



**CITY OF HUTCHINS
CITY COUNCIL MEETING
AGENDA**

**Monday, November 13, 2023 at 6:30 PM
City Hall, 321 N. Main Street**

Pursuant to Section 551 of the Texas Government Code, notice is hereby given of a Regular Meeting of the Hutchins City Council to be held on Monday, November 13th at 6:30 PM located at Hutchins City Hall Council Chambers, 321 N. Main Street, Hutchins, Texas, at which time the following items will be discussed and considered.

City Council Members

Mayor Mario Vasquez
Mayor Pro Tem Steve Nichols
Councilmember Brenda Campbell
Councilmember Dominic Didehbani
Councilmember Raymond Elmore
Councilmember Demarcus Odom

A. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. CITIZEN COMMENTS - *This agenda item provides an opportunity for citizens to address the City Council on any matter that is not posted on the agenda. Anyone wishing to address the City Council should complete a Citizen Comments Form and submit it to the City Secretary prior to the start of the City Council meeting. There is a three (3) minute time limit for each citizen to speak. However, in accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decision at this time.*

D. CONSENT AGENDA - *All items presented in the Consent Agenda require no deliberation by the Council. Each Council member has the opportunity of removing an item from this agenda so that it may be considered separately.*

1. Consider approval of the Council Meeting Minutes for October 2023

E. PRESENTATIONS

2. Discuss Neighborhood Watch Signage

3. Green Ribbon Grant

4. Investment Report

F. REGULAR AGENDA - *As authorized by Section 551.071 of the Texas Government Code, the City Council reserves the right to convene in Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.*

5. Discuss and consider Resolution R2023-1150, Acquiring surveying service from the apparent low bidder The Whitman Land Group, LLC for the annexation of Post Oak Road., A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, ACCEPTING BIDS RECEIVED IN ASSOCIATION WITH THE SURVEY OF POST OAK ROAD; AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE APPARENT LOW BIDDER WHITMAN LAND GROUP, LLC, IN AN AMOUNT NOT TO EXCEED \$15,991.00; AND PROVIDING FOR AN EFFECTIVE DATE.
6. Discuss and consider Ordinance 2023-1185 OF THE CITY OF HUTCHINS, TEXAS AMENDING CHAPTER 1, "GENERAL PROVISIONS", OF THE CODE OF ORDINANCES OF THE CITY OF HUTCHINS, TEXAS, BY AMENDING ARTICLE 1.11 "PUBLIC PARKS", TO ADD DIVISION 3 "KEEP HUTCHINS, BEAUTIFUL ADVISORY BOARD".
7. Discuss and consider Resolution R2023-1151 of the City of Hutchins, Texas rescheduling and/or canceling regular city council meetings in 2024 that conflict with a holiday.
8. Discuss and consider Resolution R2023-1152 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, APPROVING THE AGREEMENT BY AND BETWEEN THE CITY OF HUTCHINS AND EMERGICON, LLC FOR AMBULANCE BILLING SERVICES, SUPPLEMENTAL REVENUE COLLECTIONS AND ELECTRONIC RECORDS MANAGEMENT AND PROVIDING FOR AN EFFECTIVE DATE.
9. Discuss and consider Resolution R2023-1153 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, ADOPTING THE CITY OF HUTCHINS INVESTMENT POLICY ATTACHED HERETO AS EXHIBIT "A"; DECLARING THAT THE CITY COUNCIL HAS COMPLETED ITS REVIEW OF THE INVESTMENT POLICY AND INVESTMENT STRATEGIES OF THE CITY AND THAT EXHIBIT "A" RECORDS ANY CHANGES TO EITHER THE INVESTMENT POLICY OR INVESTMENT STRATEGIES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE
10. Discuss and consider Resolution R2023-1154 Annual Report of Financial Reporting Policy


G. ITEMS OF COMMUNITY INTEREST

11. A. Planning and Zoning Commission Meeting, Thursday, November 16, 2023, at 6:00 p.m. City Hall Council Chambers, 321 N. Main St.
- B. Atwell Public Library NASA Astro Camp. Saturday, November 18, 2023, from 1 pm - 4 pm - Atwell Public Library, 300 N. Denton St.; registration is required and space is limited.
- C. City Council Meeting, November 20, 2023 - CANCELLED
- D. City offices closed Thursday and Friday, November 23, and 24, 2023.
- E. Economic Development Corporation Board Meeting, Thursday. November 30, 2023, 6:30 p.m. at the EDC Building 103 W. Palestine.
- F. Hutchins Annual Christmas Parade, Saturday, December 9, 2023 at 10:00 a.m.

H. ADJOURN

CERTIFICATION

I certify that a copy of the Monday, November 13, 2023 agenda of items to be considered by the Hutchins City Council was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website www.cityofhutchins.org, in accordance with Chapter 551 of the Texas Government Code. Posted on November 10, 2023, before 6:30 p.m.



Cynthia Olguin
City Secretary



ACCESSIBILITY STATEMENT

The meeting location is wheelchair accessible from the front door. Request for special services must be received at least 48 hours in advance of scheduled meeting. For assistance, please call the office of the City Secretary at 972-225-6121 or email the City Secretary at colguin@cityofhutchins.org



STAFF REPORT

MEETING DATE:	November 6, 2023
MEETING TYPE:	City Council Meeting
SUBMITTED BY:	Cynthia Olguin, City Secretary
AGENDA CAPTION:	Consider approval of the Council Minutes for October 2023

Background Information

Consider and act on minutes from the October 2, 2023, City Council Meeting and October 16, 2023, City Council Meeting.

Budget Implications

N/A

Operational Impact

N/A

Legal Review

N/A

Staff Recommendation

Staff recommend approval of the minutes.

Supporting Documentation and Attachments

October 2, 2023, Council Meeting Minutes

October 16, 2023, Council Meeting Minutes



Hutchins City Hall
321 N. Main Street
Hutchins, TX 75141
www.cityofhutchins.org

**MINUTES
CITY OF HUTCHINS
NOTICE OF CITY COUNCIL MEETING
Monday, October 2, 2023 – 6:30 PM
Hutchins City Hall – Council Chamber
321 N. Main St.
Hutchins, TX 75141**

A meeting of the Hutchins City Council was held on Monday, October 2, 2023, at 6:30 p.m. at Hutchins City Hall – Council Chamber, 321 N. Main St., Hutchins, Texas, at which time the following items were discussed and considered.

REGULAR SESSION

- A. CALL TO ORDER:** Mayor Vasquez called the meeting order at 6:30 p.m. and declared a quorum.
 - 1. Roll Call:** Members present – Mayor Vasquez, Councilmember Elmore, Councilmember Campbell, Councilmember Odom, and Councilmember Didehbani
 - 2. Invocation:** The invocation was presented by Councilmember Campbell.
 - 3. Pledge of Allegiance:** Councilmember Odom led the Pledge of Allegiance

B. CITIZEN COMMENTS - None

C. CONSENT AGENDA

- 1. August and September Council Meeting Minutes**
Mayor Pro Tem Nichols made the motion seconded by Councilmember Campbell to approve the consent agenda as presented. The motion carried unanimously.

D. PRESENTATIONS

- 1. Life Safety Award presentation to 4 members of A Shift. Lt. Colin Gowin, Engineer Juan Barajas, Firefighter/Paramedic Jay Nickerson, and Firefighter EMT Brian Self.**
Presented by: Matt Lehmann, EMS Captain

EMS Captain Matt Lehmann recognized the following Hutchins Fire Rescue personnel for their training that provided lifesaving procedures to a patient. Recognized were A Shift Lt. Colin Gowin, Engineer Juan Barajas, Firefighter/Paramedic Jay Nickerson, and Firefighter EMT Brian Self.

- 2. Financial Report as of June 30, 2023**
Presented by: Maria Joyner, Director of Finance

Director of Finance Maria Joyner presented the financial reports as of June 30, 2023, and answered questions.

E. PUBLIC HEARINGS

- 1. **The council will receive public comments regarding the proposed amendment of roadway impact fees.**

Presented by: Robert McWayne, Interim Director of Public Works

Interim Director of Public Works Robert McWayne presented the item and provided a summary of the purpose of the impact fee, the requirements to review every five years, and the cost to developers.

Mayor Vasques opened the public hearing at 6:53 p.m. There being no public comments, Mayor Vaquez closed the public hearing at 6:54 p.m.

F. REGULAR AGENDA

- 1. **Discuss and consider Resolution R2023-1140 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, AMENDING THE CITY OF HUTCHINS PERSONNEL MANUAL BY AMENDING CHAPTER 2, TITLED “EMPLOYMENT”, BY DELETING SECTION 2.06 TITLED “PERFORMANCE APPRAISAL” IN ITS ENTIRETY AND RESERVING SECTION 2.06 FOR FUTURE USE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Presented by: Karen Steward, Director of Human Resources

Director of Human Resources Karen Steward presented a study comparison in support of eliminating performance reviews and replacing them with an alternative option that would provide for the check-in method every three months.

Councilmember Didehbani made the motion seconded by Mayor Pro Tem Nichols to approve Resolution R2023-1140. The motion carried unanimously.

- 2. **Discuss and consider Resolution R2023-1141 rescheduling the November 6, 2023, Regular Council Meeting.**

Presented by: Cynthia Olguin, City Secretary

Mayor Pro Tem Nichols made the motion seconded by Councilmember Didehbani to approve Resolution R2023-1141 to reschedule the November 6, 2023, regular council meeting. The motion carried unanimously.

- 3. **Discuss and consider Resolution R2023-1142 OF THE CITY OF HUTCHINS, TEXAS, NOMINATING A CANDIDATE TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE DALLAS CENTRAL APPRAISAL DISTRICT.**

Presented by: Cynthia Olguin, City Secretary

Councilmember Odom made the motion seconded by Councilmember Elmore to approve Resolution R2023-142 nominating Steve Nichols as a candidate to be a member of the Board of Directors of the Dallas Central Appraisal District. The motion carried unanimously.

4. Discuss and consider an agreement with Ron Hobbs for an animal shelter design study.

Presented by: Steve Perry, Police Chief

Ron Hobbs, Ron Hobbs Architects, provided information regarding the animal shelter design study, the time and cost difference in repurposing an existing building, and the construction of a new building. Council member Didehbani expressed his concern about a shelter in a residential and business community and what impact having an animal shelter would have on neighboring properties. Mr. Hobbs stated the assessment will take into consideration the location, greenspace, smell, and sound.

Mayor Pro Tem Nichols made the motion seconded by Councilmember Odom to approve Resolution R2023-1143 to proceed with both studies. The motion carried unanimously.

G. ITEMS OF COMMUNITY INTEREST

City Secretary Olguin announced the items of community interest.

H. ADJOURNMENT

Councilmember Elmore made the motion seconded by Councilmember Campbell to adjourn the meeting at 7:26 p.m. The motion carried unanimously.

PASSED AND APPROVED BY THE HUTCHINS CITY COUNCIL AT A REGULAR MEETING HELD ON THE 13th DAY OF NOVEMBER 2023.

APPROVED:

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary



Hutchins City Hall
321 N. Main Street
Hutchins, TX 75141
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**MINUTES
CITY OF HUTCHINS
NOTICE OF CITY COUNCIL MEETING
Monday, October 16, 2023 – 6:00 PM
Hutchins City Hall – Council Chamber
321 N. Main St.
Hutchins, TX 75141**

A meeting of the Hutchins City Council was held on Monday, October 16, 2023, at 6:00 p.m. at Hutchins City Hall – Council Chamber, 321 N. Main St., Hutchins, Texas, at which time the following items were discussed and considered.

WORK SESSION - 6:00 p.m.

**A. Ayers Property Zoning
Presented by: Tim Rawlings, Building Official**

George Gonzalez Rodiles, Southland Consulting Engineers, gave a recap of his presentation to the council on January 17, 2023, and presented two options for the abandonment of Denton St. The first option was to install a traffic signal at 310 and Langdon and make improvements to JJ Lemmon and Langdon, including auxiliary lanes at their expense, in return for the abandonment of Denton St. The council discussed the traffic impact analysis and questioned Mr. Rodiles’ study, which did not warrant a traffic signal at JJ Lemmon and Langdon. The council compared this study to a previous traffic study conducted by the city, which did warrant a traffic signal. As a result, the council asked staff to provide the Quiddity study to Mr. Rodiles for further review.

Mr. Gonzalez Rodiles provided two options for the abandonment of Denton St. and proposed installing a traffic signal at 310 and Langdon and improvements to JJ Lemmon and Langdon to include auxiliary lanes at their expense in return for the abandonment of Denton St. The council discussed the traffic impact analysis and questioned how Mr. Rodiles’ study did not warrant a traffic signal at JJ Lemmon and Langdon when the traffic study previously conducted by the city warranted a traffic signal. The council asked staff to provide the Quiddity traffic study to Mr. Rodiles and asked to see a proposed plan for improvements at JJ Lemmon and Langdon. Mayor Vasquez stressed the need to review all options for the best interest of the community and the need to include DISD, Dallas County, and the City of Dallas in future discussions.

Mr. Rodiles agreed to return with proposed revisions and asked for clarification if the signal at JJ Lemmon is a deal breaker. He stated they can only fund one streetlight and would like to know how they can proceed with the development. Mayor Vasquez confirmed the city’s preference for a traffic signal at JJ Lemmon and Langdon.

The work session was adjourned at 6:36 p.m.

REGULAR SESSION

A. CALL TO ORDER: Mayor Vasquez called the meeting order at 6:37 p.m. and declared a quorum.

- 1. **Roll Call:** Members present – Mayor Vasquez, Councilmember Elmore, Councilmember Campbell, Councilmember Odom, and Councilmember Didehbani
- 2. **Invocation:** The invocation was presented by Pastor John Richardson.
- 3. **Pledge of Allegiance:** Councilmember Didehbani led the Pledge of Allegiance

B. CITIZEN COMMENTS - None

C. CONSENT AGENDA

- 1. **Discuss and consider Resolution R2023-1144 of the CITY COUNCIL OF THE City of HUTCHINS, TEXAS AUTHORIZING THE EXECUTION OF A TITLE III FEDERAL SERVICE AGREEMENT WITH THE DALLAS AREA AGENCY ON AGING FOR THE TIME PERIOD OF OCTOBER 1, 2023, THROUGH SEPTEMBER 30, 2024; AND PROVIDING AN EFFECTIVE DATE.**
- 2. **Discuss and consider Resolution R2023-1145 of the CITY OF HUTCHINS, TEXAS, AUTHORIZING THE EXECUTION OF A CONGREGATE MEALS AGREEMENT WITH THE CHOCOLATE MINT FOUNDATION OF TEXAS FOR THE TIME PERIOD OF OCTOBER 1, 2023, THROUGH SEPTEMBER 30, 2024; APPROVING A PRICE PER MEAL INCREASE; AND PROVIDING FOR AN EFFECTIVE DATE.**
- 3. **Discuss and consider Resolution R2023-1146 of the CITY COUNCIL OF THE City of HUTCHINS, TEXAS AUTHORIZING THE EXECUTION OF A CONGREGATE MEALS AGREEMENT WITH THE VISITING NURSES ASSOCIATION OF TEXAS FOR THE TIME PERIOD OF OCTOBER 1, 2023, THROUGH SEPTEMBER 30, 2024; APPROVING A PRICE PER MEAL INCREASE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Pro Tem Nichols made the motion seconded by Councilmember Campbell to approve the consent agenda as presented. The motion carried unanimously.

D. PRESENTATIONS

- 1. **Campbell Park Discussion**
Presented by: Robert McWayne, Interim Director of Public Works

Interim Public Works Director Robert McWayne presented lighting options and cost estimates for Campbell Park including an update on changes by Oncor no longer installing lighting on private property. The council agreed to continue with the solar lighting and asked staff to get estimates to add additional lighting to the existing poles.

E. REGULAR AGENDA

- 1. **Discuss and consider Ordinance 2023-1184 of THE CITY OF HUTCHINS, ADOPTING UPDATES TO THE CITY OF HUTCHINS LAND USE**

ASSUMPTIONS AND CAPITAL IMPROVEMENT PLAN (CIP) FOR ROADWAY IMPACT FEES; AND BY AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 10 TITLED "SUBDIVISION REGULATION" BY AMENDING ARTICLE 10.03 TITLED "IMPACT FEES" BY AMENDING SECTION 10.03.005 "AMOUNT OF IMPACT FEE" BY AMENDING PARAGRAPH (e) TO ADOPT THE 2023 ROADWAY IMPACT FEE ADDENDUM; AND BY AMENDING APPENDIX A FEE SCHEDULE BY AMENDING ARTICLE A10.004 TITLED "IMPACT FEES" BY AMENDING PARAGRAPH (c) TO PROVIDE UPDATED ROADWAY IMPACT FEES.

Presented by: Robert McWayne, Interim Director of Public Works

Mayor Pro Tem Nichols made the motion seconded by Councilmember Elmore to approve Ordinance 2023-1184. The motion carried unanimously.

- 2. **Consideration of Resolution No. R2023-1147 OF THE CITY OF HUTCHINS, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF HUTCHINS AND DALLAS COUNTY HEALTH AND HUMAN SERVICES FOR COORDINATED HEALTH SERVICES FOR THE FISCAL YEAR 2023-2024 AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Presented by: Tim Rawlings, Building Official

Councilmember Elmore made the motion seconded by Councilmember Didehbani to approve Resolution R2023-1147. The motion carried unanimously.

- 3. **Consideration of Resolution R2023-1148 OF THE CITY OF HUTCHINS, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF HUTCHINS AND DALLAS COUNTY HEALTH AND HUMAN SERVICES FOR FOOD ESTABLISHMENT INSPECTIONS AND ENVIRONMENTAL HEALTH SERVICES FOR THE FISCAL YEAR 2023-2024 AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Presented by: Tim Rawlings, Building Official

Councilmember Odom made the motion seconded by Mayor Pro Tem Nichols to approve Resolution R2023-1148. The motion carried unanimously.

- 4. **Discuss and consider Resolution R2023-1149 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, APPROVING AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE THE TERMS AND CONDITIONS OF THE AGREEMENT FOR HOSTED 9-1-1 SERVICE BETWEEN THE CITY OF HUTCHINS AND AT&T; AND PROVIDING FOR AN EFFECTIVE DATE.**

Presented by: Steve Perry, Police Chief

Mayor Pro Tem Nichols made the motion seconded by Councilmember Campbell to approve Resolution R2023-1149. The motion carried unanimously.

F. ITEMS OF COMMUNITY INTEREST

City Secretary Olguin announced the items of community interest.

G. ADJOURNMENT

Councilmember Elmore made the motion seconded by Councilmember Campbell to adjourn the meeting at 7:05 p.m. The motion carried unanimously.


PASSED AND APPROVED BY THE HUTCHINS CITY COUNCIL AT A REGULAR MEETING HELD ON THE 13th DAY OF NOVEMBER 2023.

APPROVED:

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary

	<h1>STAFF REPORT</h1>
MEETING DATE:	November 13, 2023
MEETING TYPE: REGULAR COUNCIL MEETING	Regular Meeting
SUBMITTED BY:	Steve Perry
AGENDA CAPTION:	Discuss Neighborhood Watch Signage

Background Information

The City of Hutchins Police Department has formed a neighborhood watch program in the City of Hutchins to involve citizens in keeping the community safe by being an extra set of eyes in the community and reporting suspicious behavior and criminal activity.

Budget Implications

Purchase of Neighborhood watch signs

Operational Impact

Community policing, working to keep Hutchins' neighborhoods safe.

Legal Review

N/A

Staff Recommendation

City Council to choose signs to be placed throughout the City as Neighborhood watch areas are established.

Supporting Documentation and Attachments

Photos of signs

Neighborhood Watch Signs

Boris the Burglar



Neighborhood Watch



Blue Eye





STAFF REPORT

MEETING DATE: 11/13/23
MEETING TYPE: City Council
SUBMITTED BY: Robert McWayne
AGENDA CAPTION: Green Ribbon Grant

Background Information

City staff will be applying for the upcoming Green Ribbon Grant in hopes of getting assistance with beautifying areas around the city. The Green Ribbon Program allocates funding for landscaping to districts with non-attainment and near non-attainment counties to install and establish trees, shrubs and groundcover on the state highway system to help mitigate the effects of air pollution.

Budget Implications

N/A

Operational Impact

N/A

Legal Review

N/A

Staff Recommendation

N/A

Supporting Documentation and Attachments



Section E, Item 3.

DALLAS DISTRICT GREEN RIBBON PROGRAM WORKSHOP FY 25-30





AGENDA



Section E, Item3.



INTRODUCTIONS



AREA OFFICES



GREEN RIBBON GUIDELINES



DALLAS DISTRICT GUIDELINES



APPLICATION REQUIREMENTS



OVERALL PROCESSES



TXDOT DESIGN STANDARDS



Q&A





DALLAS DISTRICT - LANDSCAPE ARCHITECT OFFICE

ANTHONY DIEP – TRANSPORTATION LANDSCAPE ARCHITECT

ANTHONY.DIEP@TXDOT.GOV

(214) 320-6205

**4777 E. US HWY 80
MESQUITE TX, 75150**



ARTURO VILLALBA – LANDSCAPE ARCHITECT ASSISTANT

ARTURO.VILLALBA@TXDOT.GOV

(214) 319-3517

**4777 E. US HWY 80
MESQUITE TX, 75150**





AREA OFFICES

Section E, Item3.



