authority to do so in the capacity stated.

(e) Interpretation. This Agreement will be deemed drafted equally by all parties hereto. The language of all parts of this Agreement will be construed as a whole according to its fair meaning, and any presumption or principle that the language in this Agreement is to be construed against any party will not apply. Headings in this

Agreement are for the convenience of the parties and are not intended to be used in construing this document.

(f) Further Assurances. The parties agree to take such further actions and to sign such further documents as may be reasonably necessary or appropriate to fulfill the intent of, and to complete the transactions described in this Agreement.

(g) Unenforceability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

(h) Choice of Law. This Agreement will be construed under the laws of the State of Texas without regard to choice-of-law rules of any jurisdiction. Venue shall be in the State District Courts of Kendall County, Texas with respect to any lawsuit arising out of or construing the terms and provisions of this Agreement. No provision of this Agreement shall constitute a consent to suit by any party.

(i) Counterparts. This Agreement may be executed in a number of identical counterparts, each of which will be deemed an original for all purposes.

(j) Immunity. By execution of this Agreement, the parties agree that the City has not waived or surrendered any of its governmental powers, immunities, or rights.

(k) Force Majeure. Notwithstanding anything to the contrary contained herein, in the event a party is prevented from performing its obligations hereunder due to inclement weather, strikes, riots, civil unrest, or any other cause which is beyond the reasonable control of such party (a delay due to any such cause being referred to herein as a "Force Majeure Delay") then the time period for such party's performance shall be extended by the length of the Force Majeure Delay and such party's failure to perform such obligation shall be excused for the duration of, and to the extent of, such Force Majeure Delay.

[*The remainder of this page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereby have executed this Agreement to be effective as of the Effective Date.

THE CITY:

CITY OF FAIR OAKS RANCH, TEXAS,
a Texas municipal corporation

By:_____
Tobin E. Maples, City Manager

Date:_____

THE ASSOCIATION:

Elkhorn Ridge Homeowners Association, Inc
a Texas nonprofit corporation

By: Kyle Coldeway
Name: Kyle Coldeway
Title: Board Member

Date:2022/01/03

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action approving a Law Enforcement & Patrol Agreement between the City of Fair Oaks Ranch and SA Front Gate Homeowners Association
DATE:	March 3, 2022
DEPARTMENT:	Police Department
PRESENTED BY:	Tim Moring, Chief of Police

INTRODUCTION/BACKGROUND:

Our city is a bedroom community which desires to retain that flavor. As a council and staff, we are committed to fulfilling our residents expressed desires to protect our quality of life, provide for public health and safety, and protect existing investment and valued community assets. In April 2021, the city found it to be in the best interest of the citizens whom reside within gated (private) communities to enter into an agreement with the city to provide legal means of proactive police patrols and other police services within their respective communities.

Article III, Section 52 and Article XI, Section 3 of Texas Constitution prevent any city from lending credit, granting public money, or making any appropriation or donation to any private entity. In other words, cities may not spend public money for a private purpose and would therefore be prohibited from performing public services in the gated community, such as road maintenance and traffic enforcement. This does not prevent police from answering a community generated call in those gated communities but does prevent police from conducting proactive/preventative patrols to deter crime and enforce traffic laws. Exceptions are placed within the law that allow municipalities to enter into agreements with private communities to allow proactive patrols and traffic enforcement. This agreement may be done with 25% of the property owners in agreement or by the consent the developer and/or managing party in control of the current homeowner's association.

In December 2021, the director of community management for Front Gate Homeowners Association reached out to city staff in reference to complaints from residents regarding safety within the gated neighborhood. The director was provided a copy of the law enforcement agreement drafted by the City Attorney's office and advised on the process of approval by City Council. In January 2022, Mr. Kyle Coldeway, board member for SA Front Gate Homeowners Association, submitted a signed law enforcement agreement (attached) to the city with the request that it be presented to City Council for approval. This agreement would allow the Fair Oaks Ranch Police Department to conduct preventative/proactive patrols, traffic enforcement, home watches, and other services provided by the city's police force within the Front Gate subdivision.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Preservation of quality-of-life characteristics through compliance with state law by ensuring the same services are available to all residents of Fair Oaks Ranch.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

None at this time.

LEGAL ANALYSIS:

Agreement drafted, reviewed, and approved by City Attorney's office.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the agreement between the City of Fair Oaks Ranch and SA Front Gate Homeowners Association for police services within the gated community of Front Gate.

