



**CITY OF CEDAR PARK  
REGULAR SCHEDULED CITY COUNCIL MEETING  
CEDAR PARK CITY HALL - COUNCIL CHAMBERS  
450 CYPRESS CREEK ROAD, BUILDING FOUR  
JANUARY 28, 2021 AT 7:00 PM**

**Link For Meeting:** <https://councilmtg.cedarparktexas.gov/>

**Event Password:** CedarPark2021

**United States Toll Free:** 1-844-992-4726

**Access Code:** 126 478 5371

Corbin Van Arsdale, Mayor  
Tim Kelly, Council Place One  
Mel Kirkland, Council Place Two  
Eric Boyce, Council Place Four

Anne Duffy, Mayor Pro Tem  
Rodney T. Robinson, Council Place Five  
Heather Jefts, Council Place Six  
Brenda Eivens, City Manager

*All electronic and printed materials to be presented at the Council Meeting must be submitted for cybersecurity and legal obscenity screening in accordance with City Policy. **Electronic material must be submitted by 12:00 p.m., day of meeting, and printed material must be submitted prior to the Call To Order.** Any electronic or printed material not submitted in accordance with the Policy, that poses a cybersecurity risk, or is legally obscene, will not be allowed. You may email the entire Council on any issue at [Council@cedarparktexas.gov](mailto:Council@cedarparktexas.gov).*

### **AGENDA**

**A.1 CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN.**

### **I. EXECUTIVE SESSION**

*In accordance with Chapter 551, Government Code, the City Council will now convene in a Closed Executive Session pursuant to the following provisions of the Texas Open Meetings Act, Chapter 551, of the Texas Government Code:*

**B.1 NO ITEMS POSTED FOR EXECUTIVE SESSION.**

*An unscheduled Closed Executive Session may be called to discuss any item on this posted agenda provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.*

The Council Reconvenes into Open Meeting.

**II. OPEN MEETING**  
**To Commence At 7:00 p.m.**

- C.1 Invocation. <sup>(2)</sup>
- C.2 Pledges Of Allegiance (U.S. and Texas).
- C.3 Public Communications. (Regarding items not listed on this Agenda. Three Minutes each. No deliberations with the Council. The Council may respond only with factual statements, recitation of existing policy, and requests for an item to be placed on a future Agenda.)
- C.4 City Manager Report: Review and Update On The 2021 Resident Survey – Jackson Brockway, Asst. To The City Manager.

**Consent Agenda**

*Pursuant to Council Rule 2.3, the City Council Consent Agenda consists of Agenda Items D, E, and F.*

- [D.1](#) Approval Of Minutes From The Regular Scheduled City Council Meeting Of December 17, 2020.
- [D.2](#) Approval Of Minutes From The Regular Scheduled City Council Meeting Of January 14, 2021.
- [E.1](#) Second Reading And Approval Of An Ordinance Calling And Ordering A Special Called Election To Be Held On May 1, 2021 For The Purpose Of Considering Amendments To The City Charter; Making Provisions For The Conduct Of The Election, And Resolving Other Matters Related To Such Election.
- [E.2](#) (OA-20-003) Second Reading And Approval Of An Ordinance Amending Cedar Park Code Of Ordinances Chapter 6, Seasonal, Temporary And Mobile Business And Events Regarding Seasonal Businesses And Special Events.
- [E.3](#) (Z-20-015) Second Reading And Approval Of An Ordinance To Rezone Approximately 13.64 Acres From Light Industrial (LI) To Heavy Industrial – Conditional Overlay (HI-CO), Located At 1800 Hur Industrial Boulevard. ***The Planning and Zoning Commission Voted 6-0 To Recommend Heavy Industrial – Conditional Overlay (HI-CO) As Requested.***
- [F.1](#) A Resolution Ordering And Calling A General Election For May 1, 2021 For The Purpose Of Electing Council Place One, Council Place Three, And Council Place Five; Making Provisions For Conducting The Election; And Resolving Other Matters Related To Such Election.
- [F.2](#) A Resolution Authorizing A Joint Election Agreement With Travis County For The May 1, 2021 General And Special Elections.
- [F.3](#) A Resolution Authorizing An Election Agreement With Travis County For Election Services.

*An unscheduled Closed Executive Session may be called to discuss any item on this posted agenda provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.*

- [F.4](#) A Resolution Authorizing The Release Of The City of Cedar Park's Interest In An 0.110-Acre Temporary Turnaround Easement In Misty Valley Subdivision Phase Two Recorded In Document No. 2015136345 Of The Official Records Of Travis County, Texas.
- [F.5](#) A Resolution Authorizing The Acceptance Of CARES Act Funds From The Travis County Coronavirus Relief Fund In An Estimated Amount Of \$15,096.75 To Reimburse The City For Necessary Expenditures Incurred Due To The COVID-19 Public Health Emergency.
- [F.6](#) A Resolution Approving Proposed Amendments To The City Council Rules Of Procedure.
- [F.7](#) A Resolution Authorizing Application To, And Acceptance Of Funds If Awarded From, The Office Of The Governor, Criminal Justice Division's General Victim Assistance - Direct Services Program For Fiscal Year 2022.
- [F.8](#) A Resolution Authorizing Application To, And Acceptance Of Funds If Awarded From, The Office Of The Governor, Criminal Justice Division's Violent Crimes Against Women Criminal Justice And Training Projects Program For FY 2022.
- [F.9](#) Approval For Appointment Of Kimberly Bradford-Brown To Place Six On The Planning And Zoning Commission. (Jefts)

### **Public Hearings**

- [G.1](#) First Reading And Public Hearing Of An Ordinance Amending The Cedar Park Code Of Ordinances To Revise Chapter 7 Code of Conduct, Article 7.02 Revolving Door Policy.