• Dallas County

- Nathan Petter – Area Engineer - nathan.petter@txdot.gov
- Dung Nguyen – Assistant Area Engineer – dung.nguyen@txdot.gov

• Kaufman/Rockwall County

- Lane Selman – Area Engineer – lane.selman@txdot.gov
- Nicholas Wadlington – Assistant Area Engineer – nicholas.wadlington@txdot.gov

• Collin County

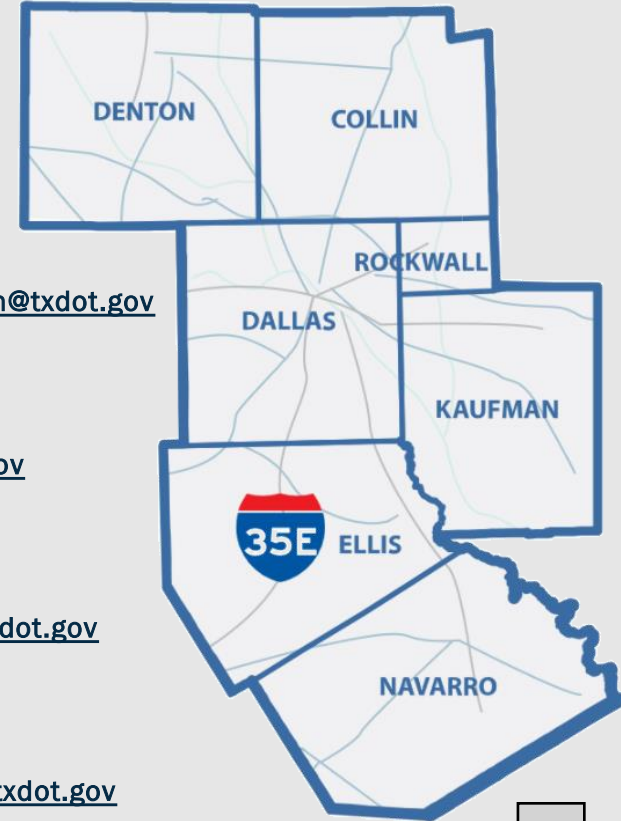
- Jennifer Vorster – Area Engineer – jennifer.vorster@txdot.gov
- Gerald Waltman – Assistant Area Engineer – gerald.waltman@txdot.gov

• Denton County

- Amanda Miller– Area Engineer - amanda.moser@txdot.gov
- Christopher Rocha – Assistant Area Engineer – christopher.rocha@txdot.gov

• Navarro/Ellis County

- Juan Paredes – Area Engineer – juan.paredes@txdot.gov
- Amanda McKittrick – Assistant Area Engineer – amanda.mckittrick@txdot.gov





WHAT IS THE GREEN RIBBON PROGRAM?

Section E, Item 3.

- **The Green Ribbon Program was first implemented in the Houston District. In 2002 TxDOT expanded the program to offer it to other areas of the state which set up funding for the TxDOT Green Ribbon Program, and the program has continued since.**
- **The Green Ribbon Program allocates funding for landscaping to districts with non-attainment and near non-attainment counties to install and establish trees, shrubs and groundcover on the state highway system to help mitigate the effects of air pollution.**
- **Landscape improvement work will be structured to provide appropriate planting installation, soil preparation and limited irrigation activities at locations which are suitable and approved by the District. Projects must meet design standards and each District must ensure appropriate safety, construction, establishment and maintenance considerations are applied.**
- **This program calls for the use of regionally appropriate and, where possible, use of drought tolerant, native and adaptive plant material. Soil preparation to improve the fertility, structure, and drainage of planting areas is permitted. Irrigation systems will be used that take into consideration the highest water conservation and efficiency possible on each project.**
- **This program does not allow seeding, sodding, or other erosion control measures. Aesthetic treatments such as special finishes and decorative designs on structural surfaces or other hard landscape elements will not be funded under this program. These items may be included within each highway improvement contract as appropriate.**





DALLAS DISTRICT GUIDELINES



Section E, Item 3.



- Irrigation is typically limited to tree bubblers and drip irrigation for shrubs and groundcover. No spray irrigation will be allowed within medians and close to roadway.
- If water is not available for an operational irrigation system, any application for Green Ribbon funding will be denied.
- Trees are not to be planted on slopes adjacent to abutment walls.
- Funding: LG must enter into an Advanced Funding Agreement Contract with TxDOT. LG must be able to accept federal funding and provide a UEI #. LG can apply for UEI # by going to Sams.gov
- Design: LG will provide a design which will be required to undergo milestone reviews by TxDOT for coordination and adherence to safety and policy guidelines.
- Advertising: LG will advertise project per Federal Guidelines & be responsible to enter the contract with the approved contractor.
- Construction: LG will be responsible for overseeing construction
- Local Government/Agency will be responsible for the long-term maintenance of the project and therefore must agree to a Landscape Maintenance Agreement with TxDOT
- All proposed locations must be within TxDOT right of way. In addition, applicants will be expected to work closely with the Area Offices to ensure proposed locations are appropriate. Designers (local government or consultants) must follow TxDOT Design Standards and be aware of visibility issues, clear zones, utilities, future roadway projects, etc.
- Green Ribbon funds will only cover plant material, mow strips, soil, soil amendments, irrigation, and up to 12 months of maintenance. No other hardscape items or amenities can be paid for with these funds. The City may add such hardscape or amenities to a project and fund them directly or utilize GCAA funds if available.
- Must show proof of registration for Local Government Project Procedures (LGPP TxDOT provided course) with Green Ribbon Application submittal and complete course before 95% Design Phase submittal





APPLICATION SUBMISSION REQUIREMENTS

Applications must be received via upload link (only) by February 1st, 2024, at 5:00 pm to be considered.
Please make sure you receive an email response stating we have received your submission.
Submissions **MUST** include:

Completed Application Form

Proposed Location Map

Preliminary Budget

Preliminary Project Schedule

LGPP Registration Proof

[APPLICATION FORM](#)

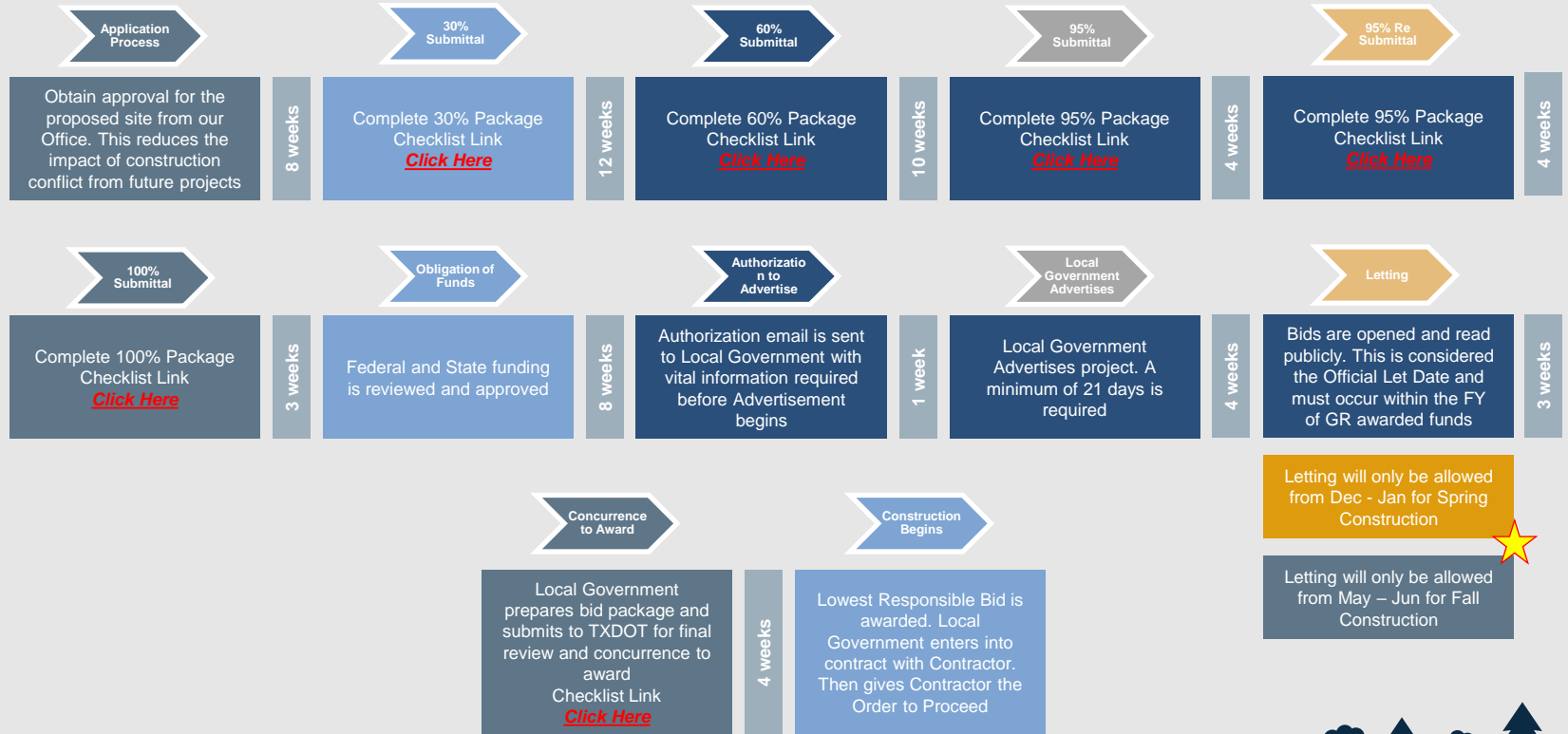
[APPLICATION PACKAGE
SAMPLE](#)

[SUBMIT APPLICATION
PACKAGE](#)



DESIGN PHASE KEY MILESTONES OVERVIEW

Section E, Item 3.





TXDOT STANDARDS

Section E, Item 3.



Green Ribbon Program Guidelines

<https://txdot.box.com/s/dsk0jytv5z4fiso5xc7d05e8zremjykr>



Dallas District Supplemental Design Guidelines

<https://txdot.box.com/s/8510h0v9yqxkskxl2x2dr9dgcps7pd3d>



Roadway Design Manual

<http://onlinemanuals.txdot.gov/txdotmanuals/rdw/index.htm>



Landscape and Aesthetics Design Manual

<http://onlinemanuals.txdot.gov/txdotmanuals/lad/index.htm>



Local Government Projects Policy Manual

<http://onlinemanuals.txdot.gov/txdotmanuals/lgp/index.htm>



Local Government Project Management Guide

<http://ftp.dot.state.tx.us/pub/txdot/lgp/procedures/guide.pdf>

Title Sheet Standards

<https://www.txdot.gov/about/districts/dallas-district/design-standards.html>

Traffic Control Standards

<https://www.dot.state.tx.us/insdtdot/orgchart/cmd/serve/standard/toc.htm>

Bridge Standards

<https://www.dot.state.tx.us/insdtdot/orgchart/cmd/serve/standard/bridge-e.htm>

Roadway Standards

<https://www.dot.state.tx.us/insdtdot/orgchart/cmd/serve/standard/rdwylse.htm>



TREES



When selecting trees to place in the median strips, select trees with a mature canopy width no greater than the median. Picture on the left shows a tree that is too large for the median. This creates higher Maintenance demand and low hanging limbs as well as falling limbs that can cause hazards to the traveling public. Also, the trees on the edge of right of way are too large and is overgrowing into the travel way. Select appropriate trees for the site. The picture on the right has smaller species of trees that fit well within medians.

IRRIGATION

Overhead spray irrigation is not allowed within medians. Overspray from the overhead irrigation can drift on to the roadway, causing wet and slippery conditions for drivers.

Drip irrigation and tree bubblers (subsurface irrigation materials) are the only type of irrigation that will be allowed within medians.



PLANTING AT MEDIAN NOSE AND TURN POCKETS

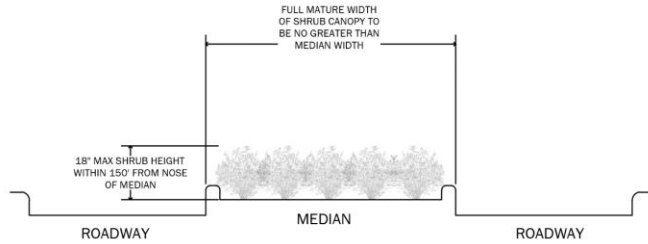
- No shrubs or groundcover with a mature maximum height over 18” are allowed within a minimum of 150’ of the median nose. If the sight distance is still impaired a further distance will be required. Trees must be planted a minimum of 250’ of the median nose.



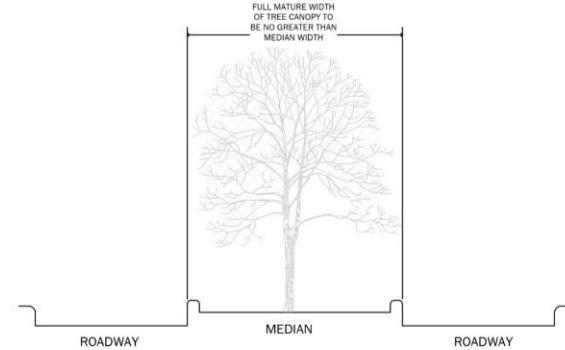


PLANTING AT MEDIAN NOSE AND TURN POCKETS

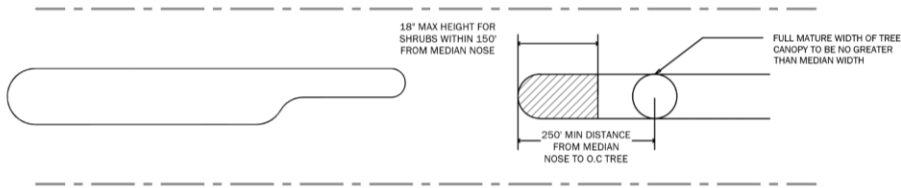
SIZING SHRUBS WITHIN MEDIANS



SIZING TREES WITHIN MEDIANS



TREE AND SHRUB PLANTING INSIDE OF MEDIANS



PLANTING ON SLOPES



Planting trees on slopes will be approved on a case-by-case basis. Areas where trees are not allowed are; slopes greater than 4:1, close to bridges, pavements, sidewalks and abutments. Shrubs and groundcovers are allowed in these areas.



QUESTIONS AND ANSWERS



Section E, Item 3.



31



STAFF REPORT

MEETING DATE: November 13, 2023

MEETING TYPE:

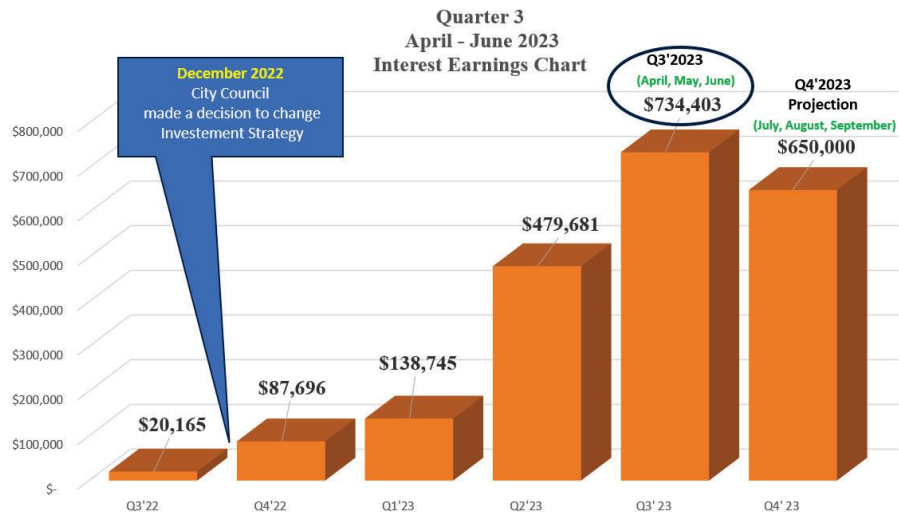
SUBMITTED BY: Maria Joyner, Director of Finance

AGENDA CAPTION: Investment Report

Background Information

The quarter ending June 30, 2023, marked a significant milestone in our city's financial performance, as we experienced a substantial increase in interest earnings. This growth can be attributed to our strategic shift in investment strategy from a cash-based approach to highly liquid and safe governmental investment pools, which have consistently provided the best yield for municipal governments over the past 12 months. Our city increased its interest earnings over the past four quarters by capitalizing on favorable market conditions and carefully evaluating investment options. In Q3'22, interest earned amounted to \$20,165, followed by a notable surge to \$87,696 in Q4'22. This upward trend continued in Q1'23, with interest earnings reaching \$138,745. However, the real highlight emerged in Q2'23, surpassing expectations with interest earnings of \$479,681. In addition, Q3'23 has proven to increase interested earning over last quarter. With the political environment on the rise and possible an outbreak of COVID rumoring, the city is taken a conservative poster in Q4 projection earnings because the next quarter market factors are uncertain.

This strategic shift in investment strategy has allowed us to maximize returns while maintaining high safety and liquidity. The impressive results reflect our revised approach's success and the positive impact of favorable market conditions on our city's financial performance.



The chart indicates a significant upward trend in interest earnings over the past four quarters, with a substantial increase observed in the quarter ending June 30, 2023. Moving forward, we recommend the continued utilization of governmental investment pools as we strive to optimize returns, ensure safety, and maintain liquidity for our city's financial resources.

Budget Implications

Operational Impact

Legal Review

Staff Recommendation

Supporting Documentation and Attachments

Q3 Investment Report



FY 2023

3rd Quarter

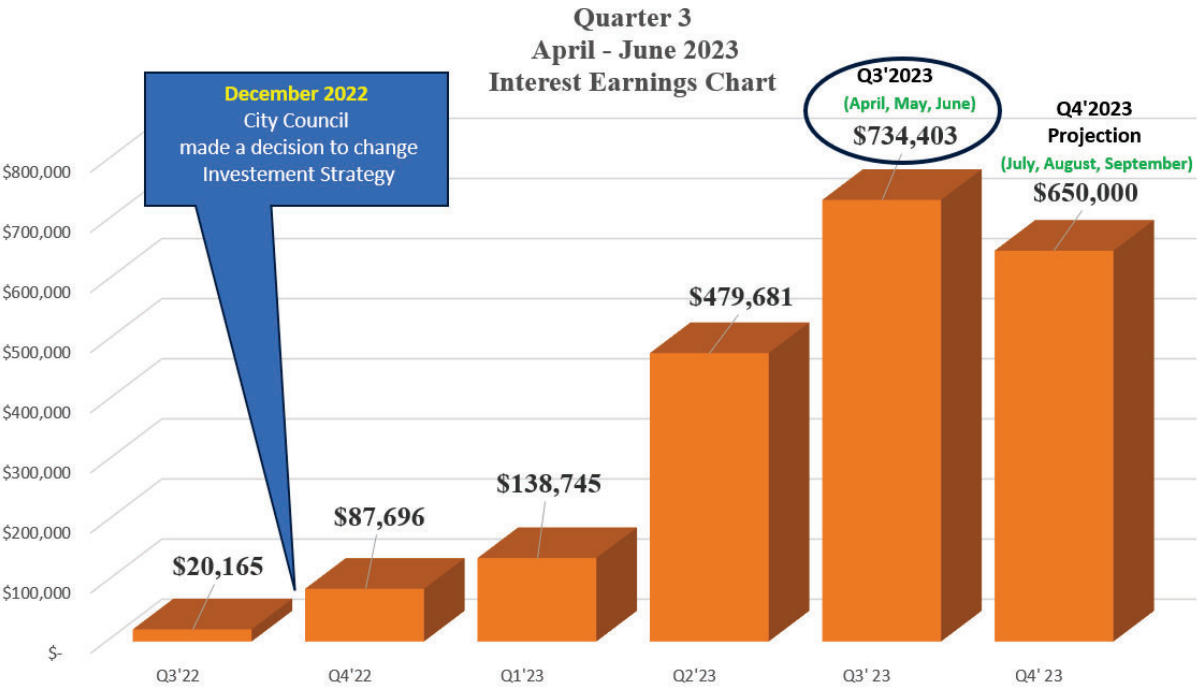
Investment Report

April 1, 2023 – June 30, 2023

Executive Summary

The quarter ending June 30, 2023, marked a significant milestone in our city's financial performance, as we experienced a substantial increase in interest earnings. This growth can be attributed to our strategic shift in investment strategy from a cash-based approach to highly liquid and safe governmental investment pools, which have consistently provided the best yield for municipal governments over the past 12 months. Our city increased its interest earnings over the past four quarters by capitalizing on favorable market conditions and carefully evaluating investment options. In Q3'22, interest earned amounted to \$20,165, followed by a notable surge to \$87,696 in Q4'22. This upward trend continued in Q1'23, with interest earnings reaching \$138,745. However, the real highlight emerged in Q2'23, surpassing expectations with interest earnings of \$479,681. In addition, Q3'23 has proven to increase interested earning over last quarter. With the political environment on the rise and possible an outbreak of COVID rumoring, the city is taken a conversative poster in Q4 projection earnings because the next quarter market factors are uncertain.

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Portfolio Summary Management Report

This quarterly report is in full compliance with the investment policy and strategy as established for the City of Hutchins and the Public Funds Investment Act (Chapter 2256, Government Code).

Beginning Book Value 4/1/2023	\$ 56,833,915	Ending Book Value 6/30/2023	\$ 72,788,418
Beginning Market Value 4/1/2023	\$ 56,833,915	Ending Market Value 6/30/2023	\$ 72,788,418
		Accrued Interest Receivable	\$ -
		Unrealized Gain/Loss on 6/30/2023	\$ -
WAM at Beginning Period Date*	87 days	WAM at Ending Period Date*	89 days
		Change in Market Value	\$ 15,954,504

Average Yield to Maturity for quarter
Average Yield to Maturity 6 month T-Bill

0.015%
 0.005%

Maria Joyner, Financial Services Director

James Quin, City Administrator

*WAM-Weighted Average Maturity

"Change in Market Value" is required data, but will primarily reflect the receipt and expenditure of the City's funds from quarter to quarter.