LAW ENFORCEMENT AGREEMENT
(NAME OF HOMEOWNERS ASSOCIATION)

This Law Enforcement Agreement (the "Agreement") between the City of Fair Oaks Ranch, Texas, a Texas Municipal Corporation (the "City") and the SA Front Gate Homeowners Association, Inc. (the "Association"), collectively, Parties, is entered into as of the date of the final signature of the parties (the "Effective Date") and approval by the City Council.

WITNESSETH:

WHEREAS, SA Front Gate Homeowners Association, Inc. is a private gated community in the City of Fair Oaks Ranch, Bexar County, Texas, generally located at 8902 Front Gate Rd and containing a total of three hundred eighty-six (386) residences; and

WHEREAS, the Association is the owner of the private streets in SA Front Gate Homeowners Association, Inc. (the "Private Streets") and is responsible for the maintenance thereof; and

WHEREAS, the Association acknowledge that SA Front Gate Homeowners Association, Inc. is a subdivision within the City limits of the City and in accordance with the Texas Transportation Code Section 542.008 (the "Statute"), the Association presented a petition to the City Council of the City (the "City Council") seeking to cause the traffic rules and laws related to operation of motor vehicles on public thoroughfares of the City to apply to the Private Streets in SA Front Gate Homeowners Association, Inc. (the "Petition"); and

WHEREAS, the City Council has found the Petition in the best interest of the City generally, has accepted the Petition, and directed the City staff to draft an ordinance and this Agreement, according to the requirements of the Statute to provide for the enforcement of the traffic rules and laws related to operation of motor vehicles on public thoroughfares of the City to apply to Private Streets in the SA Front Gate Subdivision; and,

WHEREAS, the Association further requests and authorizes the City to allow the residents of SA Front Gate Homeowners Association, Inc. to participate in the Home Watch program offered by the Fair Oaks Ranch Police Department ("Department"); and

WHEREAS, nothing herein is intended by the Parties to limit the authority of the Department to respond to any call for service, report of suspicious activity, or any other situation requiring an immediate investigative response, solely because the subdivision is gated.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Association agree as follows:

1. Term. Pursuant to the Statute, the City has extended the traffic rules and laws related to operation of motor vehicles on public thoroughfares of the City to apply to the Private Streets in SA Front Gate Homeowners Association, Inc. The Association agrees that, pursuant to this Agreement, the Private Streets are considered to be public streets for purposes of the application and enforcement of the traffic rules and laws addressed herein and that this Agreement shall remain

in effect until such time as the City should determine, by ordinance, that it is not in its interest to enforce the traffic rules and laws within the subdivision.

2. Traffic Signs. The Association shall install subdivision traffic signs and street name blade signs in compliance with both the Texas Manual of Uniform Traffic Control Device standards and the City's standards. The Association shall be solely responsible for all costs and expenses of the signs and the installation thereof.

3. City Patrol. Effective on the date an ordinance is adopted to extend traffic laws, rules, general patrol and the Home Watch program, police officers of City will be authorized to begin general patrol of the subdivision for the purposes stated herein and for issuing traffic citations for violations of traffic laws occurring on the roads within the subdivision when appropriate and in the discretion of police officers of City, such police officers having the sole discretion in such matters.

4. No Warranties or Representations. Neither City nor City's Police Department or City's police officers make any representations or warranties to the Association or to anyone else in relation to City patrols or City enforcement of traffic laws on the roads within the subdivision. City disclaims any responsibility to maintain or improve the roads within the subdivision or any street signs or traffic signs on said roads, said maintenance and improvement responsibility to be and remain solely that of the Association.

5. Speed Humps. The Association agrees that all speed humps on the Private Streets must comply with the City's standards. New speed humps must receive approval through the normal City process and are the discretion of the City of Fair Oaks Ranch based on City policies and standards. The Association shall be solely responsible for all costs and expenses necessary to bring and keep the speed humps in compliance.

6. Plans, Installation, and Approval. Prior to installation of the subdivision traffic signs and street name blade signs and prior to work being done on the speed humps, the Association shall submit plans for the design and specifications of such traffic and street name or other signage and such speed humps and obtain written approval from the City. The Association shall construct, repair, and/or install, or cause the construction, repair, and/or installation of, such signage and speed humps in accordance with the approved plans.