City of Hutchins
 Q3 - Investment Report - City Portfolio
 April 1, 2023 - June 30, 2023

City's Portfolio	Holding	Beg. Quarter Cash Balance 04/1/2023	Deposits/Withdrawals	Quarter Ending Cash Balance	Quarterly Interest Earned	Year-to-Date Interest Earned
Depository Bank (Local Bank)						
	General Fund Account	1,286,383	(242,225)	1,044,158	308	925
	Water/Sewer Account	194,024	449,103	643,126	54	416
	Payroll Account	15,957	3,759	19,716.44	1	2
	Economic Development Corporation (EDC)	242,592	329,950	572,542.46	45	
	Debt Service Fund	368,397	19,969	388,366	8	24
	2020 Tax Notes	4.98	-	4.98	-	-
Total Portfolio		2,107,358	560,556	2,667,914	416	1,365
Governmental Investment Pools						
TEXPOOL						
	TEXPOOL General Fund	275,693	3,418	279,111	3,418	8,829
	TEXPOOL Water/Sewer Fund	1,832,861	22,725	1,855,586	22,725	58,273
	TEXPOOL General Fund - Economic Development Corporation (EDC)	976,924	12,112	989,037	12,112	31,245
	Total TEXPOOL	3,085,478	38,255	3,123,733	38,255	98,347
TexSTAR						
	General Fund - Unrestricted	487,833	6,087	493,921	6,087	14,452
	Water/Sewer Interest & Sinking	301,412	3,761	305,173	3,761	8,929
	General Fund - Restricted	34,610	432	35,042	432	1,025
	Certificates of Obligation - Series 2009	400,096	4,993	405,089	4,993	11,853
	Certificates of Obligation - Series 2010	540	7	547	7	16
	Tax Note - Street Improvement - Series 2017	252,246	3,148	255,394	3,148	7,473
	Tax Note-Municipal Facilities - Series 2017	467,268	5,831	473,099	5,831	13,843
	Certificates of Obligation - Public Safety Building - Series 2018	2,444,466	30,504	2,474,970	30,504	72,417
	Certificates of Obligation Water & Sewer Master CIP - Series 2019	4,932,050	61,545	4,993,596	61,545	149,726
	Construction Fund - Series 2022	2,717,233	33,907	2,751,140	33,907	80,498
	Total TexStar	12,037,755	150,215	12,187,970	150,215	360,232
Texas Class						
	Tax Note, Series 2023 - Streets		1,000,000	1,000,000	5,424	5,424
	Combination Tax & Revenue Certificate - Southern WasteWater		14,500,000	14,500,000	64,992	64,992
	General Fund - Maintenance & Operations	18,563,263	240,719	18,803,982	240,719	422,982
	General Fund - Economic Development Corporation (EDC)	2,528,071	32,783	2,560,854	32,783	60,854
	City Hall - General Obligation	10,820,978	(368,025)	10,452,953	137,023	183,001
	Water & Sewer - Capital Fund	7,691,012	(200,000)	7,491,012	64,992	189,102
	Total Texas Class	39,603,324	15,205,477	54,808,800	545,933	926,354
	Grand Total Governmental Investment Pools	54,726,556	15,393,948	70,120,504	734,403	1,384,933
City's Total Portfolio Holdings		56,833,915	15,954,504	72,788,418	734,819	1,386,298

City of Hutchins
Inventory Holdings Report- City Portfolio

6/30/2023	Settle Date	Cusip	Security Type	Par	Rate	Settlement Date	Maturity	Purchase Yield	Purchase Principal	Original Prem/Disc	Current Book	Market Price	Gain/Loss	Original D-T-M	Current D-T-M	Amortization	Percent of Total Holdings
	6/30/2023		DDA	2,667,914	0.001%	6/30/2023	7/1/2023	0.001%	2,667,914	-	2,667,914	100%	-	1	1	0.00	4%
	6/30/2023		Pools	70,120,504	0.003%	6/30/2023	7/1/2023	0.003%	70,120,504	-	70,120,504	100%	-	1	1	0.00	96%
				<u>72,788,418</u>					<u>72,788,418</u>		<u>72,788,418</u>					<u>0.00</u>	<u>100%</u>

TEXPOOL, TexasClass and TexSTAR Pools
 DDA=Demand Deposit Account



STAFF REPORT

MEETING DATE: 11/13/23

MEETING TYPE: City Council

SUBMITTED BY: Robert McWayne

AGENDA CAPTION: Acquiring surveying service from the apparent low bidder The Whitman Land Group, LLC for the annexation of Post Oak Road.

Background Information

Staff has acquired three quotes to survey Post Oak Road from the current city limits in front of the Lancaster Lake Club to Fulghum Road. The Whitman Land Group, LLC came in at \$15,991.00, Dunaway came in at \$18,000.00, and Schaumburg and Polk came in at \$24,000.00. This survey will need to be done to show the legal meets and bounds of the roadway and ROW that we intend to annex.

Budget Implications

\$15,991.00

Operational Impact

The City will not be able to proceed with the annexation process.

Legal Review

The attorney has prepared the resolution

Staff Recommendation

Staff recommends approving resolution XXXX-XXXX

Supporting Documentation and Attachments

**CITY OF HUTCHINS, TEXAS
RESOLUTION NO. R 2023-1150**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, ACCEPTING BIDS RECEIVED IN ASSOCIATION WITH THE SURVEY OF POST OAK ROAD; AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE APPARENT LOW BIDDER WHITMAN LAND GROUP, LLC, IN AN AMOUNT NOT TO EXCEED \$15,991.00; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City accepted bids to prepare a survey of Post Oak Road for the annexation of Post Oak Road to the City of Hutchins; and

WHEREAS, the City has accepted the apparent low bidder Whitman Land Group, LLC, for the survey of Post Oak Road; and

WHEREAS, the City Council of the City of Hutchins finds it in the best interest to the residents and businesses of the City of Hutchins to accept the apparent low bidder, Whitman Land Group, LLC, to survey Post Oak Road in an amount not to exceed \$15,991.00;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUTCHINS, THAT:

SECTION 1. The City, acting through its governing body, hereby confirms that it accepts the bids that were received, opened publicly, and read aloud by the City’s Department of Public Works on November 13, 2023.

SECTION 2. The City, acting through its governing body, hereby confirms that it awards the survey of Post Oak Road to the apparent low bidder Whitman Land Group, LLC, at the submitted low bid amount of \$15,991.00 as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

SECTION 4. For and on behalf of the City Council, the City Administrator is hereby authorized to negotiate and execute a contract with Whitman Land Group, LLC, in the amount not to exceed \$15,991.00 for the survey of Post Oak Road.

SECTION 5. This Resolution shall become effective immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Hutchins, Texas, this the 13th day of November 2023.

CITY OF HUTCHINS, TEXAS

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary
(11-23-2023:4856-9209-5626, v. 1)

EXHIBIT "A"
Whitman Land Group, LLC Bid

To:
Robert McWayne
Assistant Director of
Public Works
City of Hutchins
321 N. Main Street
Hutchins, TX 75141
rmcwayne@cityofhutchins.org

From:
Mark D. Yale, RPLS
Senior Discipline Lead
Associate

Dunaway Location
550 Bailey Avenue
Suite 400
Fort Worth, TX 76107

Survey Firm #10098100

Dunaway No. P009678.001

July 26, 2023

Reference: Proposal for Professional Land Surveying Services
Post Oak Road Survey for Annexation in Hutchins, TX

Robert:

Dunaway Associates, LLC (Dunaway) is pleased to submit for your consideration this proposal for professional land surveying services on the above-referenced project. Based on recent information provided to Alan Moore, we believe the following scope of professional services will address the needs of City of Hutchins (Client) for this project.

Executive Fee Summary

1. 6 Boundary Exhibits with Metes & Bounds Descriptions		
.....		\$18,000 Lump Sum
Total:	Lump Sum Services	\$18,000.00

FEE

Dunaway proposes to provide the scope of work described below for a fee as shown above, plus a 2% administrative fee, direct expenses, and any applicable State Sales Tax. All administrative and application fees required by review authorities will be paid by the Client and are not included in Dunaway’s proposed fee. Please find attached to this proposal our Standard Terms & Conditions for professional services, which is also a part of this proposal.

DETAILED SCOPE OF WORK

1. 6 Boundary Exhibits with Metes & Bounds Descriptions (Taxable) - Dunaway will provide six (6) signed/sealed Boundary Exhibits and Metes & Bounds Descriptions for the portion of Post Oak Road Right-of-Way from the Hutchins city limit to Fulghum Road, shown on attached Exhibit A. Dunaway estimates up to 6 properties will require Boundary Exhibits with Metes & Bounds Descriptions, fee covers preparation up to 6 Boundary Exhibits with Metes & Bounds Descriptions at \$3,000 each. If it is later determined that additional boundary exhibits are necessary, it will be considered additional services and, at Client option, can be authorized either by a contract amendment or a separate proposal.

Proposal for Professional Services
Post Oak Road Survey for Annexation in Hutchins, TX
Page 2

As owner of the property, Client hereby authorizes Dunaway to enter upon the property for the purposes of conducting Dunaway's work thereon. If Client is not the owner of the property, Client is to obtain such authorization from owner and provide same in writing to Dunaway at the same instance that Dunaway receives the written notice to proceed.

Only those services specifically mentioned in the Scope of Work section are offered as a part of this proposal.

SCHEDULE

Dunaway can complete and deliver the signed/sealed survey exhibits within 4 weeks of receipt of signed authorization to proceed.

ADDITIONAL SERVICES

The following is a partial list of services that are not anticipated to be required for your project and are not proposed to be provided by Dunaway. Some of these services can be provided if they are desired or if it is later determined that they are necessary. In general, additional services will be authorized either by a contract amendment or a separate proposal.

1. Construction Staking – This service can be provided, if requested, and will be authorized under a separate proposal or included in this one at your option.
2. Surveying services such as topographic surveys and as-built surveys, platting and easements by separate instrument are not included unless included in SCOPE OF WORK.

Proposal for Professional Services
Post Oak Road Survey for Annexation in Hutchins, TX
Page 3

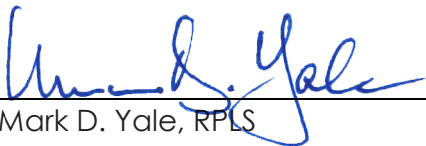
If this proposal meets with your approval, please sign below, and return one copy to our office as our notice to proceed. We appreciate the opportunity to assist you with this Project and look forward to its success.

Respectfully submitted,

DUNAWAY ASSOCIATES, LLC,
a Texas limited liability company

Agreed & Accepted

CITY OF HUTCHINS



Mark D. Yale, RPLS
Senior Discipline Lead | Associate

By: _____
Name: _____
Title: _____
Date: _____

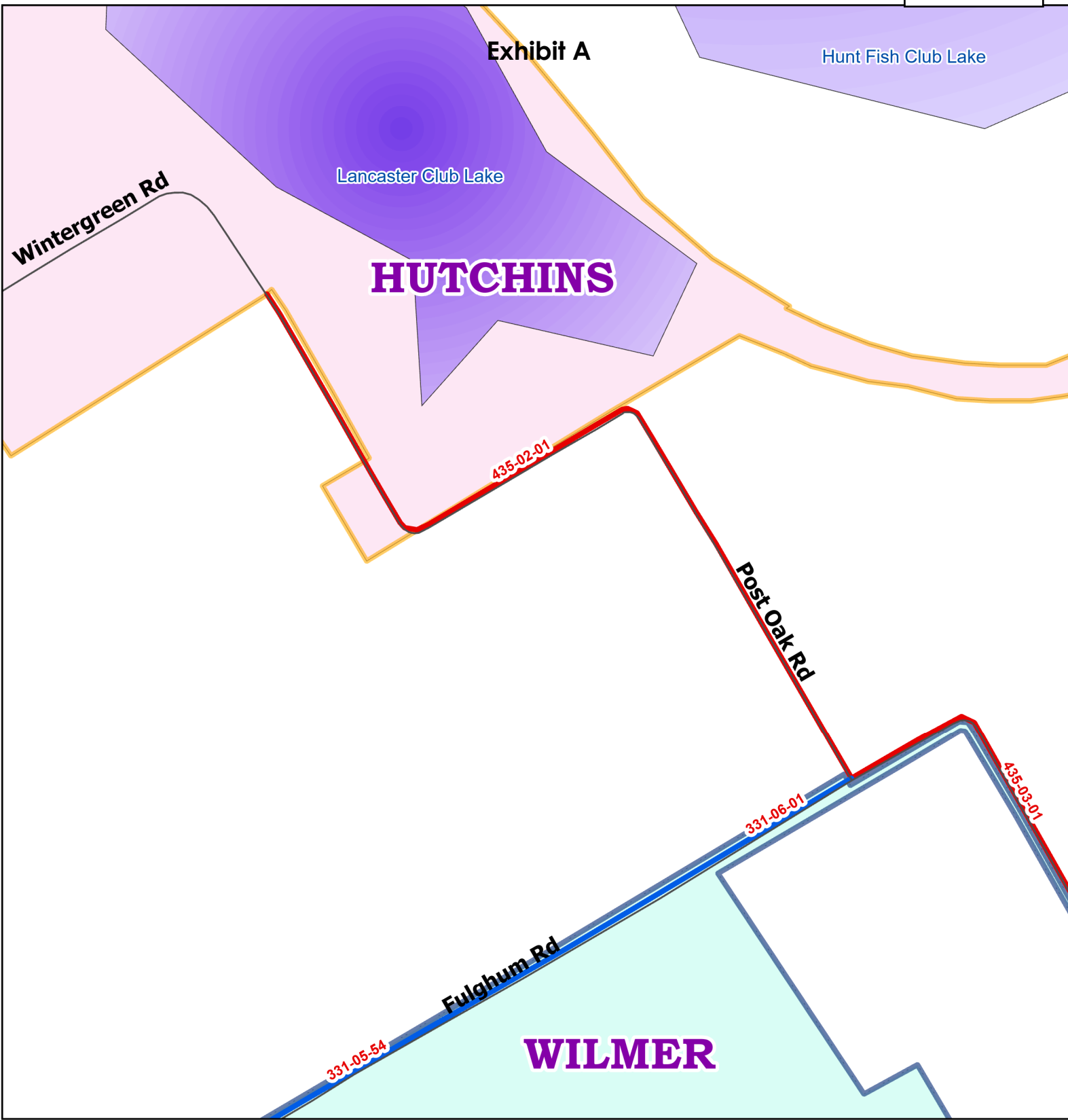
Attachments: Exhibit A
Standard Terms & Conditions
Texas Sales and Use Tax Exemption Certification

RAM/MDY/eed

G:\Production8000\009600\9678\001\Project Management\Proposal\P009678.001 Post Oak Road Survey Proposal 2023-0725.docx

Post Oak Road - Hutchins Area

Section F, Item 5.



- Index
Type
- A
 - AB
 - C



These Standard Terms & Conditions are attached to and fully incorporated into the Base Contract. The Base Contract, together with these Standard Terms and Conditions, is sometimes called this "Agreement" herein.

I. **Basis of Compensation.** Professional Services shall be billed monthly and based upon either a percent complete for lump sum tasks or Dunaway Associates, LLC's Standard Hourly Bill Rate Schedule. This Schedule is updated annually in January.

2023 STANDARD HOURLY BILL RATE SCHEDULE

STAFF TYPE	HOURLY BILL RATE
Administrative	\$90.00 - \$160.00
Information Systems	\$110.00 - \$121.00
Marketing/Business Development	\$95.00 - \$275.00
Financial	\$128.00 - \$286.00
Civil Technician	\$116.00 - \$127.00
Civil Designer	\$65.00 - \$152.00
Graduate Engineer	\$138.00 - \$158.00
Project Engineer	\$154.00 - \$211.00
Managing Engineer	\$175.00 - \$193.00
Technical Engineer	\$226.00 - \$303.00
Project Surveyor	\$150.00 - \$180.00
Survey Party Chief	\$138.00 - \$175.00
Survey Technician	\$95.00 - \$141.00
Survey Field Assistant	\$73.00 - \$91.00
GIS	\$105.00 - \$171.00
Planner	\$115.00 - \$243.00
Planning Analyst	\$116.00 - \$142.00
Landscape Designer	\$118.00 - \$145.00
Landscape Architect	\$121.00 - \$250.00
Environmental Scientist	\$116.00 - \$154.00
Intern	\$75.00 - \$83.00
Construction Inspectors	\$129.00 - \$150.00
Discipline Lead	\$154.00 - \$270.00
Engagement Manager	\$238.00 - \$350.00
Line of Business Manager/Executive	\$227.00 - \$330.00
Regional Manager/Executive	\$280.00 - \$308.00
Managing Partner	\$390.00 - \$429.00
Chairman/President	\$475.00 - \$550.00

II. **Limitation of Liability.** To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability in the aggregate of Dunaway Associates, LLC and Dunaway Associates, LLC's officers, directors, partners, employees, agents and Dunaway Associates, LLC's Subconsultants, and any of them, to Client and anyone claiming by, through or under Client, for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or this Agreement from any cause or causes, including **but not limited to the negligence, professional errors or omissions**, strict liability or breach of contract, or warranty express or implied of Dunaway Associates, LLC or Dunaway Associates, LLC's officers, directors, partners, employees, agents or Dunaway Associates, LLC's Subconsultants or any of them, shall not exceed the total compensation received by Dunaway Associates, LLC under this Agreement.

III. **No Consequential Damages.** Notwithstanding any other provision of this Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or Dunaway Associates, LLC, their employees, agents, or subconsultants. Consequential damages include, but are not limited to, loss of use and loss of profit.

IV. **No Duties to Third Parties.** The services to be performed by Dunaway Associates, LLC under this Agreement are intended solely for the benefit of the Client. Nothing contained herein shall confer any rights upon or create any duties on the part of Dunaway Associates, LLC toward any person or persons not a party to this Agreement including, but not limited to any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of them.

V. **Claims Limited to Insurance Coverage.** The Client and Dunaway Associates, LLC waive all rights for damages, each against the other and against the contractors, subconsultants, agents, and employees of the other, but only to the extent covered by property insurance during or after construction, except such rights as they may have to the proceeds of such insurance. The Client and Dunaway Associates, LLC each shall require similar waivers from their contractors, subconsultants, and agents.

VI. **General Contractor Duties and Responsibilities.** Neither the professional activities of Dunaway Associates, LLC, nor the presence of Dunaway Associates, LLC or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Dunaway Associates, LLC and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Client agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, Dunaway Associates, LLC and Dunaway Associates, LLC's Subconsultants **shall be indemnified and shall be made additional insureds** under the General Contractor's general liability insurance policy.

VII. **Cancellation.** It is understood that this Agreement may be canceled at any time by the Client and payment shall be due based on the method of computation in Section I only on Work performed or expenses incurred to date of cancellation.

VIII. **Payments and Interest.** Client recognizes that prompt payment of Dunaway Associates, LLC's invoices is an essential aspect of the overall consideration Dunaway Associates, LLC requires for providing service to Client. Client agrees to pay all charges not in dispute within 30 days of date of invoice. All accounts past due 60 days from date of invoice shall pay interest at the rate of 18% (1.5% per month), or maximum allowable by law, whichever is lower, of the past due amount per month.

- IX. Cessation of Services.** If Client, for any reason, fails to pay the undisputed portion of Dunaway Associates, LLC's invoices within 30 days of invoice date, Dunaway Associates, LLC has the right to cease work on the project and Client shall waive any claim against Dunaway Associates, LLC for cessation of services, **and shall defend and indemnify Dunaway Associates, LLC** from and against any claims for injury or loss stemming from Dunaway Associates, LLC's cessation of service. Client shall also pay Dunaway Associates, LLC the cost associated with premature project demobilization. In the event the project is remobilized, Client shall also pay the cost of remobilization, and shall renegotiate appropriate contract terms and conditions, such as those associated with budget, schedule or scope of service.
- X. Legal Action.** Subject in all respects to the other provisions of this Agreement, in the event legal action is necessary to enforce the payment terms of this Agreement, the prevailing party in any such action shall be entitled to collect any judgment or settlement sums due, plus reasonable attorney's fees, court costs and other reasonable expenses incurred by the prevailing party in connection with such collection action.
- XI. Dispute Resolution and Termination.** In the event any bill, or portion thereof, is disputed by Client, Client shall notify Dunaway Associates, LLC within 10 days of receipt of the bill in question, and Client and Dunaway Associates, LLC shall work together to resolve the matter within 60 days of its being called to Dunaway Associates, LLC's attention. If resolution of the matter is not attained within 60 days, either party may terminate this Agreement in accordance with conditions indicated in the termination of agreement clause specified in Section VII.
- XII. Mediation.** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and Dunaway Associates, LLC agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The Client and Dunaway Associates, LLC further agree to include a similar mediation provision in all agreements with independent contractors and subconsultants retained for the Project and to require all independent contractors and subconsultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.
- XIII. Surveying Regulations.** Land Surveying in the State of Texas is regulated by the Texas Board of Professional Engineers and Land Surveyors, 1917 S. Interstate 35, Austin, Texas 78741, telephone number (512) 440-7723.
- Dunaway Associates, LLC Survey Firm Registration #10098100
Dunaway | UDG Survey Firm Registration #10065900
- XIV. Reimbursable Expenses.** Other charges which may apply to the Client's project include:
- A. Expenses included in Fee: mileage, parking, tolls, internal printing, aerials, postage, FedEx/Courier, courthouse records, tax certificates, on the job meals, invoicing time, field supplies, and other local travel expenses.
 - B. All direct non-labor expenses, including fees paid on behalf of Client, bid advertising, airfare, lodging, and rental cars are charged at actual cost.
 - C. For services not offered as a part of Dunaway Associates, LLC's normal services, the Client may, at his option, contract directly with the third party for such services or through Dunaway Associates, LLC. If such contracts are made through Dunaway Associates, LLC, a service charge of 10% will be added to the net amount of such contracts.
- Dunaway reserves the right to amend this fee policy at any given time.
- XV. Certifications, Guarantees and Warranties.** Dunaway Associates, LLC shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence Dunaway Associates, LLC cannot ascertain.
- XVI. Assignment.** Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by the Consultant as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.
- XVII. Miscellaneous.**
- A. Intellectual Property. The drawings, specifications and any other work products (including but not limited to software programs and electronic media of any description) prepared by Dunaway Associates, LLC for this project shall remain the property of Dunaway Associates, LLC and Dunaway Associates, LLC shall retain all common law, statutory and other reserved rights, including the copyright, where applicable.
 - B. Entire Agreement. This Agreement is the entire agreement between the parties with respect to the subject matter of this Agreement and shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and assigns.
 - C. Counterparts. This Agreement shall be executed with one or more separate counterparts, each of which, when so executed, shall, together, constitute and be one in the same instrument.
 - D. Governing Law and Venue. This Agreement shall be governed by, and construed in accordance with the substantive laws of the State of Texas and the parties hereto agree and consent that venue for all purposes shall be in Tarrant County, Texas.
 - E. Proposal Expiration. The terms stated in the proposal are valid only if executed by both parties within 90 days from the date of the proposal.
 - F. Free Publicity. Dunaway Associates, LLC has the right to photograph the above named project and to use the photos in the promotion of the professional practice of Dunaway Associates, LLC through advertising, public relations, brochures or other marketing materials. Should additional photos be needed in the future, the Client agrees to provide reasonable access to the project.

Texas Sales and Use Tax Exemption Certification

This certificate does not require a number to be valid.

Name of purchaser, firm or agency	
Address (Street & number, P.O. Box or Route number)	Phone (Area code and number)
City, State, ZIP code	

I, the purchaser named above, claim an exemption from payment of sales and use taxes (for the purchase of taxable items described below or on the attached order or invoice) from:

Seller: _____


Street address: _____ City, State, ZIP code: _____

Description of items to be purchased or on the attached order or invoice:

Purchaser claims this exemption for the following reason:

I understand that I will be liable for payment of all state and local sales or use taxes which may become due for failure to comply with the provisions of the Tax Code and/or all applicable law.

I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

 Purchaser	Title	Date
--	-------	------

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.

THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.

Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

**This certificate should be furnished to the supplier.
Do not send the completed certificate to the Comptroller of Public Accounts.**



October 23, 2023

City of Hutchins
Attn: Robert McWayne
321 N. Main Street
Hutchins, TX 75141

RE: Proposal for Land Surveying Services – Post Oak Road Annexation

Dear Mr. McWayne,

Thank you for the opportunity to provide a proposal for the land surveying services necessary to provide boundary information and exhibits for the proposed annexation of Post Oak Road.

Whitman Land Group (WLG) is registered with the Texas Board of Professional Engineers and Land Surveyors (Firm No. 10194810). Our RPLS, Trisha Lund, has over 30 years' experience working with municipalities and other governmental agencies on a varied array of infrastructure projects. She will be responsible for all aspects of the survey work performed and will be signing and sealing the final survey documents.

Scope of Work: WLG will prepare a right-of-way to right-of-way survey with sufficient evidence from adjoining properties to determine the limits of the right-of-way of Post Oak Road from just south of Wintergreen Road to the intersection of Fulghum Road (approximately 1.0 miles) as illustrated on map included in Attachment "A". Improvements and utilities will not be located as a part of this survey. WLG will deliver to the City of Hutchins a metes and bounds description and survey plat of the Post Oak Road right-of-way signed and sealed by our RPLS. All title research necessary to determine the limits of the roadway will be provided by WLG and is included in this proposal.

Fee: \$15,991.00 - payable in full upon delivery of signed and sealed survey exhibits acceptable to the City of Hutchins).

We understand timing critical, and we have the personnel and resources available to begin authorized activities immediately. We estimate 3-weeks from the date of authorization to proceed to provide deliverables to the City of Hutchins.

1251 Pin Oak Rd, Suite 131, Katy, TX 77494 | 832-730-5321

Dallas: 9330 LBJ Freeway, Suite 900, Dallas Texas 75243 | 972-318-9688
Austin: 1 Chisolm Trail Road, Suite 450, Round Rock, Texas 78681 | 512-580-4979
San Antonio: 401 E Sonterra Blvd, Suite 375, San Antonio, Texas 78258 | 210-634-1736

To communicate your acceptance, please sign and return the Authorization to Proceed included as the last page in the following exhibits.

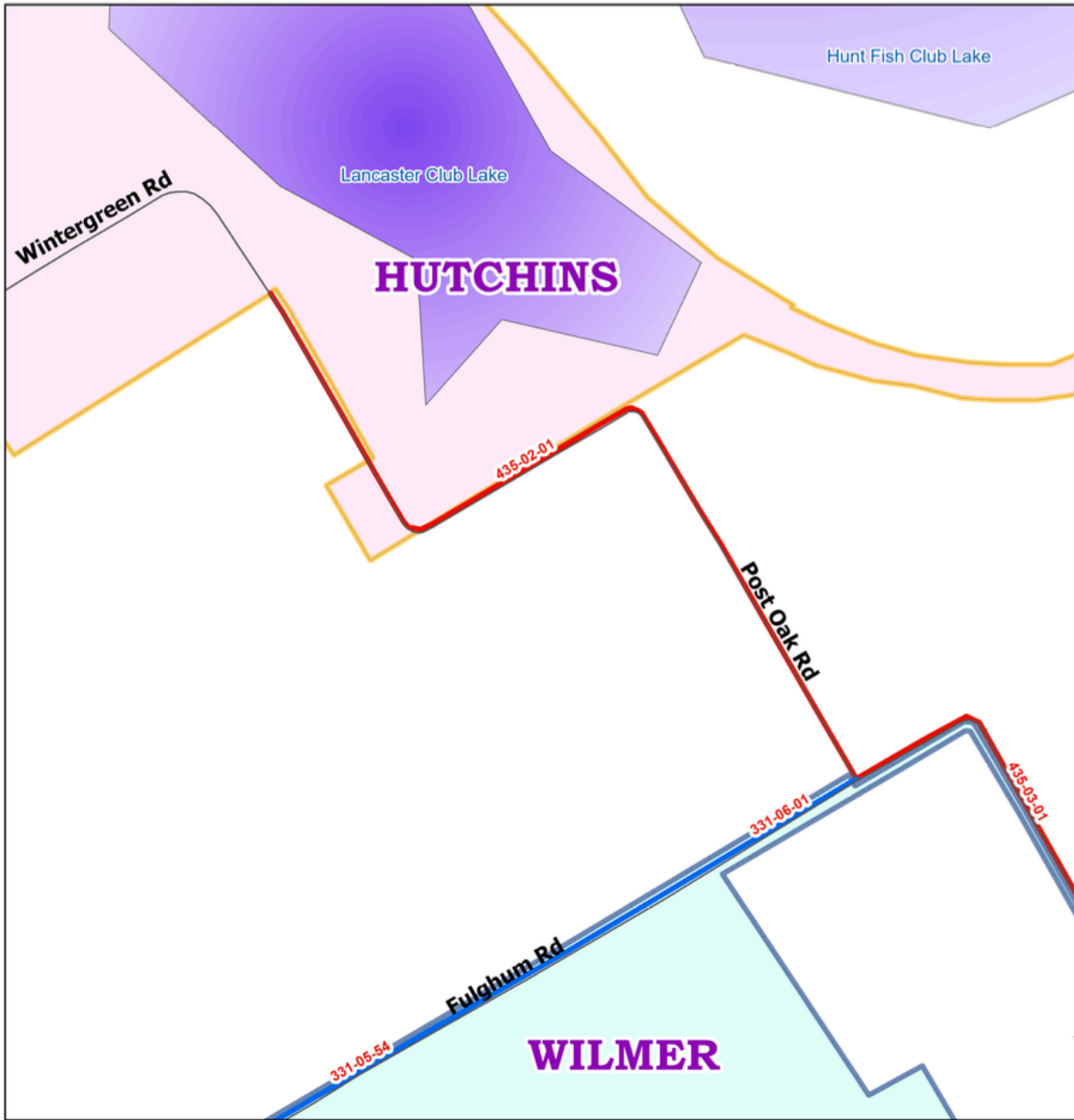
Sincerely,



Matthew Whitman
Managing Member

Attachment 1

Limits of the Post Oak Road Right-of-Way to be Surveyed
Just south of Wintergreen Road to the intersection of Fulghum Road (approximately 1.0 miles)



- Index
Type
A
AB
C



**Acceptance of Proposal
Proposal for Land Surveying Services – Post Oak Road Annexation
City of Hutchins**

The above fees, scope of work, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Accepted By:

Signature

Name

Title

Date

September 26, 2023

Mr. Robert McWayne
Assistant Director of Public Works
321 Main Street
Hutchins, TX 75141

Re: DRAFT Proposal for Surveying Services
Preparation of Post Oak Road Description Documents

Dear Robert:

Schaumburg & Polk, Inc (SPI) is pleased to provide this proposal to the City of Hutchins, (City) for the provision of professional surveying services associated with the preparation of documents for Post Oak Road right-of-way (ROW) dedication descriptions within Dallas County and the City Extra Territorial Jurisdiction (ETJ). The property shown on the map represents the area in the City ETJ and in Dallas County that is being considered for this project. In order to accomplish preparing the descriptions, various surveying services, including the preparation of the appropriate documents, needs to be provided.

Scope of Services

The scope of services to be performed by SPI is summarized below.

- ❖ Participate in conferences with representatives of the City.
- ❖ Perform research for available property records with regard to the affected properties.
- ❖ Perform field work, as required, to locate the existing property corners, road edges, and fence lines.
- ❖ Prepare a base map and boundary solution (set down) for each property along the project limits.
- ❖ Prepare documents describing approximately 3,400 linear feet of a 50' ROW for Post Oak Road along the existing County ROW or 15' strips of land on each side of Post Oak Road, if property monumentation is not found with the survey.
- ❖ Prepare metes and bounds legal descriptions for this section of Post Oak Road as directed by the City.
- ❖ Prepare parcel maps (exhibit drawings) for the Post Oak Road descriptions.
- ❖ Provide and submit to City review copies of descriptions and exhibits.
- ❖ Incorporate the City's review comments and prepare final descriptions and exhibits.
- ❖ Provide hard copy of descriptions and exhibits to the City.
- ❖ Provide descriptions in Word format and exhibits in PDF format to the City.

Assumptions

- ❖ Record information accurately defining the existing Post Oak Road ROW, City limit lines, and ETJ lines may not be available. Therefore, the descriptions may be based on field survey data and City direction.
- ❖ This scope does not include extensive historical record research, which may be added as

- ❖ additional services (if field survey is inconclusive).
- ❖ The description will begin on the north in the approximate area of the southern boundary of Lancaster Country Club Lake property line, at a point as directed by the City.
- ❖ The dedication documents will end on the south in the approximate area of the northern ROW line of the E. Fulghum Road and Post Oak Road intersection, as directed by the City.

Fees

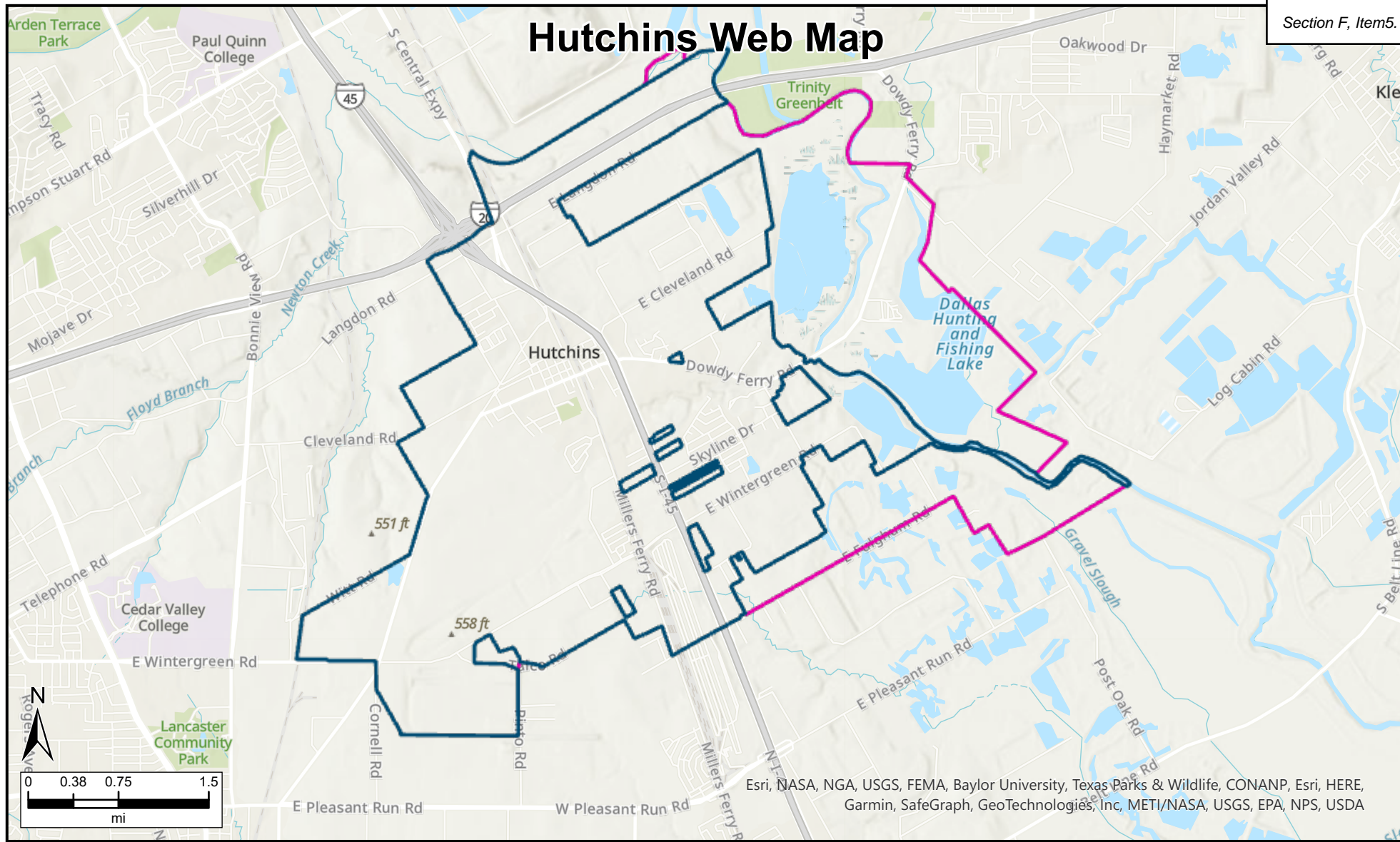
SPI will complete the aforementioned scope of services for an hourly not to exceed (HNTE) fee of \$24,000.00.

Terms and Conditions

Terms and conditions for the surveying services to be provided for this project will be included in the Professional Services Agreement for this project. Acceptance of this proposal will be confirmed by the execution of the Professional Services Agreement for the project. Receipt of a fully executed copy of the Professional Services Agreement will be considered authorization for SPI to proceed with the project.

DRAFT

Hutchins Web Map



Esri, NASA, NGA, USGS, FEMA, Baylor University, Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

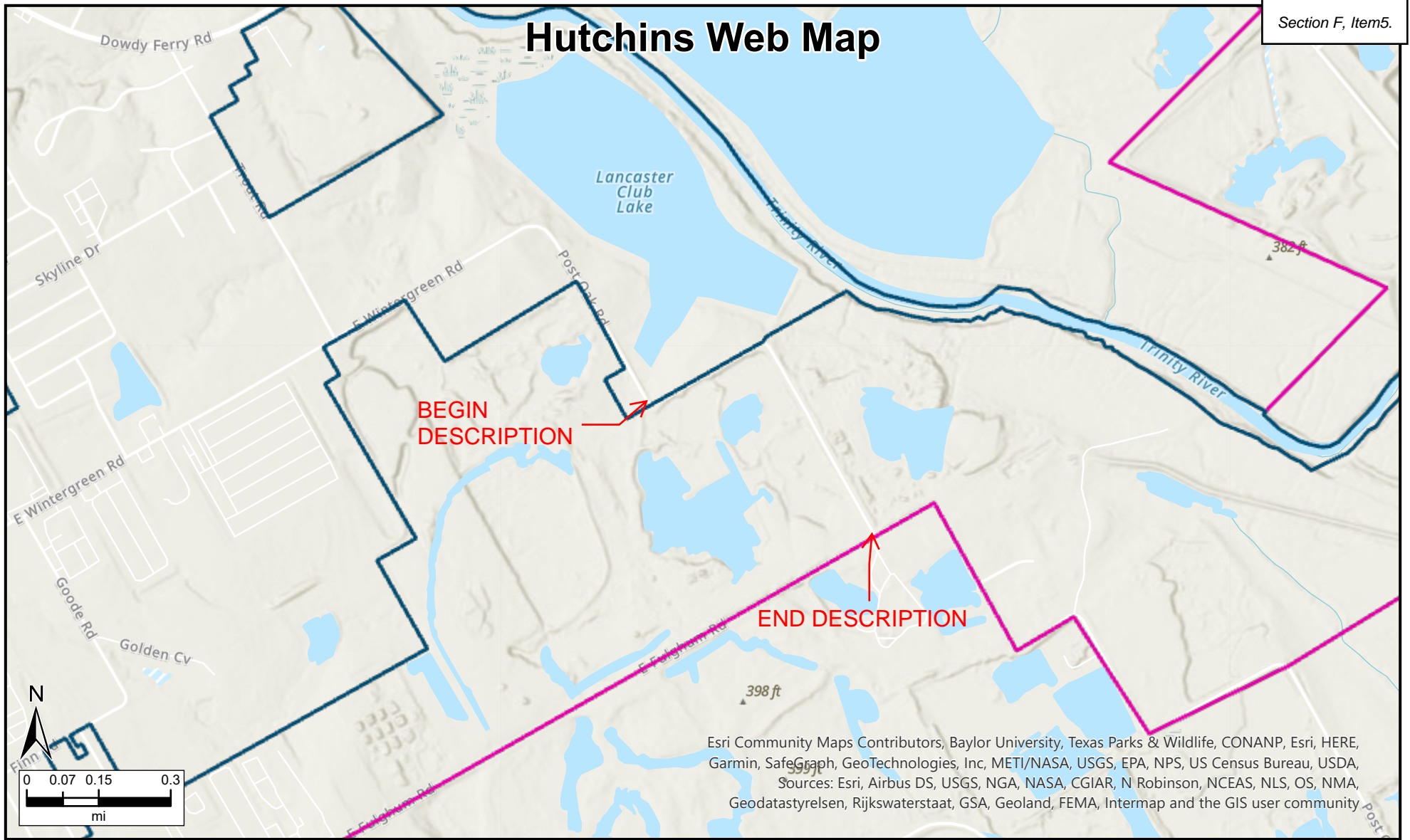
Legend

- Hutchins ETJ Boundary
- City Limit (Outline)





Hutchins Web Map

Section F, Item 5.



Esri Community Maps Contributors, Baylor University, Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodastyrrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community

Legend

-  Hutchins ETJ Boundary
-  City Limit (Outline)





STAFF REPORT

MEETING DATE: November 13, 2023

MEETING TYPE: City Council Meeting

SUBMITTED BY: Wanda Randle

AGENDA CAPTION: Discuss and consider Ordinance 2023-1185 OF THE CITY OF HUTCHINS, TEXAS AMENDING CHAPTER 1, "GENERAL PROVISIONS", OF THE CODE OF ORDINANCES OF THE CITY OF HUTCHINS, TEXAS, BY AMENDING ARTICLE 1.11 "PUBLIC PARKS", TO ADD DIVISION 3 "KEEP HUTCHINS BEAUTIFUL ADVISORY BOARD".

Background Information

During the May 2, 2023, Parks and Recreation Board meeting, the Board supported the development of a Keep Hutchins Beautiful. The Committee will have the purpose of becoming an affiliate member of Keep Texas Beautiful and assist the City of Hutchins with litter prevention and beautification initiatives.

Budget Implications

The application fee to become an affiliate member of Keep Texas Beautiful is \$200, and annual dues are \$175. KTB affiliate signs are \$100 each plus shipping. A budget will need to be established specifically for Keep Hutchins Beautiful, which will need to include these as well as event costs.

Republic Services, as part of its contract, will provide the City \$5,000 annually for community projects. These funds are designated for Keep Hutchins Beautiful.

Operational Impact

NA

Legal Review

Complete

Staff Recommendation

Staff recommendation to approve board.

Supporting Documentation and Attachments

Ordinance

**CITY OF HUTCHINS, TEXAS
ORDINANCE NO. 2023-1185**

AN ORDINANCE OF THE CITY OF HUTCHINS, TEXAS AMENDING CHAPTER 1, “GENERAL PROVISIONS”, OF THE CODE OF ORDINANCES OF THE CITY OF HUTCHINS, TEXAS, BY AMENDING ARTICLE 1.11 “PUBLIC PARKS”, TO ADD DIVISION 3 “KEEP HUTCHINS BEAUTIFUL ADVISORY BOARD”, TO PROVIDE FOR ITS CREATION AND PURPOSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Hutchins, Texas is a Type A general law municipality located in Dallas County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council has determined it is in the public’s best interest to establish the “Keep Hutchins Beautiful Advisory Board” as an advisory board dedicated to promoting public interest in the improvement of the physical environment of the City; and

WHEREAS, this advisory board will support programs dedicated to preserving and enhancing the City’s natural environment and quality of life for citizens living and working within the City of Hutchins by conducting community activities promoting Keep Texas Beautiful programs involving litter prevention, minimization of solid waste, beautification, education, and general community improvement regarding the natural surrounding environment.