7. Association Obligations. The Association will pay for all repairs, replacement, and maintenance of all signage and speed humps to maintain compliance with the applicable standards set forth herein. All maintenance performed by the Association will meet the specifications of the codified requirements of the City related to traffic signage and speed humps in residential subdivisions. If the City determines that repairs, replacement, and/or maintenance are required, the City shall inform the Association in writing of the need for said repairs, replacement, and/or maintenance, and the Association shall commence said repairs, replacement, and/or maintenance within fourteen (14) calendar days of such notice and diligently pursue the work thereon, with completion thereof not to exceed forty-five (45) calendar days.

8. Traffic Control Devices. Pursuant to the authority granted under the Statute, the City may place official traffic control devices on property abutting the Private Streets if (1) those devices

relate to a specified traffic rule; and (2) the consent of the owner of that property is obtained or an easement is available for the placement. The Association hereby consents to the placement of any such devices on the property owned by them. No additional consent shall be required.

9. Payment. The Association will not be required to pay any additional cost for the services requested herein, unless such services are requested in excess of the services provided to City citizens that do not reside in private gated communities in the City. Notwithstanding the foregoing, the Association shall be required to pay those costs and expenses discussed in Sections 2, 5, 6, and 7, and 8 of this Agreement.

10. INDEMNIFICATION. THE ASSOCIATION ON BEHALF OF EACH OF THEIR SUCCESSORS, ASSIGNEES, GRANTEES, AND/OR TRUSTEES DOES HEREBY AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND ITS CITY COUNCILMEMBERS, OFFICERS, AGENTS, REPRESENTATIVES, AND EMPLOYEES (THE "INDEMNIFIED PARTIES") FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE ASSOCIATION IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, IN WHOLE OR IN PART, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE CITY (HEREINAFTER "CLAIMS"). THE ASSOCIATION IS EXPRESSLY REQUIRED TO DEFEND THE INDEMNIFIED PARTIES AGAINST ALL SUCH CLAIMS.

IN ITS SOLE DISCRETION, THE CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY THE ASSOCIATION IN FULFILLING THEIR OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY THE CITY IN WRITING. THE CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER THE CITY IS UNDER NO OBLIGATION TO DO SO.

THIS SECTION 10. SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT WITH RESPECT TO ANY INCIDENT OCCURRING DURING THE TERM HEREOF.

11. Miscellaneous.

(a) Breach. In the event of a breach of this Agreement by any party, any other party may pursue any remedies available at law or in equity, including without limitation, specific performance.

(b) Assignment, Binding Nature, and Recording. This Agreement may not be assigned by the Association.

(c) Notices. Any notice required or permitted by this Agreement is effective when personally delivered in writing or two (2) business days after notice is deposited with the U.S. Postal Service, postage prepaid, certified mail with return receipt requested, and addressed as follows:

City:

City of Fair Oaks Ranch, Texas
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas 78015
Attention: City Manager

with copy to:

Denton Navarro Rocha Bernal & Zech, P.C.
2517 N. Main Avenue
San Antonio, Texas 78212
Attention: T. Daniel Santee

Association:

SA Front Gate Homeowners Association, Inc.
3424 Peasanos Parkway, Ste 100
San Antonio, TX 78231
Attention: Julie Rincon

with copy to:

_____
_____
_____
Attention: _____

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of change is provided to the other party in accordance with the provisions of this Section 11.(c).

(d) Capacities. The person executing this Agreement on behalf of the Association represents and warrants that he/she has the authority to do so in the capacity stated.

(e) Interpretation. This Agreement will be deemed drafted equally by all parties hereto. The language of all parts of this Agreement will be construed as a whole according to its fair meaning, and any presumption or principle that the language in this Agreement is to be construed against any party will not apply. Headings in this

Agreement are for the convenience of the parties and are not intended to be used in construing this document.

(f) Further Assurances. The parties agree to take such further actions and to sign such further documents as may be reasonably necessary or appropriate to fulfill the intent of, and to complete the transactions described in this Agreement.

(g) Unenforceability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

(h) Choice of Law. This Agreement will be construed under the laws of the State of Texas without regard to choice-of-law rules of any jurisdiction. Venue shall be in the State District Courts of Kendall County, Texas with respect to any lawsuit arising out of or construing the terms and provisions of this Agreement. No provision of this Agreement shall constitute a consent to suit by any party.

(i) Counterparts. This Agreement may be executed in a number of identical counterparts, each of which will be deemed an original for all purposes.

(j) Immunity. By execution of this Agreement, the parties agree that the City has not waived or surrendered any of its governmental powers, immunities, or rights.