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

SECTION 1. Chapter 1, “General Provisions”, of Article 1.11 “Public Parks”, of the City of Hutchins Code of Ordinances is hereby amended by adding a new Division 3 “Keep Hutchins Beautiful Advisory Board”, to read as follows:

“Division 3. Keep Hutchins Beautiful Advisory Board.

Sec. 1.11.041. – Creation and purpose.

There is hereby created a Keep Hutchins Beautiful Advisory Board. Which shall consist of seven (7) regular voting members and three (3) alternates and three non-voting student members for the purpose of preserving and enhancing the City’s natural environment and quality of life for citizens living and working within the City of Hutchins, by conducting community activities promoting Keep Texas Beautiful programs involving litter prevention, minimization of solid waste, beautification, education, and general community improvement regarding the natural surrounding environment.

Sec. 1.11.042. – Membership and Terms.

(a) Appointed by majority vote of the City Council, this advisory board shall consist of seven (7) regular members and three (3) alternates designated by places 1 through 7 and three (3) non-voting student members selected by the Board members. The term for each regular Board member shall be two (2) years with a six-year term limit. Student members are selected for a school-year term. Members must meet the following qualifications:

- (1) Shall have resided in the corporate limits of the city or owned and/or operated a business located within the corporate limits of the city for at least one (1) year;
- (2) Continue residency or own and/or operate a business in the city during the term of office; and
- (3) Must demonstrate their civic interest, general knowledge of the City while understanding the importance of maintaining the environment and beautification, independent judgment, and the ability and availability to prepare for and attend regular meetings.

(b) The City Council shall appoint a replacement to fill any vacancy for the unexpired term of the members whose place has become vacant.

(c) The City Council shall have the authority to remove any member at any time, with or without cause.

Sec. 1.11.043. – Organization and officers.

(a) During the first meeting of the operational year, the Parks and Recreation Board shall determine, by simple majority vote, a Chair, Vice Chair, Secretary, and Historian. These officers will serve terms in accordance with the City of Hutchins Boards and Commissions Policies and Procedures Handbook.

(b) Chair: the Chair shall preside at all meetings of the Board members. The Chair shall perform all duties incidental to the office and advise such action as may be deemed likely to increase the objectives of the Board Members.

(c) Vice Chair: The Vice Chair shall act in the absence of the Chair, and in the absence or disability of the four (4) officers named, a member of the Parks and Recreation Board shall be chosen to act temporarily.

(d) Secretary: The Secretary shall work with the Staff Liaison to keep minutes and attendance of the meetings and shall notify officers and members of meeting times and locations when necessary.

(e) Historian: The Historian shall keep account of all community activities along with putting together a digital scrapbook of yearly activities and events of the organization. The Historian will also work with the Staff Liaison to make publications through social media, press releases, and event fliers.

Sec. 1.11.044. – Meetings.

(a) Regular meetings of the Board shall be held monthly. The Board will set meeting dates and items at the first meeting of the operating year. Special meetings may be called by the Staff Liaison, Chair, or on petition of the majority of current Board members. The Chair may call special meetings as necessary.

(b) The Board shall conduct meetings and govern its proceedings according to the City Council's adopted rules of order, abide by the Texas Open Meetings Law, and shall keep a record of its proceedings, including votes and attendance, and shall submit these records to the City Secretary's office.

(c) Members of the Board shall not take any action unless a quorum is present. A quorum shall consist of four (4) members. Each member, including the Chair, is entitled to one (1) vote, and action of the Board shall require a majority of those members present.

(d) The City Manager shall designate a City employee to serve as Staff Liaison to the Board.

Sec. 1.11.045. – Powers and duties.

(a) This board is advisory only and shall not have any decision-making authority.

(b) The Board shall have the following duties:

(1) Encourage the reduction of litter in the city, and problems associated therewith;

(2) Recommend to the City Council city-wide refuse policy, environmental policy, and beautification programs for the community as may be needed;

(3) Recommend to the city council the priorities of programs adopted in accordance with this section;

(4) Evaluate effectiveness of such policies which may be adopted by the city council in accordance with this section;

(5) Recommend enforcement and additional program alternatives;

(6) Complete summer, spring, and fall activities;;

(7) Monitor program accomplishments from data collected and examined under the Keep Texas Beautiful and Keep America Beautiful System Guidelines; and

(8) Carry out such other tasks as the city council, parks board and city administrator may designate.

(c) To accomplish these duties, the Board may establish subcommittees as necessary. Any subcommittee shall be chaired by a Keep Hutchins Beautiful Advisory Board member, and an unspecified number of community volunteers may be chosen by the Board as working subcommittee members.

Sec. 1.11.046 – 1.11.049. – RESERVED.”

SECTION 2. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 3. This Ordinance shall be cumulative of all provisions of ordinances and of the City of Hutchins City Code, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4. All rights and remedies of the City of Hutchins are expressly saved as to any and all violations of the provisions of the City of Hutchins City Code or any other ordinances regulating noise which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5. The City Secretary of the City of Hutchins is hereby directed to publish this ordinance as required by law.

SECTION 6. This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, ON THIS 13TH DAY OF NOVEMBER 2023.

CITY OF HUTCHINS, TEXAS

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Joseph J. Gorfida, Jr., City Attorney



STAFF REPORT

MEETING DATE:	November 6, 2023
MEETING TYPE:	City Council Meeting
SUBMITTED BY:	Cynthia Olguin, City Secretary
AGENDA CAPTION:	Discuss and consider Resolution R2023-1151 of the City of Hutchins, Texas rescheduling and/or canceling regular city council meetings in 2024 that conflict with a holiday.

Background Information

The council will consider any holidays that may conflict with the 2024 city council meeting schedule and adopt, by resolution, alternate meeting dates for 2024.

Budget Implications

N/A

Operational Impact

N/A

Legal Review

N/A

Staff Recommendation

Staff recommends approval.

Supporting Documentation and Attachments

Proposed meeting schedule and Resolution

**CITY OF HUTCHINS
RESOLUTION NO. R 2023-1151**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS,
RESCHEDULING AND/OR CANCELING REGULAR CITY COUNCIL MEETINGS
THAT CONFLICT WITH HOLIDAYS FOR 2024; AND PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, the City Council of the City of Hutchins, Texas holds its regularly scheduled meetings on the first and third Monday of each month at 6:30 p.m;

WHEREAS, the City Council of the City of Hutchins, Texas will allow for recesses for the calendar year 2024 holidays, holidays recognized and observed in accordance with the City of Hutchins' Personnel Manual, and regular city council meetings that conflict with a holiday shall be rescheduled or canceled as set forth in Exhibit A;

WHEREAS, all other regular city council meetings shall be held as regularly scheduled on the first and third Monday of each month; and

WHEREAS, the City Council finds that it is necessary to approve a modified city council meeting schedule for the calendar year 2024.

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

Section 1: The City Council of the City of Hutchins finds it is in the best interest of the city to reschedule or cancel regular city council meetings that conflict with holidays for the calendar year 2024, as shown in Exhibit A.

Section 2: This resolution shall become effective immediately upon its passage.

**PASSED AND APPROVED BY THE HUTCHINS CITY COUNCIL on this 13th day of
November 2023.**

APPROVED:

MARIO VASQUEZ, MAYOR

ATTEST:

CYNTHIA OLGUIN, CITY SECRETARY

EXHIBIT A
2024 City Council Meeting Schedule

HOLIDAY	COUNCIL MEETING DATE	RESCHEDULED COUNCIL MEETING DATE
January 1, 2024 <i>New Year's Day</i>	January 1, 2024 Monday	January 2, 2024 Tuesday
January 15, 2024 <i>Martin Luther King Jr. Day</i>	January 15, 2024 Monday	January 16, 2024 Tuesday
March 29, 2024 <i>Good Friday</i>		
May 27, 2024 <i>Memorial Day</i>		
June 19, 2024 <i>Juneteenth</i>		
July 4, 2024 <i>Independence Day</i>		
September 2, 2024 <i>Labor Day</i>	September 2, 2024 Monday	September 3, 2024 Tuesday
November 28-29, 2024 <i>Thanksgiving Holiday</i>	November 18, 2024 Monday	2nd November meeting Cancelled
December 24-25, 2024 <i>Christmas Holiday</i>	December 16, 2024 Monday	2nd December meeting Cancelled



CITY COUNCIL AGENDA STAFF REPORT

MEETING DATE: November 13, 2023
SUBMITTED BY: Stacey Hickson
Fire Chief

AGENDA ITEM:

AGENDA CAPTION: Discuss and consider Resolution R2023-1152 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, APPROVING THE AGREEMENT BY AND BETWEEN THE CITY OF HUTCHINS AND EMERGICON, LLC FOR AMBULANCE BILLING SERVICES, SUPPLEMENTAL REVENUE COLLECTIONS AND ELECTRONIC RECORDS MANAGEMENT AND PROVIDING FOR AN EFFECTIVE DATE.

Background Information

The City has worked with Change Health Care for the purpose of ambulance billing since 2022. In order to improve services to our customers and revenue collections the City has reviewed other EMS billing options. We are requesting to change billing companies that fit more into our current budget for billing ambulance fees.

Emergicon is the company that would provide the best value to the City largely due to their expertise in successful, Texas-based billing and the presence of strong confidence indicators associated with the ancillary services. Being based in North Texas, City staff has access to immediate, face-to-face support if needed. Emergicon intentionally employs the business practice of case managers personally reviewing billing documents as opposed to relying too heavily on software programs to complete the billing process. This practice frequently leads to a higher successful billing rate and subsequent revenue levels. Emergicon has impressive reporting and analytics capabilities. Emergicon offers customizable collection practices, which can be tailored to the desired level of collections aggressiveness.

Emergicon employs approximately 100 professionals who serve more than 200 EMS providers across Texas with a volume of more than 250,000 billable transports annually. Emergicon specializes in Texas EMS billing and does not offer operations outside of the State of Texas. Some of Emergicon’s clients include the cities of Desoto, Duncanville, Ferris, Coppell, Burleson, Midlothian, and Mansfield.

Over the past 17 years, Emergicon proven processes **has increased reimbursements for every one of their Texas clients by an average of more than 30%**. The following table presents these results for selected Emergicon clients:



CITY COUNCIL AGENDA STAFF REPORT

Selected Clients	Cash Per Transport Pre-EMERGICON	Cash Per Transport Post-EMERGICON	% Increase
City of Coppell	\$493	\$562	14.08%
City of Jacksonville	\$300	\$420	40.0%
City of Deer Park	\$371	\$515	38.8%
Santa Fe Texas Fire & Rescue	\$459	\$540	17.6%
City of Dickinson	\$280	\$347	38.6%
City of Mansfield	\$347	\$444	27.9%
City of Mineral Wells	\$292	\$396	35.6%
The City of Bedford Fire	\$411	\$457	11.2%
The City of Cleburne Fire	\$348	\$468	24.5%
Goliad Co EMS	\$334	\$452	25.3%
The City of Lancaster Fire	\$269	\$368	36.8%
Robertson Co EMS	\$424	\$653	54.0%
The City of Sugar Land Fire	\$417	\$469	12.7%
City of Port Aransas	\$334	\$487	45.8%
Average Increase			30.93%

Staff is recommending that Council authorizes the City Administrator to enter into an agreement with Emergicon. Attached is the proposed contract and resolution for your consideration.

Budget Implications

Operational Impact

Legal Review

Supporting Documentation and Attachments



CITY COUNCIL AGENDA STAFF REPORT

Resolution
Agreement for Specialized Professional Ambulance Billing Services
Business Associate Agreement

**CITY OF HUTCHINS, TEXAS
RESOLUTION NO. R2023 - 1152**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, APPROVING THE AGREEMENT FOR SPECIALIZED PROFESSIONAL AMBULANCE BILLING SERVICES BY AND BETWEEN THE CITY OF HUTCHINS AND EMERGICON, LLC, FOR AMBULANCE BILLING SERVICES; SUPPLEMENTAL REVENUE COLLECTIONS AND ELECTRONIC RECORDS MANAGEMENT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hutchins has been provided with the Service Agreement between the City of Hutchins and Emergicon, LLC to provide ambulance billing services for the City of Hutchins (the “Agreement”); and

WHEREAS, upon full review and consideration of the Agreement and all matters related thereto, the City Council is of the opinion and finds that the terms and conditions thereof should be approved and that the City Administrator should be authorized to negotiate and execute the Agreement and all related documents thereto on behalf of the City of Hutchins, Texas;

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

SECTION 1. The City Administrator is authorized to negotiate and execute the Agreement, attached hereto, and incorporated herein as Exhibit “A” and all related documents thereto on behalf of the City of Hutchins.

SECTION 2. This Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Hutchins, Texas, on the 13th day of November 2023.

CITY OF HUTCHINS, TEXAS

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary
(11-06-2023: 4887-9215-5534, v. 1)

EXHIBIT "A"
Service Agreement

AGREEMENT FOR SPECIALIZED PROFESSIONAL AMBULANCE BILLING SERVICES

This Agreement is entered into this _____ day of _____, 2023, by and between Emergicon, LLC, a Texas limited liability corporation, and City of Hutchins, a Texas municipality, (“Client”).

RECITALS

WHEREAS, Texas Government Code, Chapter 791, authorizes the formulation of interlocal agreements between and among local governments; and

WHEREAS, Emergicon has a contract with City of Coppell awarded under Request for Proposals RFP# 182 Ambulance Debt Collections.

WHEREAS, Client provides emergency and/or non-emergency ambulance services for which it is eligible for payment or reimbursement by patients, insurance carriers, governmental agencies, employers and others;

WHEREAS, Emergicon is engaged in the business of providing third-party billing and accounts receivable management specialized professional services for ambulance and emergency medical service organizations;

WHEREAS, Client desires to utilize Emergicon for billing and claims management services for its organization; and

WHEREAS, Emergicon is willing to provide such specialized professional services upon the terms and conditions provided in this Agreement;

THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the sufficiency of which is acknowledged, the parties, intending to be legally bound, agree as follows:

1. Appointment. Client hereby engages Emergicon to perform the Specialized Professional Services set described in Paragraph 2 of this Agreement and Emergicon accepts such appointment and agrees to provide Specialized Professional Services in accordance with the terms of this Agreement. Client agrees that this appointment is exclusive and that Client will not enter into any contract, agreement, arrangement or understanding with any other person or entity, the purpose of which is to provide for the same or substantially similar specialized professional services during the term of the Agreement, nor will Client bill for any transport without first giving notice to Emergicon of its intent to do so. For purposes of the appointment, the recitals set forth above are incorporated by reference and made a part of this Agreement as if set forth in their entirety.

2. Specialized Professional Services. Emergicon agrees to perform the following duties (collectively referred to as the “Services”) on behalf of Client:

- a. Provide Client with instructions for the submission of Required

Documentation to Emergicon. For purposes of this Agreement, “Required Documentation” shall consist of prehospital patient care reports (PCRs) (also referred to as “trip sheets” or “run reports”), medical necessity certification statements (PCSs or CMNs) (required for non-emergency transports), patient authorization signatures (sometimes referred to as “assignment of benefits forms” or “signature forms”), Advance Beneficiary Notices of Non-coverage (ABNs) and other documentation necessary for Emergicon to perform the Specialized Professional Services under this Agreement. All Required Documentation must be signed in accordance with applicable laws, regulations and payer guidelines.

b. Review the Required Documentation, based on the information supplied by Client, for completeness and eligibility for submission to request reimbursement and to verify compliance under applicable laws, regulations or payer rules, based upon Emergicon’s understanding of said laws, regulations or payer rules applicable to the date the ambulance services were rendered. If any Required Documentation is missing, Emergicon will request necessary documentation from Client.

c. Promptly prepare and submit claims deemed complete and eligible for reimbursement by Emergicon in conformance with this Agreement for electronic or paper submission to the appropriate party or payer based on the information supplied by Client. In the event that Emergicon deems the Required Documentation to be incomplete or inconsistent, Emergicon will notify Client that additional information may be required to process the claim, and Emergicon will return any or all of the Required Documentation to Client that Emergicon determines may be incomplete or inaccurate and will not be responsible to submit any claims with insufficient documentation. Emergicon will make a decision regarding the appropriate coding and payer for submission of the claim based on the information supplied by Client. Client understands and acknowledges that not all accounts will satisfy the eligibility requirements of all payers, and that it might not be possible to obtain reimbursement in all cases. Emergicon makes no representation or warranty that all claims are payable or will be paid, and Client agrees to abide by Emergicon’s decisions with regard to proper coding and payer based on the information provided to Emergicon by Client.

d. Promptly post payments made on Client’s behalf by patients, insurers and others.

e. Unless otherwise directed by Client, make reasonable efforts for the collection of co-payments, deductibles or other patient balances, to include the preparation of invoices and a maximum of three contact attempts to patients, supplemental insurers or other financially responsible parties at industry-appropriate intervals

f. Perform follow-up for a commercially reasonable period of time following the initial billing date on all open accounts. After this follow-up period, Emergicon will either return the accounts to Client or forward the accounts to a collection agency of Client’s choosing. Client and/or its designated collection agency shall bear all costs and liabilities of collections activities and collection agency charges.

g. Provide monthly reports to Client, which include, at a minimum, cash received, accounts receivable and balance summary. Emergicon shall furnish those reports to

Client.

h. Notify Client of any overpayments and/or credit balances of which Emergicon becomes aware that must be refunded by Client. Client bears sole responsibility for the refund of any overpayments or credit balances to Medicare, Medicaid, patients, or other payers or insurers, and agrees to make such refunds when and within the time frames required by law. Emergicon may, at its option, assist Client in processing such refunds, but all refunds are to be made solely with Client's funds, and Emergicon has no responsibility to make such refunds unless and until Client transfers such funds to Emergicon for this purpose. Emergicon shall not advance funds on behalf of Client for this purpose. Client acknowledges that federal law requires that any overpayments made by Medicare or any other federal health care program be refunded within 60 days of the identification of any such overpayments.

i. If Client desires that its patients be able to pay their accounts utilizing credit cards, establish a credit card merchant account and related capabilities to permit Client's patients to pay via any major credit card. Emergicon shall in its sole discretion determine which credit cards it will accept. Any credit card processing fee shall be the responsibility of Client, unless offset by a fee to the patient.

j. Assist Client in preparing, filing and updating the information on its Medicare, Medicaid or other insurer provider enrollment forms, as well as responding to required revalidations of Client's provider enrollment status. Client bears the sole responsibility to ensure that its Medicare, Medicaid or other insurer provider enrollment forms are submitted and updated in accordance with federal and state law, regulations and policies, and that they do so in a timely manner. If Client's status as a Medicare or Medicaid provider has lapsed prior to the effective date of this Agreement, Emergicon shall re-enroll Client for an additional fee as described in paragraph 10(e).

3. Specifically Excluded Duties of Emergicon. Notwithstanding any provisions of this Agreement to the contrary, Emergicon shall *not* be responsible to:

- a. Initiate or pursue litigation for the collection of past due accounts.
- b. Invoice for Client's non-ambulance medical transportation services, including but not limited to mobile integrated health programs, paratransit services, wheelchair van, invalid coach services, litter vans and stretcher cars, unless specific arrangements are made otherwise.
- c. Negotiate any checks made payable to Client, though Emergicon may receive funds as an agent of Client for transmittal to Client where permitted by Client;
- d. Accept reassignment of any benefits payable to Client;
- e. Provide legal advice or legal services to Client, any of Client's patients or payers, or anyone acting on Client's behalf;
- f. Obtain any prior authorizations on behalf of Client, or obtain a Physician

Certification Statement or other Certificate of Medical Necessity on behalf of Client.