(k) Force Majeure. Notwithstanding anything to the contrary contained herein, in the event a party is prevented from performing its obligations hereunder due to inclement weather, strikes, riots, civil unrest, or any other cause which is beyond the reasonable control of such party (a delay due to any such cause being referred to herein as a "Force Majeure Delay") then the time period for such party's performance shall be extended by the length of the Force Majeure Delay and such party's failure to perform such obligation shall be excused for the duration of, and to the extent of, such Force Majeure Delay.

[*The remainder of this page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereby have executed this Agreement to be effective as of the Effective Date.

THE CITY:

CITY OF FAIR OAKS RANCH, TEXAS,
a Texas municipal corporation

By:_____
Tobin E. Maples, City Manager

Date:_____

THE ASSOCIATION:

SA Front Gate Homeowners Association, Inc.
a Texas nonprofit corporation

By: Kyle Coldeway
Name: Kyle Coldeway
Title: Board Member

Date:2022/01/03

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action approving a Resolution to appoint a member to fill the Planning & Zoning Commission's Place 5 unexpired term
START DATE:	March 3, 2022
DEPARTMENT:	City Secretary
PRESENTED BY:	Christina Picioccio, TRMC, City Secretary

INTRODUCTION/BACKGROUND:

Section 3.04 (d) of the City Charter provides the Mayor shall appoint, upon nomination by majority vote of the City Council, the members of citizen advisory boards and commissions.

- On March 19, 2018, under Resolution 2018-06, the City Council appointed Douglas Leonard to serve on the P&Z Commission as Commissioner, Place 5.
- On September 17, 2020, under Resolution 2020-19, Commissioner Leonard was re-appointed to serve October 1, 2020 through September 30, 2023.
- On December 29, 2021, the City received notification of Commissioner Leonard's resignation from the Commission.
- On February 17, 2022 City Council voted to fill Place 4 P&Z Commissioners unexpired term by utilizing the city's standardized appointment process.

The open position was advertised on the city website with the intention that interviews would be held in advance of the March 3, 2022 council meeting.

Tonight's agenda item is to appoint a member to the Place 5 unexpired term:

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Complies with Section 2.1 of the Planning and Zoning Commission's Rules of Procedure relative to a filling a Commissioner's unexpired term.
2. Having all of the Commission seats filled through citizen participation is an essential element in maintaining balance, common sense, and community values.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

None.

LEGAL ANALYSIS:

Approved as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to appoint _____ to fill the unexpired term for Place 5 on the Planning & Zoning Commission.

A RESOLUTION

A RESOLUTION OF THE CITY OF FAIR OAKS RANCH APPOINTING A MEMBER TO FILL THE UNEXPIRED TERM FOR PLACE 5 ON THE FAIR OAKS RANCH PLANNING AND ZONING COMMISSION

WHEREAS, on March 5, 2018, under Ordinance 2018-03, the Fair Oaks Ranch City Council established the City of Fair Oaks Ranch Planning and Zoning Commission, an advisory commission; and,

WHEREAS, municipal regulatory authority regarding municipal zoning, including the requirement of appointing members to a Zoning Commission, is found in the Texas Local Government Code, Chapter 211; and,

WHEREAS, Section 3.04 of the City Charter provides the Mayor shall appoint, upon nomination by majority vote of the City Council, the members of Planning and Zoning Commission; and,

WHEREAS, On December 29, 2021, the City received notification of Place 5 Commissioner Leonard's resignation from the Commission; and,

WHEREAS, Appointments/reappointments to the Planning and Zoning Commission shall be made annually based on the term expiration and expressed interest of members to continue to serve, or at such other times as may be authorized by State Law; and,

WHEREAS, the City Council deems it necessary to appoint members to fill the unexpired term on the Commission.

WHEREAS, after receiving applications of interest; and conducting interviews on March 3, 2022 the City Council finds that the appointment provided for herein is in the best interest of the City.

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

Section 1. The following qualified citizen volunteer is appointed to serve on the City of Fair Oaks Ranch Planning and Zoning Commission, effective 3/3/2022:

Place 5 _____ Term: 3/3/2022 - 9/30/2023

PASSED and APPROVED this 3rd day of March, 2022.