4. Responsibilities of Client. Client agrees to do the following, at its sole cost and expense:

a. Provide Emergicon with all Required Documentation, as set forth in Paragraph 2(a), above, as well as the following data: Patient Name, Address, and contact phone number, Date of Birth, Date of Service, Patient Medical Condition, basis for ALS dispatch, Reason for Transport, Services Rendered (including assessments, interventions and other care), Origin and Destination with accompanying Zip Code, Transport Destination with accompanying Zip Code, Odometer Reading/Loaded Mileage (to the nearest tenth of a mile), and all relevant insurer or payer information, including identity of payer, group or plan numbers, patient's Insurance/Medicare/Medicaid Number, and all other relevant information and ensure that this data and the information contained on the Required Documentation is complete and accurate. Emergicon reserves the right to modify any Required Documentation or data at any time in accordance with new or revised payer requirements and will provide a copy of any such revisions to Client in writing. Client acknowledges that Emergicon must rely upon the accuracy and completeness of the forms, signatures and other documentation provided to it by Client to allow Emergicon to perform the Specialized Professional Services specified in this Agreement. Emergicon is not able to verify the accuracy or completeness of the Required Documentation provided by Client. By forwarding any such documentation to Emergicon, Client expressly represents and warrants that any such documentation is complete and accurate, and that Emergicon may rely upon the completeness and accuracy of any such documentation in performing its Services under this Agreement. Client bears sole responsibility for the claim submissions made by Emergicon on its behalf based upon the aforementioned documentation submitted to Emergicon by Client, and, notwithstanding any other term or provision of this Agreement, Client will, to the extent allowed by law, reimburse Emergicon, for any losses arising from billing or claim submission decisions made by Emergicon based on documentation submitted to Emergicon by Client if such documentation is later determined to be incomplete or inaccurate.

b. Maintain its qualifications to provide ambulance services, including any required local, state and/or federal licenses, permits, certificates or enrollments (collectively, "Licenses"), and to remain in good standing with Medicare, Medicaid and all other state and federal health care programs. Client shall provide copies of all current Licenses, including renewals, to Emergicon. Client shall be responsible to maintain a National Provider Identifier (NPI) number and to update the information associated with its NPI. Client expressly represents and warrants that it will not forward accounts for processing by Emergicon if the account is ineligible for payment or reimbursement, or if Client is ineligible for payment by any payers or insurers as a result of its licensure status, exclusion or other sanction with such payer or insurer, or other legal impediment, and that it will promptly notify Emergicon of any suspension or revocation of any required license, permit, certification or enrollment, or exclusion from any state or federal health care program or any change in ownership or management of Client. Failure of Client to give the notice required by this section may result in Client having to refund paid claims; Client agrees and understands that any such refund will be the sole responsibility of Client and that any fee due from Client to Emergicon for the billing of such claims will remain due and payable to Emergicon regardless of Client's repayment obligation.

c. Provide Emergicon with a copy of all required Licenses, permits, certificates and enrollments as referenced in Paragraph 4(b), and forward updates of these documents to Emergicon as they are renewed.

d. Provide Emergicon with odometer readings or other documentation of mileage accepted by the payer on all calls reflecting loaded mileage (from the point of patient pickup to the destination) recorded in tenths of a mile as required by Medicare guidelines.

e. In accordance with appropriate payer guidelines, obtain the signature of the patient or other authorized representative of the patient or otherwise meet the ambulance signature requirements set forth at 42 C.F.R. § 424.36 on each call and forward to Emergicon as part of the Required Documentation.

f. In the event that Client operates a subscription, membership, or resident write-off program, client represents and warrants that its program is actuarially sound in accordance with the guidance of the Office of Inspector General (OIG) and operated in accordance with any applicable state laws, regulations or guidelines. Emergicon will bill in accordance with the terms of such program, provided that Client furnishes those terms to Emergicon in writing. Client is responsible to inform Emergicon of its patients who are members or subscribers of Client's membership or subscription program. Notwithstanding any other provision of this Agreement, Client agrees to reimburse Emergicon, to the extent allowed by law, for any losses arising from Client's membership or subscription program in the event that Client's subscription or membership program is not actuarially sound as set forth in applicable OIG guidance or is not permissible under State law, regulation or policy.

g. If Client is a party to any ALS-BLS "joint billing" or "bundle billing" agreement, Client shall be responsible to provide Emergicon with a copy of such agreement. Client also agrees to submit a PCR from the other party to the joint billing agreement along with the Required Documentation.

h. Obtain a completed and valid PCS or CMN form on all trips where required by law and provide copies of all PCS or CMN forms to Emergicon as part of the Required Documentation.

i. Provide Emergicon with a copy of all Client rate schedules, contracts or agreements which pertain to Client's billing or charges for services.

j. Notify Emergicon of any or all changes in billing charges for service or changes in any of Client's billing policies or contracts not later than ten (10) days after the Client approval date of said changes.

k. Report all payments made directly to Client within twenty-four (24) hours of Client's receipt of same, excluding Saturday, Sunday, and official government holidays.

l. Cooperate reasonably with Emergicon so as to enable Emergicon to meet its obligations under this Agreement. In the event that Client's approval is required in order for Emergicon to fulfill any obligations it may have under this Agreement, Client shall not

unreasonably withhold, condition or delay its approval.

m. In writing, notify Emergicon of any customized needs (reporting, scheduling, support for Texas Ambulance Supplemental Payment Program (TASPP), etc.). Client understands that the processing of customized needs may entail additional charges to Client by Emergicon.

n. Designate a contact person or position, or official designee, authorized to represent the business interests on behalf of Client, who can promptly respond to any questions raised by Emergicon, or who can execute required forms and other documents necessary to the provision of Services by Emergicon under this Agreement.

o. Agree to permit Emergicon to provide training to Client personnel in the event that Emergicon deems such training to be necessary and/or desirable at a cost to be mutually agreed upon by the parties and paid by Client.

p. Provide electronic transfer of PCR data in an acceptable NEMESIS format to Emergicon. Client agrees to bear all cost of the development and implementation of the electronic software “bridge” as mutually agreed upon by the parties and in conjunction with Emergicon information technology personnel, representatives, or contractors.

q. To the extent allowed by law, Client will defend and hold harmless Emergicon and each of its officers, directors, employees, attorneys, and agents, to the extent allowed by applicable law, from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action which arise or result from:

- i. Any negligent acts or omissions resulting in claims or liabilities due to an incurable breach or violation of covenant, obligation, or agreement of Client set forth in this agreement and any incurable breach or inaccuracy of any of the representations or warranties made by Client in this agreement or in performing its responsibilities under this agreement.
- ii. Both parties agree that defense of breach or violation of the agreement by Client under this Section 4(q) does not constitute the Client’s incurrence of a debt in violation of Article XI Section 7 A. of the Texas Constitution and defined by the Supreme Court in *Tex. & New Orleans R.R. Co. v. Galveston County*, 169 S.W.2d 713, 715 (Tex. 1943).

5. Record Ownership and Access.

a. Client understands that all documentation provided to Emergicon by Client, whether in paper and/or electronic form, is for the sole and express purpose of permitting Emergicon to provide Specialized Professional Services under this Agreement. It is Client’s responsibility to maintain all of its documents and business records, including copies of any documents or records provided to Emergicon (“Client-Provided Records”). Emergicon does not act as Client’s records custodian.

b. As a convenience to Client, Emergicon will, during the term of this Agreement, produce patient care reports in response to routine attorney requests (with appropriate patient authorization) for such documentation, if those records are in Emergicon's possession at the time it receives such attorney request. For subpoenas, as well as any requests beyond those deemed by Emergicon to be routine attorney requests, Emergicon may forward such requests to Client for disposition. Emergicon may set a reasonable fee for such service and collect said fee for the services set forth in this paragraph. Any such fee will be the obligation of the patient or the party requesting on their behalf, and Client will not be responsible for any failure of a patient or party to pay said fee.

c. During the term of this Agreement, Emergicon shall, upon Client's written request, provide to Client, in electronic format and within 14 days of receipt of such written request, copies of any Client-Provided Records furnished to Emergicon by Client, and to any Claim Adjudication Documents generated by and received from insurers or payers in response to claims submitted by Emergicon on Client's behalf. "Claim Adjudication Documents" shall consist of the documents generated secondary to claim submission in the normal course of claim processing by payers and insurers, including Explanation of Benefits (EOB) documents, Remittance Advice (RA) documents, Medicare Summary Notice (MSN) documents, denials, and other documents of a similar type or nature.

d. Any documents, data, records, or information compiled in the course of Emergicon's provision of Specialized Professional Services under this Agreement, other than those Client-Provided Records and Claim Adjudication Records defined in Paragraphs 5(a) and (c) above, shall be the sole and exclusive property of Emergicon and shall be considered the business and/or proprietary records of Emergicon. Emergicon shall have no obligation to furnish any such business or proprietary records of Emergicon to Client, and Client shall have a right of access only to the Client-Provided Records and Claim Adjudication Documents as defined in Paragraphs 5(a) and (c), above.

e. If Client or a third party requests any documents or records to which Client or the third party has a right of access under Paragraphs 5(a) and (c) of this Agreement, and such documents cannot be provided to Client in electronic form, Emergicon may charge Client the per-copy amount for medical records permitted under the Texas Medical Board rules at the time of Client's request.

f. Should this Agreement be terminated for any reason, all documents and records to which Client has a right of access under Paragraphs 5(a) and (c) of this Agreement shall be maintained in electronic format at a site convenient to Emergicon for a reasonable amount of time for follow-up of all open claims, but in any event not to exceed ninety (90) days following the effective date of termination of this Agreement. Electronic or paper copies, as per Paragraph 5(e) hereof, of the records to which Client has a right of access under Paragraphs 5(a) and (c) will be made available to Client, at Client's sole cost and expense, in a format acceptable to Emergicon at the Client's written request provided that Client makes such request within thirty (30) days following termination of the Agreement, and provided that Client has no outstanding invoices due to Emergicon at the time of the request. Emergicon shall have absolutely no responsibility whatsoever after termination of this Agreement to provide any monthly reports or other such Emergicon-generated reports to Client.

g. Upon termination of this Agreement, Client is responsible to notify all payers, patients, and other correspondents of its new address, phone and/or fax numbers for billing or payment purposes. Notwithstanding any other provisions of this Agreement to the contrary, Emergicon will not be responsible for mail, deliveries, faxes, messages or other communications sent in Client's name to Emergicon after a 90 day close-out period following the effective termination date of this Agreement, and Emergicon shall have no duty to accept, maintain, copy, deliver or forward any such communications to Client following termination and close-out of this Agreement.

h. Costs for copies of documents required and/or requested by Client beyond the requirement of the normal daily claim handling requirements will be invoiced to Client by Emergicon at a per copy price per the Texas Medical Board rules at the time of the request.

6. Client Accounting and Auditing Requirements. If Client requires Emergicon's assistance in Client's accounting or other internal audits, Emergicon will charge client for said audit support services at its customary rates, to be established by Emergicon from time to time. Upon written request of Client for same, Emergicon shall furnish said rates to Client in writing prior to undertaking any work pursuant to this Paragraph.

7. Term and Termination.

a. This Agreement is for an initial term of one year, and will automatically renew for successive like terms unless terminated hereunder.

b. This Agreement may be terminated with or without cause, by either party, upon written notice to the other party with thirty (30) days' notice and a 90 day close-out period to follow.

c. This Agreement may be terminated by Emergicon immediately upon written notice to Client for any of the following reasons:

- i. If Client makes an assignment indicating Client financial insecurity for the benefit of creditors, files a voluntary or involuntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for the appointment of any receiver of any trustee over its assets or properties, commences any proceeding under any reorganization, arrangement, readjustment of debt or similar law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the other party any such proceeding which remains un-dismissed, un-stayed, or the other party by any act or any omission to act indicated its consent to, approval of or acquiescence in any such proceeding or the appointment of any receiver or of any trustee, or suffers any such receivership or trusteeship to continue undischarged, un-stayed, or un-vacated for a period of thirty (30) days.
- ii. If Client loses its license, permit or certification necessary to do

business, or is excluded from any state or federal health care program.

- iii. If Client fails to perform any of its responsibilities as set forth in this Agreement, fails to pay Emergicon for its Specialized Professional Services within thirty (30) days of the date such payment becomes due, takes any actions which Emergicon, in its sole discretion, determines to be unethical, illegal, immoral or non-compliant, or fails to cooperate with Emergicon in any way that prevents, impedes, obstructs, or delays Emergicon in the performance of the Specialized Professional Services set forth in this Agreement.

d. Upon termination for any reason, Emergicon shall perform follow-up on any open accounts submitted by Emergicon on Client's behalf for a period not to exceed ninety (90) days from the date of termination. Emergicon shall have no responsibility to perform such follow-up in the event Client takes any actions which prevent Emergicon from engaging in such follow-up, or in the event that Client has any unpaid balances due to Emergicon on the date of termination of this Agreement.

e. Upon termination for any reason, Client shall be responsible to pay the fees set forth in Paragraph 10(a), below, for all revenues collected by Emergicon on Client's behalf and for all claims billed on Client's behalf pursuant to Paragraph 10(b), below, during the 90-day follow-up period set forth in Paragraph 7(d), above. After notice of termination is given, all Emergicon invoices are due and payable by Client within five (5) days of same. In the event that Client does not remit payment on any such invoice within five (5) days of the invoice, Emergicon shall have no responsibility to perform any further follow-up on open accounts, notwithstanding the provisions of Paragraph 7(d), above.

8. External and Internal Audits.

a. Client shall immediately notify Emergicon if there has been any prepayment audit or review, post payment audit or review, or any investigation or other formal inquiry into the billing practices of Client and/or Emergicon, or claims submitted by Emergicon on behalf of Client, where such audit or investigation is or appears to have been initiated by any governmental agency, insurer, payer, carrier, Medicare Administrative Contractor, Recovery Audit Contractor, Zone Program Integrity Contractor, Unified Program Integrity Contractor, Medicaid Fraud Control Unit, other Medicare or Medicaid contractor or other agency or entity authorized to carry out any such audit or investigation. This obligation shall survive termination of this Agreement for any reason.

b. The Client bears sole responsibility for obtaining and paying for any legal or consulting assistance necessary in defending itself in any such audit or investigation. Emergicon shall assist Client in producing any records, reports or documents in its possession which pertain to the audit or investigation and may charge Client a reasonable fee, as determined by Texas Medical Board rules at the time of the request, for copying, preparation, assembly or retrieval of such documents or reports. Emergicon shall have no obligation to perform any duties under this Paragraph 8(b) following termination of this Agreement for any reason.

c. Client is solely responsible for repaying any overpayments or recoupments sought or imposed by any insurer, carrier, payer or governmental agency or contractor, including interest, civil monetary penalties, fines or other such assessments.

d. Client understands and acknowledges that Emergicon, as part of its compliance program, may on occasion, and at its sole discretion, perform or contract for the performance of periodic, random, internal audits of its coding, billing and other business practices. These voluntary, internal compliance audits may reveal the existence of Client overpayments, and Client agrees that any such overpayments identified by Emergicon in its internal auditing process will be refunded by Client as described in more detail in Paragraph 2(h) of this Agreement.

9. Disposition of Funds.

a. All funds Emergicon receives from third party payers, patients or other sources for ambulance services provided by Client shall be made in the name Client. Client authorizes Emergicon to endorse, deposit, and otherwise negotiate items as the client's representative and forward monthly to Client or deposit into a Client account as directed by Client.

b. If Client desires that its patients be able to pay their accounts utilizing credit cards, then Emergicon shall accept credit card payments on behalf of Client's patients in a manner that is secure and agreed upon by the parties, and only to the extent possible and feasible, without making Emergicon a collection agency and responsible for compliance with the federal Fair Debt Collection Practices Act and other state or federal debt collection laws.

c. Emergicon shall not accept a reassignment of any benefits where prohibited by law.

10. Compensation.

a. In exchange for the Specialized Professional Services described in this Agreement, Client shall pay Emergicon a fee equivalent to eight percent (8.00%) of all revenues collected by Emergicon on behalf of Client. Credit card payments accepted by Emergicon will be charged an additional two percent (2.0%) unless it has been offset by a payer convenience fee.

b. For all payers that prohibit percentage-based billing arrangements, such as Department of State Health Services' (DSHS') Children with Special Health Care Needs (CSHCN) Services Program, Client shall pay Emergicon a flat fee of \$38 per trip, to be invoiced at the time of billing.

c. If Client instructs Emergicon to collect on an account(s) initially billed by another Contractor or Client's own collection team, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Twenty-two Percent (22%) of the total amount collected on the account.

d. If Client instructs Emergicon to pursue accounts with balances beyond 120 days from the date of transport, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Eighteen Percent (18%) of

the total amount collected on the account from such initial day Emergicon initiates such efforts.

e. If Client instructs Emergicon to place accounts with a 3rd party collection agency to continue beyond 120 days from the date of transport, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Eighteen Percent (18%) of the total amount collected on the account from such initial day Emergicon initiates such efforts.

f. If Client is disenrolled or inactive as a Medicare or Medicaid provider prior to the effective date of this Agreement, Emergicon shall re-enroll Client for an additional fee of \$1,500 for Medicare and \$500 for Medicaid, plus any fees assessed by the Centers for Medicare & Medicaid Services.

g. If Client switches the bank account to which Emergicon has been instructed to deposit collections, Client shall pay Emergicon a one-time fee of \$1,500 to be payable in connection with the next subsequent invoice submitted by Emergicon.

h. Emergicon will retain any commissions owed net cash receipts collected for a given month received directly by Emergicon. Any invoices submitted to Client by Emergicon are subject to Net 30 terms from the date invoiced for any balance owed on accounts. Emergicon reserves the right to add simple interest at an annual rate of 18%, compounded daily, on all where Emergicon has not received payment within (30) days of the invoice date.

i. In the event that Client is obligated to refund any overpayment or credit balance as set forth in Paragraph 2(h), fees paid to Emergicon by Client for such refunded overpayment or credit balance shall not be credited or refunded to Client unless Emergicon bears responsibility for the overpayment or credit balance.

j. Client agree to reimburse \$35 for any checks returned for insufficient funds as a result of this Agreement.

k. Emergicon agrees to notify client sixty (60) days in advance of any price increase.

11. Indemnification and Insurance.

a. In addition to any specific provisions set forth in this Agreement, to the extent allowed by law, Client shall reimburse Emergicon and/or its employees, officers, directors and agents for any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines, and causes of action to the extent caused by any willful or grossly negligent act or omission on the part of Client or its agents, servants, volunteers, contractors or employees including but not limited to incomplete or inaccurate patient care reports, improperly completed PCS forms, or other documentation issues that make it impossible for Emergicon to properly code and bill claims. This provision shall include all costs and disbursements, including without limitation court costs and reasonable attorneys' fees.

b. In addition to any specific indemnification provisions set forth in this

Agreement, to the extent allowed by law, Emergicon shall hold harmless, indemnify and defend Client and/or its employees, officers, directors and agents from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action to the extent caused by any willful or grossly negligent misconduct of any Emergicon agent, servant, contractor or employee and which relate to the Specialized Professional Services performed by Emergicon under this Agreement.

c. Emergicon shall maintain errors and omissions insurance coverage in an amount not less than \$4,000,000. Client will be named as an additional insured under the policy and Emergicon shall provide proof of such coverage to Client upon reasonable written request for same.

d. Notwithstanding any other provision of this Agreement, Emergicon shall not be liable for any damages, including but not limited to loss in profits, or for any special, incidental, indirect, consequential or other similar damages suffered in whole, or in part, in connection with this Agreement. Any liability of Emergicon for any disputed billing performed by Emergicon on behalf of Client shall not exceed any amounts paid to Emergicon by Client under this Agreement.

e. Where any provision of this Agreement obligates either party to defend, indemnify, hold harmless, and/or reimburse the other party, such agreement shall include any claims, losses, assessments or damages of any kind, and shall apply equally to that party and to its employees, owners, agents, contractors, attorneys, consultants, accountants, and servants.

f. It is expressly agreed and understood by both parties that certain repayment or refund demands may be made by insurance payers that are not the result of negligence on the part of either party and therefore are not subject to indemnity as set forth in the paragraph 11. Specifically, there may be claims that are audited or reviewed and later determined not to be medically necessary, not to justify the level of care provided and/or billed, or otherwise denied or down-coded to a lower level of service. In this situation, the parties will work together to respond to and appeal such denials, and if determined that repayment is in fact due after the exhaustion of such available appeals, the parties will pay their pro-rata share of refund based on the % fee set forth in paragraph 10.a. above.

12. Confidentiality. Neither Emergicon nor Client shall, during the term of this Agreement or for any extension hereof, for any reason, disclose to any third parties any proprietary information regarding the other party unless required to do so by law, regulation or subpoena. Emergicon acknowledges the Client requirements under the Public Information Act. For purposes of this Agreement, “proprietary information” shall include, but not be limited to, pricing or rate information, information pertaining to contracts with payers, insurers, facilities, ambulance providers, health care systems, or other such parties, audit requests, audit results, billing processes, client lists or other such information.

13. Compliance.

a. Emergicon will conduct its activities and operations in compliance with all

state and federal statutes, rules and regulations applicable to billing activities.

b. Client shall conduct its activities, operations and documentation in compliance with all applicable state and federal statutes, rules and regulations. Client expressly represents and warrants that it is under no legal impediment to billing or receiving reimbursement for its services, and that all of Client's personnel are appropriately licensed and/or certified to furnish the services provided by Client. Client agrees to reimburse Emergicon, to the extent allowed by law, for any and all claims, damages and losses caused by Client sending accounts to Emergicon which are ineligible for billing and/or reimbursement for any reason.

c. Each party is responsible for monitoring and ensuring its own compliance with all applicable state and federal laws and regulations pertaining to billing and reimbursement for its services. However, either party which becomes aware of a violation of any such state or federal laws or regulations or of a questionable claim or claim practice agrees to notify the other party within fifteen (15) days so the other party may appropriately address the matter.

d. The parties represent that they are not the subject of any actions or investigations pertaining to its participation in or standing with any state or federal health care program, are not subject to exclusion from any state and/or federal health care program, and that no persons providing services for which reimbursement is sought were at the time such services were rendered excluded from any state or Federal health care program.

e. The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

15. Non-Engagement of Individuals on the OIG Exclusion List. The parties further warrant that each will take all reasonable steps as set forth by the Office of Inspector General, United States Department of Health and Human Service, to ensure that it does not employ or otherwise engage individuals who have been excluded from participation in federal health care programs. The parties agree to periodically check the OIG exclusion website to ensure that employees, volunteers and all others providing services for each respective organization are not excluded. The website is: <http://exclusions.oig.hhs.gov>.

16. Independent Contractor Relationship. Emergicon and Client stand in an

independent contractor relationship to one another and shall not be considered as joint ventures or partners, and nothing herein shall be construed to authorize either party to act as general agent for the other. There is no liability on the part of Emergicon to any entity for any debts, liabilities or obligations incurred by or on behalf of the Client.

17. Prevention of Performance. If a party’s obligation to perform any duty hereunder is rendered impossible of performance due to any cause beyond such party’s control, including, without limitation, an act of God, war, civil disturbance, fire or casualty, labor dispute, hardware or software failures beyond the party’s control, or governmental rule, such party, for so long as such condition exists, shall be excused from such performance, provided it promptly provides the other party with written notice of its inability to perform stating the reasons for such inability and provided that the party takes all appropriate steps as soon as reasonably practicable upon the termination of such condition to recommence performance.