_____
Gregory C. Maxton, Mayor

ATTEST:

_____
Christina Picioccio, TRMC, City Secretary

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

CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 3, 2022

AGENDA TOPIC:	Consideration and possible action approving a Resolution to appoint members to fill the open Zoning Board of Adjustment Place 1 and Alternate Places 6 and 7
DATE:	March 3, 2022
DEPARTMENT:	City Secretary
PRESENTED BY:	Christina Picioccio, TRMC, City Secretary

INTRODUCTION/BACKGROUND:

The City's Unified Development Code (UDC), Section 2.3 (4) b Zoning Board of Adjustment, provides for the structure and procedure of the Zoning Board of Adjustment ("the Board"):

b. Appointment and Removal
   i. The Zoning Board of Adjustment is established in accordance with Chapter 211 of the Texas Local Government Code (LGC). The Board Members are appointed by the City Council.
   ii. The Board shall consist of five (5) members who shall be appointed by majority vote of the City Council.
   iii. A member may only be removed for cause.
   iv. A vacancy on the Board shall be filled for the unexpired term.
   v. City Council, by majority vote, shall appoint two individuals as alternate board members to serve in the absence of one or more regular members when requested to do so by the Mayor or City Manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate embers is filled in the same manner as a vacancy among the regular members.

During the last appointment process at the end of Fiscal Year 2020-2021, due to limited applications received, the city was unable to fill Place 1 and Alternate Places 6 & 7.

In addition, Section 2.3 (4) c, entitled, "Zoning Board of Adjustment Review Process and Vote" states:

i. Each case that goes before the ZBOA must be heard by at least four (4) of the five (5) members.
ii. The concurring vote of four (4) of the five (5) members of the ZBOA is necessary to:
   a. Reverse an order, requirement, decision, or determination of an administrative official, or
   b. Authorize a variation from the terms of a zoning regulation.

To properly perform their role and allow for potential absenteeism, it will require its' five (5) regular members and at least one (1) alternate.

On February 17, 2022 City Council voted to fill Place 1 and Alternate Places 6 & 7 of the ZBOA by utilizing the city's standardized appointment process.

The open positions were advertised on the city website with the intention that interviews would be held in advance of the March 3, 2022 council meeting.

Tonight's agenda item is to appoint a member to fill Place 1 and two (2) members to fill Alternate Places 6 and 7.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Complies with the UDC.
2. Having all of the Board seats filled through citizen participation is an essential element in maintaining balance, common sense, and community values.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

Approved as to form.

RECOMMENDATION/PROPOSED MOTION:

- I move to appoint _____ to fill Place 1 of the Zoning Board of Adjustment.
- I move to appoint _____ to fill Alternate Place 6 of the Zoning Board of Adjustment.
- I move to appoint _____ to fill Alternate Place 7 of the Zoning Board of Adjustment

A RESOLUTION

A RESOLUTION OF THE CITY OF FAIR OAKS RANCH APPOINTING MEMBER TO FILL PLACE 1, AND TWO ALTERNATES ON THE CITY OF FAIR OAKS RANCH ZONING BOARD OF ADJUSTMENT

WHEREAS, on June 21, 2018, under Ordinance 2018-05, the City Council of the City of Fair Oaks Ranch amended the city's Code of Ordinances, Chapter 14 by adopting zoning districts and zoning regulations in the City of Fair Oaks Ranch; and,

WHEREAS, on May 2, 2019, the City Council approved the Unified Development Code which consolidates its regulations; and,

WHEREAS, Section 2.3 (4) b, entitled, "Zoning Board of Adjustment", provides for the structure, procedure, and duties of a Zoning Board of Adjustment ("the Board"); and,

WHEREAS, the Board shall consist of five (5) members and two (2) alternates who shall be appointed by majority vote of the City Council; and

WHEREAS, on September 16, 2021, due to lack of volunteers, Council was only able to appoint four (4) members to the Board; and

WHEREAS, Place 1 and Alternate Places 6 & 7 are unfilled; and

WHEREAS, the City Council deems it necessary to fill the vacant unexpired regular and alternate terms on the Board.

WHEREAS, after receiving applications of interest; and conducting interview on March 3, 2022 the City Council finds that the appointments provided for herein are in the best interest of the City.

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

Section 1. The following qualified citizen volunteers are appointed to serve as a regular member on the City of Fair Oaks Ranch Zoning Board of Adjustment, effective 3/3/2022:

Place 1	_____	Term: 3/2/2022 – 9/30/2023
Place 6	_____	Term: 3/2/2022 – 9/30/2023
Place 7	_____	Term: 3/2/2022 – 9/30/2023

PASSED and APPROVED this 3rd day of March 2022.

_____

Gregory C. Maxton, Mayor

ATTEST:

_____

Christina Picioccio, TRMC, City Secretary

APPROVED AS TO FORM:

_____

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