18. Assignment. This Agreement may be assigned by Emergicon to any successors or assigns of Emergicon with the express written consent of the Client. This Agreement may not be assigned by Client without the express written consent of Emergicon. This Agreement shall be binding upon all successors and assigns.

19. Notices. Notices required to be given under this Agreement shall be made to the parties at the following addresses and shall be presumed to have been received by the other party (i) three days after mailing by the party when notices are sent by First Class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service).

<u>Emergicon:</u>	<u>[client]:</u>
Emergicon, LLC.	City of Hutchins
PO Box 180446	321 N. Main Street
Dallas, TX 75218	Hutchins, TX 75141
Phone: (972-602-2060)	
Fax:(469) 602-5542	

20. Non-Competition and Non-Solicitation Clause. Without prior, written authorization from Emergicon, Client shall not:

a. During the term of this Agreement, or for two (2) years following its expiration or termination for any reason, employ, retain as an independent contractor, or otherwise in any way hire any personnel currently employed or employed at any time during the term of this Agreement by Emergicon without compensation to Emergicon of a placement fee of two times the annual salary paid by Emergicon to such employee at the time such employee left employment of Emergicon.

b. During the term of this Agreement, or for a period of two (2) years following its expiration or termination for any reason, engage in the provision of billing services for any other ambulance service, medical transportation organization, fire department, or emergency medical services organization without compensation to Emergicon equivalent to two times the annual average of fees during the term of this agreement as paid to Emergicon for these services.

Nothing in this Paragraph shall be interpreted to prohibit Client from performing its own in-house billing and/or accounts receivable management following the expiration or proper termination of this Agreement.

21. Governing Law and Forum Selection Clause. This Agreement shall be deemed to have been made and entered into in Texas and shall be interpreted in accordance with the laws thereof, without regard to conflicts of laws principles. The parties expressly agree that the exclusive forum for resolving any legal disputes under this Agreement shall be the state or federal courts serving [Dallas County, Texas]. Client expressly agrees to personal jurisdiction and venue in any such court.

22. Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings, written or oral agreements between the Parties with respect to this subject matter.

23. Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

24. Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

25. Amendments. This Agreement may be amended only by the mutual written agreement of the Parties.

26. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

27. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

28. Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

29. Conflicts of Interests. Special Assessor represents that no official or employee of the City has any direct or indirect pecuniary interest in this Agreement.

30. Force Majeure. The parties shall be excused for the period of any delay in or impossibility of the performance of any obligations hereunder, when prevented from doing so by any cause or causes beyond a party's control, which shall include without limitation: all labor disputes, civil commotion, war, nuclear disturbances, hostilities, sabotage, terroristic acts, governmental

regulations or controls, fire, accident or other casualty, interruption in the supply of any utilities or fuel, inability to obtain any material or services, public health emergencies, or through acts of God.

31. **Regulatory Changes.** The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

32. **Independent Contractor Relationship.** The relationship of the parties is that of independent contractors. Neither party shall be deemed to be the agent nor partner nor fiduciary of the other, and neither is authorized to take any action binding upon the other.

IN WITNESS WHEREOF, the parties have executed this Agreement to commence on the date first above written. Client represents that the individual who has executed this Agreement on behalf of the Client is authorized by Client and by law to do so.

EMERGICON, LLC.

City of Hutchins

By:

By:

Signature

Date

Signature

Date

Christopher Turner

Print Name

Print Name

Founder and CEO

Title

Title

**Business Associate Agreement
Between
City of Hutchins
and Emergicon, LLC**

This Business Associate Agreement (“Agreement”) between Department and Emergicon, LLC is executed to ensure that Emergicon, LLC will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of Department in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

A. General Provisions

1. **Meaning of Terms.** The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

B. Obligations of Business Associate

Emergicon, LLC, agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e- PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
3. Report to Department any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to Department without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Emergicon, LLC agree to the same restrictions, conditions, and requirements that apply to Emergicon, LLC with respect to such information;

5. Make PHI in a designated record set available to Department and to an individual who has a right of access in a manner that satisfies Department's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by Department, or take other measures necessary to satisfy Department's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to Department or an individual who has a right to an accounting within 60 days and as necessary to satisfy Department's obligations under 45 CFR §164.528;
8. To the extent that Emergicon, LLC is to carry out any of Department's obligations under the HIPAA Privacy Rule, Emergicon, LLC shall comply with the requirements of the Privacy Rule that apply to Department when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Emergicon, LLC on behalf of Department, available to the Secretary of the of Health and Human Services for purposes of determining Emergicon, LLC and Department's compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI if Department notifies Emergicon, LLC of any restriction on the use or disclosure of PHI that Department has agreed to or is required to abide by under 45 CFR §164.522; and
11. If Department is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Emergicon, LLC agrees to assist Department in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of Department's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of Department agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting Department of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to Department of any threat of identity theft as a result of the incident.

C. Permitted Uses and Disclosures by Business Associate

The specific uses and disclosures of PHI that may be made by Emergicon, LLC on behalf of Department include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by Department to its patients;
2. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by Department to its patients or to appeal denials of payment for the same; and
4. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that Emergicon, LLC has been engaged to perform on behalf of Department.

D. Termination

1. Department may terminate this Agreement if Department determines that Emergicon, LLC has violated a material term of the Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party’s obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
3. Upon termination of this Agreement for any reason, Emergicon, LLC shall return to Department or destroy all PHI received from Department, or created, maintained, or received by Emergicon, LLC on behalf of Department that Emergicon, LLC still maintains in any form. Emergicon, LLC shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

Agreed to this _____ day of _____, 2023

Emergicon, L.L.C.

City of Hutchins, TX

Signature: _____

Signature: _____



STAFF REPORT

MEETING DATE:	November 13, 2023
MEETING TYPE:	
SUBMITTED BY:	Maria Joyner, Director of Finance
AGENDA CAPTION:	Discuss and consider Resolution R2023-1153 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, ADOPTING THE CITY OF HUTCHINS INVESTMENT POLICY ATTACHED HERETO AS EXHIBIT "A"; DECLARING THAT THE CITY COUNCIL HAS COMPLETED ITS REVIEW OF THE INVESTMENT POLICY AND INVESTMENT STRATEGIES OF THE CITY AND THAT EXHIBIT "A" RECORDS ANY CHANGES TO EITHER THE INVESTMENT POLICY OR INVESTMENT STRATEGIES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Background Information

In accordance with the Public Funds Investment Act, Chapter 2256, of the Texas Government Code, the City must formally adopt an investment policy that must 1) be written, 2) primarily emphasize the safety of principal and liquidity, and 3) address investment diversification, yield, and maturity and the quality and capability of investment management.

The investment policy shall be reviewed and adopted at least annually by resolution of the City Council. The City's Investment Policy may be revised by the Council consistent with changing laws, regulations, or the needs of the City. The policy is reviewed annually by the Director of Finance to determine if any changes or amendments are required.

Director of Finance, Maria Joyner, reviewed the current policy and determined no recommended changes were needed at this time.

Budget Implications

Operational Impact

Legal Review

Staff Recommendation

Staff recommends approval of the Resolution.

Supporting Documentation and Attachments

Resolution R2023-1153 Investment Policy Annual Review 11-13-23

Exhibit A - Investment Policy Annual Review 11-13-23

**CITY OF HUTCHINS
RESOLUTION NO. R2023-1153**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, ADOPTING THE CITY OF HUTCHINS INVESTMENT ATTACHED HERETO AS EXHIBIT "A"; DECLARING THAT THE CITY COUNCIL HAS COMPLETED ITS REVIEW OF THE INVESTMENT POLICY AND INVESTMENT STRATEGIES OF THE CITY AND THAT EXHIBIT "A" RECORDS ANY CHANGES TO EITHER THE INVESTMENT POLICY OR INVESTMENT STRATEGIES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the Public Funds Investment Act, Chapter 2256, of the Texas Government Code, the City Council of City of Hutchins by resolution adopted an investment policy,

WHEREAS, Chapter 2256 of the Texas Government Code requires the City Council to review the investment policies and investment strategies not less than annually and to adopt a resolution or order stating the review has been completed and recording any changes made to either the investment policy or investment strategies.

WHEREAS, upon full review and consideration of the City of Hutchins Investment Policy attached as Exhibit "A", the City Council finds that the Investment Policy attached as Exhibit "A" is hereby approved and adopted and shall govern the investment policies and investment strategies for the City, and shall define the authority of the investment official of the City from and after the effective date of this Resolution.

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

SECTION 1. The City Council of the City of DeSoto, Texas, has completed its review of the Investment Policy and investment strategies and any changes made to either are recorded in Exhibit "A".

SECTION 2. All provisions of the Resolutions of the City of Hutchins in conflict with the provisions of this Resolution be, and the same are hereby, repealed, and all other provisions of the Resolution be, and the same are hereby, repealed, and all other provisions of the resolutions of the City not in conflict with the provisions of this resolution shall remain in full force and effect.

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this Resolution, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said resolution, which shall remain in full force and effect.

SECTION 4. This Resolution shall become effective immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Hutchins, Texas,
this the 13th day of November 2023.

CITY OF HUTCHINS, TEXAS

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary
(10-31-2023:4871-0211-2908, v. 1)

**EXHIBIT “A”
Investment Policy**

4871-0211-2908, v. 1

CITY OF HUTCHINS INVESTMENT POLICY November 13, 2023

I. PURPOSE

The purpose of this Investment Policy is to establish guidelines and policies controlling the investment of the funds for the City of Hutchins (the "City"). The Policy is designed to comply with Chapter 2256 of the Texas Government Code, the Public Funds Investment Act, (the "Act"), which requires the City to adopt a written Investment Policy regarding the investment of its funds and funds under its control. This Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City's funds. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

II. POLICY

It is the policy of the City that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to achieve reasonable interest earnings based on market conditions.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to City funds. The City's investment portfolio shall be designed and managed in a manner intended to maximize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

1. Safety and preservation of principal
2. Maintenance of sufficient liquidity to meet operating needs
3. Diversification to minimize market risks
4. Public trust from prudent investment activities
5. Achievement of reasonable interest earnings

III. SCOPE

This Investment Policy applies to the investment activities of the City. All financial assets of the City, including the following fund types, shall be administered in accordance with the provisions of these policies.

- General Funds
- Enterprise Funds
- Capital Project Funds
- Debt Service Funds
- Debt Service Reserve Funds
- Special Revenue Funds
- Any new fund created by the City, unless specifically exempted from this Policy by law

IV. OBJECTIVES

The City shall manage and invest its cash with five objectives, listed in order of priority: safety, liquidity, diversification, public trust, and yield. The safety of the principal invested will always remain the primary objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with State and local law.

The City shall maintain a comprehensive cash management program that includes collection of accounts receivable, vendor payment in accordance with invoice terms, and prudent investment of available cash. Cash management is defined as the process of managing monies in order to ensure maximum cash availability and optimum yield on short term investments of pooled idle cash.

1. Safety - The primary objective of the City's investment activity is the preservation and safety of principal. Each investment transaction shall seek to first avoid capital losses, whether they arise from issuer defaults or erosion of market value.
2. Liquidity - The City's investment portfolio will remain sufficiently liquid to meet operating requirements. Liquidity shall be achieved by matching investment maturities with estimated cash flow requirements, maintaining liquid reserves and by investing in instruments with active secondary markets.
3. Diversification - The portfolio will be diversified by investment type and maturity to avoid market risks and issuer default, as appropriate.
4. Public Trust - Investment Officers shall act responsibly as public trust custodians and shall avoid transactions which might impair public confidence in the City's ability to govern effectively.
5. Yield (Optimization of Interest Earnings) - The investment portfolio shall be designed with the objective of attaining a reasonable market yield at all times, taking into account the investment risk constraints and liquidity needs of the City. Return on investment is of lesser importance compared to the safety and liquidity objectives described above.

V. INVESTMENT STRATEGIES

The City's basic investment strategy for all financial assets is to preserve principal. In order to achieve that objective, the City shall invest in instruments with limited credit risk and invest in maturities that do not exceed anticipated cash flow requirements.

The objective of liquidity stems from the need of the City to maintain available cash balances sufficient to cover financial outlays. Since the timing and amount of some financial disbursements are not predictable, fund-type strategies shall adjust for the certainty of projected cash flows.

It is also the policy of the City to diversify its investment portfolios. Whenever practical and appropriate, assets held in the investment portfolio shall be diversified to minimize the risk of loss resulting from one concentration of assets in a specific maturity, a specific issuer, or a specific class of investment.

City funds shall seek to achieve a competitive yield appropriate for each fund-type. A comparably structured treasury security portfolio shall represent the minimum yield objective. Yield objectives shall at all times be subordinate to the objectives of safety and liquidity.

1. General, or Business-type Funds

Suitability-Any investment eligible in the Investment Policy is suitable for General, Enterprise, or Operating-type funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, managing the weighted average days to maturity of each fund's portfolio to less than 270 days and restricting the maximum allowable maturity to two years will minimize the price volatility of the portfolio.

Liquidity- General, Enterprise, or Operating-type Funds require the greatest short-term liquidity of any of the fund-types. Demand deposit accounts, money market accounts, short-term investment pools and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Marketability- Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market "spreads" between the bid and offer prices of a particular security-type of less than a quarter of a percentage point will define an efficient secondary market.

Diversification - Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure up to the two-year maximum will reduce interest rate risk.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio will be the minimum yield objective.

2. Capital Projects Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Capital Projects Funds.

Safety of Principal - All investments will be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Capital Projects Funds to not exceed the anticipated expenditure schedule, the market risk of the overall portfolio will be minimized. No stated final investment maturity shall exceed the shorter of the anticipated expenditure schedule or three years.

Liquidity - Most capital projects programs have reasonably predictable draw down schedules. Therefore, investment maturities should generally follow the anticipated cash flow requirements. Demand deposit accounts, money market accounts, short term investment pools and money market mutual funds will provide readily available funds generally equal to one month's anticipated cash flow needs, or a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in

the amount necessary to satisfy any expenditure request. This investment structure is commonly referred to as a flexible repurchase agreement.

Marketability- Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market "spreads" between the bid and offer prices of a particular security-type of less than a quarter of a percentage point will define an efficient secondary market.

Diversification - Market conditions and arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for bond proceeds. Generally, if investment rates exceed the applicable cost of borrowing, the City is best served by locking in most investments. If the cost of borrowing cannot be exceeded, then current market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger amounts. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield.

Yield - Achieving a positive spread to the cost of borrowing is the desired objective, within the limits of the Investment Policy's risk constraints. The yield of an equally weighted, rolling six-month Treasury-Bill portfolio will be the minimum yield objective for non-borrowed funds.

3. Debt Service Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Debt Service Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Funds to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.

Liquidity - Debt Service Funds have predictable payment schedules. Therefore, investment maturities should not exceed the anticipated cash flow requirements. Demand deposit accounts, money market accounts, short term investments pools and money market mutual funds may provide a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

Marketability - Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash flow requirement is not probable.

Diversification - Market conditions influence the attractiveness of fully extending maturity to the next "unfunded" payment date. Generally, if investment rates are anticipated to decrease over time, the City is best served by locking in most investments. If the interest rates are potentially rising, then investing in shorter and larger amounts may provide advantage. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio shall be the minimum yield objective.

4. Debt Service Reserve Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Debt Service Reserve Funds. Bond resolution and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Reserve Fund maturities to not exceed the call provisions of the borrowing will reduce the investment's market risk if the City's debt is redeemed and the Reserve Fund liquidated. No stated final investment maturity shall exceed the shorter of the final maturity of the borrowing or five years. Annual mark-to-market requirements or specific maturity and average life limitations within the borrowing's documentation will influence the attractiveness of market risk and influence maturity extension.

Liquidity - Debt Service Reserve Funds have no anticipated expenditures. The Funds are deposited to provide annual debt service payment protection to the City's debt holders. The funds are "returned" to the City at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of investment diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, the City is best served by locking in investment maturities and reducing liquidity. If the borrowing cost cannot be exceeded, then current market conditions will determine the attractiveness of locking in maturities or investing shorter and anticipating future increased yields.

Marketability - Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

Diversification - Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

Yield - Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall operate within the limits of the Investment Policy's risk constraints.

VI. RESPONSIBILITY AND CONTROL

Delegation of Authority

The Hutchins City Council shall designate the City of Hutchins City Administrator and Finance Director as the Investment Officers. The Investment Officers shall establish procedures for the operation of the investment program consistent with this Investment Policy. The Investment Officers shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinates. No person may engage in an investment transaction except as provided under the terms of this Investment Policy and the procedures established by the Investment Officers.

Training

In order to ensure the quality and capability of investment management, the Investment Officers shall attend investment training no less often than once every two years, aligned with the fiscal year end, and shall receive not less than 8 hours of total instruction relating to investment responsibilities.

Newly appointed Investment Officers must attend investment training consisting of at least 10 hours of total instruction within twelve months of the date that he or she assumed the Officer's duties.

The City approves the GFOA, GFOAT, GTOT, NTCOG, TCMA, TML, and UNT as independent sources for training.

Internal Controls

The Investment Officers are responsible for establishing and maintaining internal controls to protect the assets of the City from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that

(1) the cost of a control should not exceed the benefits likely to be derived, and (2) the valuation of costs and benefits requires estimates and judgments by management.

Annual Audit

Accordingly, within the scope of the annual audit, the City shall establish a process for annual independent review by an external auditor to assure compliance with this Policy and supporting procedures.

Prudence

Investments shall be made with judgment and care under prevailing circumstances that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

In determining whether an Investment Officer has exercised prudence in the performance of their duty, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City's control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved Investment Policy of the City.

The Investment Officer, if acting in accordance with written procedures and exercising due diligence, shall not be held personally liable for any specific investment's credit risk or market price changes, provided that these deviations are reported immediately, and the appropriate action is taken to control adverse developments.

Ethics and Conflict of Interest

The Investment Officers, and employees involved in the investment process, shall refrain from any personal business activity that would conflict with the proper execution and management of the investment program, or that would impair their ability to make impartial decisions.

Investment Officers shall disclose any personal or business relationship involving material interests in financial institutions with which the City conducts business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Investment Officers shall refrain from undertaking personal investment transactions with the same individual or firm with which business is conducted on behalf of the City.

Any Investment Officer of the City who has a personal business relationship with an organization or is related with the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship, in accordance with the Act, with the Texas Ethics Commission and the City Council.

Reporting

The Investment Officers shall prepare for the City Council an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter and describes the portfolio in detail and summary information. This reporting shall be made in accordance with the Act.

The quarterly investment report shall include a summary statement of investment activity during the period. This summary will be prepared in a manner that will allow the City Council to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will include the following at a minimum:

- A listing of individual investments held at the end of the reporting period.
- Average weighted yield to maturity of portfolio.
- Beginning and ending book and market value for the reporting period.
- Fully accrued interest for the reporting period and total earnings for the period.
- The percentage of the total portfolio by type of investment.
- Statement of compliance of the City's investment portfolio with State law and the investment strategy and Policy approved by the City Council.

Market values will be obtained from reputable and independent sources.

"Weighted average yield to maturity" shall be the standard on which investment performance is calculated.

In conjunction with the annual audit, an independent auditor will perform a formal annual review of the quarterly reports with the results reported to the City Council by that auditor.

VII. SUITABLE AND AUTHORIZED INVESTMENTS

City funds may be invested only in the instruments described below, all of which are authorized and further defined by the Act. Investment of City funds in any instrument or security not authorized for investment under the Act is prohibited. With respect to authorized investments, this Policy is more restrictive than the Public Funds Investment Act. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase.

Authorized Investments

1. Obligations, including letters of credit, of the United States of America, its agencies and instrumentalities, including the Federal Home Loan Banks, but excluding those prohibited by the Act.
2. Certificates of Deposit and other evidences of deposit at a financial institution that
 - a. has its main office or a branch office in Texas and is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor,
 - b. is secured by obligations in a manner and amount provided by law for deposits of the City, or
 - c. is placed in compliance with the requirements of the Act.
3. Fully collateralized repurchase agreements executed in compliance with the Act, under the terms of an executed Master Repurchase Agreement, and secured in accordance with this Policy.
4. SEC registered, no load money market mutual funds that comply with the requirements of State law and seek to maintain a stable \$1.0000 net asset value.
5. AAA-rated, Texas local government investment pools, which meet all the requirements of the Act. Participation in any pool must be authorized by resolution of the City Council.

Investment Instruments Not Authorized

Investments including interest-only or principal-only strips of obligations with underlying mortgage-backed security collateral, or collateralized mortgage obligations with inverse floating interest rate coupons or a maturity date of over 10 years are strictly prohibited.

Competitive Environment

The City shall provide a competitive environment for individual investment transactions, and financial institution, money market mutual fund, and local government investment pool selections.

Maximum Maturity

The maximum dollar weighted maturity and state final maturity for each fund-type group is set forth in the investment strategies.

Delivery Versus Payment

Securities purchased by the City shall be settled into the City's safekeeping agent on a delivery versus payment (DVP) basis. DVP assures that City funds will not be released until the purchased security has been received. Securities will be held by an independent third-party safekeeping agent as evidenced by safekeeping receipts.

Loss of Required Rating

In the event an authorized investment loses its required minimum credit rating, all prudent measures will be taken to liquidate said investment.

VIII. COLLATERALIZATION AND SAFEKEEPING

All financial institution deposits shall be insured or collateralized in compliance with applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards those deposits.

Collateralization

Financial institutions serving as City depositories will be required to sign a depository agreement with the City. The collateralized deposit portion of the agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- The agreement must be in writing;
- The agreement must be executed by the depository and the City contemporaneously with the acquisition of the asset;
- The agreement must be approved by the Board of Directors or designated committee of the depository and a copy of the meeting minutes must be delivered to the City; and
- The agreement must be part of the depository's "official record" continuously since its execution.

The written agreement will specify the acceptable collateral, require independent safekeeping of the collateral, only allow substitution of collateral of equal or greater value than the collateral being substituted, require City approval before release of investment securities held as collateral, and provide for original safekeeping receipts and complete monthly reporting of collateral, including the valuation of securities.

A clearly marked evidence of pledge must be supplied to the City and retained by the Investment Officers. A monthly collateral report provided by the custodian shall be reviewed by the Investment Officers to assure that the market value of the pledged securities is adequate.

Collateral Levels

For financial institution deposits, the market value of securities pledged as collateral for deposits must at all times be equal to or greater than 102% of the par value of the deposit plus accrued interest less the amount insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF), or their successors. The depository shall be liable for monitoring and maintaining the collateral and collateral margins at all times. Letters of credit pledged as collateral shall

at all times be equal to the total value of the deposits plus accrued interest less the applicable level of FDIC/NCUSIF insurance.

If the value of the securities pledged falls below the required collateral level, the financial institution must pledge additional securities no later than the end of the next succeeding business day.

Safekeeping

The City shall contract with a bank or banks for the safekeeping of securities owned by the City as part of its investment portfolio. The securities will be held in an account in the City's name as evidenced by safekeeping receipts of the institution with which the securities are deposited.

IX. PRIMARY DEPOSITORIES, BROKER/DEALERS AND ADVISORS

Financial Institution Deposits

Primary depositories shall be selected through the City's banking services procurement process, which shall include a formal Request for Applications (RFA) issued in compliance with applicable State law. This contract can be extended as per the RFA specifications.

Authorized Broker/Dealers

City Council shall, at least annually, review, revise and adopt a list of qualified broker/dealers that are authorized to engage in investment transactions with the City. Broker/dealers eligible to transact investment business with the City shall be presented a written copy of this Investment Policy.

Certification of Business Organizations

Additionally, the registered principal of any investment pool or discretionary investment manager seeking to transact investment business with the City shall execute a written instrument substantially to the effect that the registered principal has:

- received and reviewed this Investment Policy, and
- acknowledged that the organization has implemented reasonable procedures and controls to preclude imprudent investment activities with the City.

The City shall not enter into an investment transaction with a pool or discretionary investment manager prior to receiving the written instrument described above.

Investment Advisors

The City may select an Investment Advisor to advise the City in the investment of City funds and other responsibilities including but not limited to broker compliance, security selection, competitive bidding, investment reporting, and security documentation. The Investment Advisor must be registered with the Securities and Exchange Commission (SEC) under the Investment Advisor's Act of 1940 or with the Texas State Securities Board.

An appointed Investment Advisor shall act solely in an advisory and administrative capacity within the guidelines of this Investment Policy and without any discretionary authority to transact business on behalf of the City.

X. INVESTMENT POLICY ADOPTION

The City's Investment Policy shall be reviewed and adopted at least annually by resolution of the City Council. It is the City's intent to comply with State laws and regulations. The City's Investment Policy may be revised by Council consistent with changing laws, regulations, or the needs of the City. The City Council shall review and approve the Policy and investment strategies annually, approving any changes or modifications, at a legally scheduled meeting.



CITY COUNCIL AGENDA STAFF REPORT

MEETING DATE: November 13, 2023
SUBMITTED BY: Maria Joyner, Director of Finance
AGENDA ITEM:
AGENDA CAPTION: Discuss and consider Resolution R2023-1154 of the CITY COUNCIL OF THE City of HUTCHINS, TEXAS ADOPTING CITY FINANCIAL POLICIES.

Background Information

The attached financial policies give written guidelines for management and staff to follow regarding the City's finances. Adopting these policies strengthened internal control and has a positive effect on the City's credit rating. These policies will be reviewed each year as part of the annual budget process and any significant changes will be presented to City Council.

Budget Implications

None

Operational Impact

None

Legal Review

None

Staff Recommendation

Administration recommends that Council approves Resolution R2023-1154 to adopt the City's Financial Policy.

Supporting Documentation and Attachments

1. R2023-1154 RESOLUTION FOR FINANCIAL POLICY ANNUAL REVIEW



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None

Operational Impact

None

Legal Review

None

Staff Recommendation

Administration recommends that Council approves Resolution R2023-1153 to adopt the City's Financial Policy.

Supporting Documentation and Attachments

1. R2023-1154 RESOLUTION FOR FINANCIAL POLICY ANNUAL REVIEW

EXHIBIT A
CITY OF HUTCHINS FINANCIAL POLICIES



Financial Management Policies

November 13, 2023

Prepared by the Finance Department

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I. PURPOSE STATEMENT

The policies set forth below provide guidelines to enable the City staff to achieve long-term, stable financial conditions while conducting daily operations and providing services to the community.

The long-range policies regarding financial management are as follows:

- 1. Exercise a discipline which allows the City to retain a sound financial condition.
- 2. Give recognition to the community's needs and ability to pay.
- 3. Strive to retain the best possible rating on bonds.

The purpose of these policies is to provide guidelines for City staff in planning and directing the City's day-to-day financial affairs. The scope of these policies cover accounting, auditing, financial reporting, internal controls, fiscal budgeting, capital programs, revenue management, expenditure control, debt management, financial condition and fund reserves.

II. ACCOUNTING, AUDITING AND FINANCIAL REPORTING

A. Accounting

The City's Finance Director is responsible for establishing the City's chart of accounts and for properly recording financial transactions.

B. Funds

Self-balancing groups of accounts are used to account for City financial transactions in accordance with generally accepting accounting principles (GAAP). Each fund is created for a specific purpose except the General Fund which is used to account for all transactions not accounted for in other funds. Funds are created by the Finance Director and approved by the City Administrator.

C. External Auditing

The City will be audited annually by outside independent accountants (auditors). The auditors must be a reputable CPA firm and must demonstrate experience in the field of local government auditing. They must conduct the City's audit in accordance with GAAP, governmental accounting and auditing standards (GAAS) and be knowledgeable in the Government Finance Officers Association (GFOA) Certificate of Achievement Program. The City will follow a five-year rotation of outside independent auditors. The audited financial statements should be prepared within 180 days after the close of the fiscal year.

D. External Financial Reporting

The City will prepare and publish externally an Annual Financial Report for each fiscal year which begins October 1st and ends September 30th.

E. Internal Financial Reporting

The Finance Department will prepare and issue timely financial reports on the City's current fiscal status. These reports include the following:

- 1. Quarterly budget status reports to the City Administrator, and all department heads
- 2. Quarterly budget status reports to the Mayor and City Council;
- 3. Quarterly cash and investment reports to the Mayor and City Council.
- 4. Annual budget amendments to the City Administrator, Mayor and City Council if deemed necessary

III. INTERNAL CONTROLS

A. Written Procedures

The Finance Director is responsible for developing written guidelines on accounting, cash handling and other financial matters which will be approved by the City Council. The Finance Department will assist Department Directors, as needed, in tailoring such guidelines to fit each department's requirements. Financial policies will be reviewed and approved by the City Council at least every two years.

B. Department Directors' Responsibilities

Department Directors are responsible for ensuring that proper internal controls are followed throughout his or her department, that all guidelines on accounting and internal controls are implemented and that all independent auditor control recommendations are addressed.

C. Cash Management

The City's cash flow will be managed to maximize the investable cash in accordance with the City's investment policy.

D. Capital Assets

Capital assets classifications include buildings and improvements, machinery and equipment, vehicles, and infrastructure. Such assets will be reasonably safeguarded, properly accounted for and prudently used. Capital asset inventories will be updated at least annually.

1. Capital assets will be capitalized and depreciated over the useful life of the asset when the cost of the asset is \$5,000 or greater;
2. The capitalization threshold of \$5,000 will be applied to the individual items rather than to a group of similar items (i.e., desks, chairs, computers, etc.); and
3. To maintain control over high-risk items, such as electronic equipment and weapons, high-risk items costing \$250 - \$4,999 will be monitored tagged, and tracked as part of inventory.

IV. FISCAL BUDGETING

A. Operating Budget

The City's operating budgets are the City annual financial operating plans. The operating budgets' basis of accounting will be non-GAAP and will be converted to GAAP when presented in the Annual Financial Report. This method does not incorporate year-end accruals into the budget document when the annual budgets are prepared. Budgeted revenues and expenditures will be compared to actual revenues and expenditures for internal financial reporting purposes and converted to GAAP for external reporting purposes with reconciliations between the two basis.

B. Balanced Budgets

Currently available unassigned operating revenue shall be sufficient to support current operating expenditures. Temporary shortages or operating deficits can and do occur; however, they are not tolerated as extended trends. Measures should be developed to provide additional revenue and/or reduced expenditures to eliminate operating deficits when necessary.

C. Planning

The budget process will be coordinated to identify major policy issues for City Council consideration well in advance of the budget approval date for proper analysis and accurate decision making.

D. Budgetary Control

- 1. The City Administrator’s level of budgetary control is at the fund level for all City funds. Changes in budgeted expenditure appropriations at the fund level require approval of the City Council.
- 2. Department Directors’ level of budgetary control is at the department level. Modifications within and between a respective department’s operating categories are allowed except for personnel costs and capital expenditures. Personnel costs and capital expenditure modifications require the approval of the City Administrator.
- 3. Budget amendments for appropriations at the fund level must be approved by the City Council for all City funds.

V. CAPITAL PROGRAMS

A. Capital Improvement Programs

Capital improvement programs will include plans for future years as well as future maintenance and operational costs. Capital improvement programs and planning should include a minimum of five (5) years. Capital project funds will be accounted for in multi-year funds that cross fiscal years and do not close until the project is completed.

B. Capital Budgets

Capital project budgets will include all capital project fund expenditures as well as all funding sources. Capital projects financed through bond proceeds shall be financed for a period not to exceed the useful life of the project. Unspent bond proceeds will be transferred to the Debt Service Fund at the completion of the capital project.

C. Alternate Resources

Where applicable, assessments, impact fees and/or other user-based fees should be used to fund capital projects.

VI. REVENUE MANAGEMENT

A. Diversification and Stability

A diversified and stable revenue system will be maintained to shelter the City from short-run fluctuations in any one revenue source.

B. Unpredictable Revenue

The City will try to understand its revenue sources, and enact consistent collection policies so that assurances can be provided that the revenue base will materialize according to budgets and plans. Use of unpredictable revenue will depend upon management’s determination whether the revenue is considered a one-time revenue or will recur annually.

C. Revenue Monitoring

Revenues actually received will be regularly compared to budgeted revenues. Significant variances will be investigated and reported in the appropriate reports.

D. Revenue Collections

The City shall maintain high collection rates for all revenues by monitoring monthly receivables. The City shall follow an aggressive, consistent, yet reasonable approach to collecting revenues to the fullest extent allowed by law for all delinquent taxpayers and others overdue in payments to the City.

E. Write-Off of Uncollectible Accounts (Excluding Property Taxes)

Uncollectible accounts shall be written off annually at year end and upon approval of the City Administrator. The write-off of uncollectible accounts is a bookkeeping entry only and does not release the debtor from the debt owed to the City.

F. Fees and Charges

The City will maximize utilization of user charges in lieu of property taxes for services that can be individually identified and where the costs are directly related to the level of service. There will be periodic review of fees and charges to ensure that fees provide adequate coverage of costs of service.

G. One-time Revenues

One-time revenues will be used only for one-time expenditures and will not be used for ongoing operations. Care will be taken not to use these revenues for budget balancing purposes.

H. Restricted Revenues

When an expenditure is incurred for purposes for which both restricted and unrestricted revenues/fund balance is available, the City considers restricted funds to have been spent first.

I. Sufficiency

The benefits of revenue shall exceed the cost of producing the revenue.

J. Utility Rates

The City shall review and adopt utility rates that shall generate revenues required to fully cover operating expenditures, meet the legal restrictions of all applicable bond covenants, and provide for an adequate level of working capital needs.

VII. EXPENDITURE CONTROL

A. Appropriations

The City adopts annual appropriations at the fund level for all City funds. Any increase in budgeted appropriations at the fund level must be approved by the City Council.

B. Encumbrances

All appropriations lapse at fiscal year-end. Encumbrances shall be rolled to the next fiscal year and added to the current year's budgeted appropriations.

C. Purchasing

All purchases shall be in accordance with both the City's purchasing policy and State law. In the event that State law and City policy conflict, the strictest policy will be followed.

D. Prompt Payment

All invoices will be paid upon thirty (30) days of receipt in accordance with State law. Procedures will be used to take advantage of all cost effective purchase discounts. Payments will be processed to maximize the City’s investable cash.

E. Department Directors’ Responsibilities

Each Department Director is held accountable for meeting program objectives and monitoring the use of budget funds expended to ensure compliance with the annual appropriated budget approved by the City Council.

VIII. DEBT MANAGEMENT

A. Debt Service Requirements

The Finance Department will determine annual debt payment requirements as well as funding sources during the preparation of the annual budget for the Debt Service Fund and as per the City’s Debt Management Policy.

B. Self-Supporting Debt

When appropriate, self-supporting revenues will pay debt service in lieu of property taxes. The Debt Service Fund’s current fiscal year debt payment requirements shall not exceed debt service property tax, self-supporting revenue and balances carried forward from the prior year.

C. Debt Covenants

The Finance Department will diligently monitor the City’s compliance to its bond covenants. The Finance Department will maintain ongoing communications with bond rating agencies about the City’s financial condition and follow a policy of full disclosure on every financial report.

D. Debt Capacity and Issuance

The City has and will continue to retain a Financial Advisor in connection with any debt issuance.

IX. FUND BALANCE

A. Purpose

The purpose of this policy is to establish a key element of the financial stability of the City of Hutchins by setting guidelines for fund balance. Unassigned fund balance is an important measure of economic stability and it is essential that the City maintain adequate levels of unassigned fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and other similar circumstances. This policy will ensure the City maintains adequate fund balances in the City’s various operating funds with the capacity to:

- 1. Provide sufficient cash flow for daily financial needs,
- 2. Secure and maintain investment grade bond ratings,
- 3. Offset significant economic downturns or revenue shortfalls, and
- 4. Provide funds for unforeseen expenditures related to emergencies.

B. Definitions

Fund Equity

A fund's equity is generally the difference between its assets and its liabilities. Fund equity is affected by the results of each year's operations [revenues over (under) expenditures].

Fund Balance

The fund equity of a governmental fund for which an accounting distinction is made between the portions that are spendable and non-spendable. Fund balance is classified into five categories:

- 1) **Non-spendable fund balance** – includes the portion of net resources that cannot be spent because of their form (i.e. inventory, or prepaids) or because they must remain in-tact such as the principal of an endowment.
- 2) **Restricted fund balance** – includes the portion of net resources on which limitations are imposed by creditors, grantors, contributors, or by laws or regulations of other governments (i.e. externally imposed limitations). Amounts can be spent only for the specific purposes stipulated by external resource providers or as allowed by law through constitutional provisions or enabling legislation. Examples include grant awards and bond proceeds.
- 3) **Committed fund balance** – includes the portion of net resources upon which the City Council has imposed limitations on use. Amounts that can be used only for the specific purposes determined by a formal action of the City Council. Commitments may be charged or lifted only by the Council taking the same formal action that originally imposed the constraint. The formal action must be approved before the end of the fiscal year in which the commitment will be reflected on the financial statements.
- 4) **Assigned fund balance** – includes the portion of net resources for which an intended use has been established by the City Council or the City Official authorized to do so by the City Council. Assignments of fund balance are much less formal than commitments and do not require formal action for their imposition or removal. In governmental funds, other than the General Fund, assigned fund balance represents the amount that is not restricted or committed which indicates that resources are, at a minimum, intended to be used for the purpose of that fund.
- 5) **Unassigned fund balance** – the amounts in excess of what can properly be classified in one of the other four categories of fund balance. It is the residual classification of the General Fund and includes all amounts not contained in other classifications. Unassigned amounts are available for any purpose. Negative residual amounts for all other governmental funds are reported in this classification.

C. City Policy

Committed Fund Balance

The City Council is the City's highest level of decision-making authority and the formal action that is required to be taken to establish, modify, or rescind a fund balance commitment is a resolution approved by the Council at the City's Council meeting. The resolution must either be approved or rescinded, as applicable, prior to the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may

be determined in the subsequent period (i.e. the Council may approve the calculation or formula for determining the amount to be committed).

Assigned Fund Balance

The City Council authorizes the City Administrator as the City Official responsible for the assignment of fund balance to a specific purpose as approved by this fund balance policy.

X. FINANCIAL CONDITIONS AND RESERVES

A. Minimum Unassigned Fund Balance

The City’s *goal* is to achieve and maintain an unassigned fund balance in the General Fund equal to seventy-two (72) days of total expenditures (excluding capital expenditures and operating transfers); and in the Water/Sewer Fund a balance equal to seventy-two (72) days of total expenditures (excluding capital expenditures and operating transfers). The City considers a balance of less than seventy-two (72) days to be cause for concern, barring unusual or deliberate circumstances. In the event the unassigned fund balance is calculated to be less than the policy stipulates, the City shall plan to adjust budget resources in the next fiscal year to restore the balance.

B. Replenishment of Minimum Fund Balance Reserves

If unassigned fund balances in either fund *unintentionally* falls below seventy-two (72) days, or if it is anticipated that at the completion of any fiscal year, the projected unassigned fund balance will be less than seventy-two (72) days, the City Administrator shall prepare and submit a plan to restore the minimum required level as soon as economic conditions allow or within a three (3) year period, whichever comes first. The plan shall detail the steps necessary for the replenishment of fund balances as well as an estimated timeline for achieving such. If restoration of the reserve cannot be accomplished within such a period without severe hardship to the City, then the Council shall establish an extended time line for attaining the minimum balance.

C. Order of Expenditure of Fund Balances

If an expenditure meets the criteria of multiple categories of fund balance, first spend the most restricted funds before moving down to the next most restrictive category with available funds.

D. Appropriation of Unassigned Fund Balance

Appropriation from the minimum unassigned fund balance shall require the approval of the Council and shall be utilized only for one-time expenditures, such as capital expenditures, and not for ongoing expenditures unless a viable revenue plan designed to sustain the expenditure is simultaneously adopted.

The Council may appropriate unassigned fund balances for emergency purposes, as deemed necessary, even if such use decreases the fund balance below the established minimum.

E. Monitoring and Reporting

The Director of Finance shall be responsible for monitoring and reporting the City’s various reserve balances. The City Administrator is directed to make recommendations to the Council on the use of reserve funds both as an element of the annual operating budget submission and from time-to-time throughout the fiscal year as needs may arise.

Compliance with the provisions of the policy shall be reviewed as a part of the annual operating budget adoption process and subsequent review will be included in the annual audit and financial statement preparation procedures.

XI. GRANTS

A. Solicitation

It is the responsibility of City Departments to locate grant sources, determine the appropriateness of the grant, prepare council communications regarding grant applications and/or grant offers, and draft grant applications for submission for grants which would be cost beneficial and meet the City’s objectives.

B. Authority

The City Council determines the goals and priorities of the City; therefore, all grant-funded activities/programs are assessed and all grant applications are approved by the City Council to assure that (1) the activity/program is consistent with these goals and priorities; (2) grant financial assistance is needed; and (3) grant proposals and budgets accurately reflect these goals and needs. Any potential grants shall be examined for matching requirements so that the source and availability of these funds may be determined before the grant application is made.

C. Budgeting

A comprehensive needs assessment is conducted and approved by the City Council during the annual budget process. This assessment will be used for developing all Federal and State grant budgets. Depending on the type and amount of grant, the budget process may be done during the writing of the grant or after amounts are awarded.

D. Applicable Laws

Federal grants are governed by, and the City shall adhere to, the Federal Register Title 2, Subtitle A, Chapter II, Part 200 – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

State grants are governed by, and the City shall adhere to, Local Government Code Title 7, Chapter 783 – *Uniform Grants Management Standards* issued by the Governor’s Office of Budget and Planning for the State of Texas.

E. Supplement Not Supplant (Federal Grants)

The City has implemented guidelines to ensure compliance with Federal fiscal requirement of supplement, not supplant. The purpose of these procedures is to ensure that the level of State and local support for programs remain at least constant and is not replaced by Federal funds. Federal funds are used to supplement (add to, enhance, to expand, create something new, increase) the funds available from non-Federal sources, and not to supplant (replace or take the place of) the existing non-Federal funds.

F. Procurement

In addition to City procurement policies and guidelines as outlined in the City’s Purchasing Policy, all applicable procurement requirements of Federal and State grant fund regulations, other applicable laws and regulations, apply to the use of grant funds.

G. Compliance

The City shall comply with **specific** terms and conditions as set forth in Federal and State Grant Award Notices (GANs). GANs may also include **general** terms and conditions. Should there be any inconsistency between the (1) **specific** terms and conditions and (2) **general** terms and conditions, **specific** terms and conditions will govern.

If **general** and **specific** terms and conditions conflict with City policies and procedures, the most conservative term or condition will govern.

H. Management

Grant management lies within each Department of the City under the direction of the Department Director. Department Directors are accountable to the City Administrator, City Council, and Finance Department.

XII. REVIEW AND REPORTING

A. Annual Review

These financial management policies will be reviewed administratively by the City Administrator at least annually, prior to preparation of the annual budget and will be presented to the City Council for confirmation of any significant changes.

B. Reporting

The Finance Director will report annually to the City Council on compliance with these policies.