### **Regular Agenda (Non-Consent)**

- [H.1](#) Third Reading And Consideration For Approval Of An Ordinance Authorizing An Agreement With Pedernales Electric Cooperative, Inc. Granting Its Legal Representatives, Successors, Lessees And Assigns Certain Powers, Licenses, Rights-Of-Way, Privileges And Franchise To Construct, Maintain, Operate And Use A Transmission And Distribution System In The City Of Cedar Park To Provide Electric Utility Service.
- [H.2](#) Consideration For Appointment To The Capital Area Council Of Governments Central Texas Clean Air Coalition. (Kirkland)
- H.3 Discussion Regarding The COVID-19 Declaration Of Local State Of Disaster For The City Of Cedar Park.
- H.4 Consider Action, If Any, On Items Discussed In Executive Session.
- H.5 Mayor And Council Closing Comments.
- H.6 Adjournment.

*An unscheduled Closed Executive Session may be called to discuss any item on this posted agenda provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.*

*The above agenda schedule represents an estimate of the order for the indicated items and is subject to change at any time. All agenda items are subject to final action by the City Council. Separate agenda items may be combined and discussed together at the discretion of the Chair.*

*Any final action, decision, or vote on a matter deliberated in Closed Executive Session shall be made in an open meeting pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.*

*Certain information may be presented to and by the City Council, under the headings of "Citizen Communications", and "Council Comments" however, by law, the Council shall not discuss, deliberate or vote upon such matters except that a statement of specific factual information, a recitation of existing policy, and deliberations concerning the placing of the subject on a subsequent agenda may take place.*

*The City Attorney has approved the Executive Session Items on this agenda.*

### **CERTIFICATION**

I certify that the above notice of the Regular Scheduled City Council Meeting of the City of Cedar Park, Texas was posted on the bulletin board of the City of Cedar Park City Hall, 450 Cypress Creek Road, Building Four, Cedar Park, Texas. This notice was posted on:

Date Posted: \_\_\_\_\_  
Date Stamped (Month, Day, Year, AM/PM, Time)

The Cedar Park City Hall Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretative services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (512) 401-5002 or FAX (512) 401-5003 for further information.

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

Notice Removed: \_\_\_\_\_  
Date Stamped (Month, Day, Year, AM/PM, Time)

*An unscheduled Closed Executive Session may be called to discuss any item on this posted agenda provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.*



## CITY OF CEDAR PARK

### 2018-2020 STRATEGIC GOALS



#### DISTINCTLY CEDAR PARK

##### PURPOSE

Cedar Park is a unique location with a distinct identity shaped by its distinguishing projects and programs.

##### OBJECTIVES

- Encourage unique and distinctive developments
- Revitalize Bell Boulevard area
- Create gathering places, including parks and library
- Design special events that attract people to Cedar Park
- Leverage the value of aesthetics on community culture



#### OPEN HERE, GROW HERE

##### PURPOSE

Use economic development resources to expand and diversify our tax base by actively recruiting new employers and supporting existing businesses.

##### OBJECTIVES

- Identify markets and actively recruit targeted industries and employers
- Evaluate economic development tool box
- Protect areas already designated for business
- Develop and launch business retention program



#### SAFETY IS TOP-OF-MIND

##### PURPOSE

Our community feels safe, secure and comfortable.

##### OBJECTIVES

- Ensure timely and appropriate response for calls for service
- Provide resources necessary to meet community expectations
- Enhance citizen safety level



**CEDAR PARK**



#### OPERATIONAL & FISCAL EXCELLENCE

##### PURPOSE

Deliver high-quality services in a fiscally-responsible manner.

##### OBJECTIVES

- Provide high-value services to our community
- Demonstrate fiscal responsibility
- Improve and ensure a well-maintained infrastructure, including storm water
- Attract and retain a qualified workforce



#### LINK PEOPLE, PLACES & THINGS

##### PURPOSE

Improve mobility through multi-modal transportation options that best serve the community's needs.

##### OBJECTIVES

- Continue implementing Roadway Master Plan
- Expand pedestrian and bike networks
- Complete Transit Study
- Use technology to improve traffic/mobility
- Advance 183A frontage road project



#### STRONG COMMUNITY CONNECTIONS

##### PURPOSE

Encourage and expand civic engagement and understanding of government to inspire trust and confidence.

##### OBJECTIVES

- Develop and leverage innovative ways to engage the community
- Evaluate and enhance current engagement programs
- Support development and recognition of board and commission members



#### SUSTAINABLE FUTURE

##### PURPOSE

Demonstrate responsible stewardship of community and natural resources.

##### OBJECTIVES

- Use our resources wisely
- Explore environmental programs
- Update Comprehensive Plan
- Support neighborhood maintenance

An unscheduled Closed Executive Session may be called to discuss any item on this posted agenda provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.

**File Attachments for Item:**

D.1 Approval Of Minutes From The Regular Scheduled City Council Meeting Of December 17, 2020.

## MINUTES

**CITY OF CEDAR PARK  
REGULAR SCHEDULED CITY COUNCIL MEETING  
CEDAR PARK CITY HALL - COUNCIL CHAMBERS  
450 CYPRESS CREEK ROAD, BUILDING FOUR  
DECEMBER 17, 2020 AT 6:00 PM**

**Link For Meeting:** <https://councilmtg.cedarparktexas.gov/>

**Event Password:** CedarPark2020

**United States Toll Free:** 1-844-992-4726

**Access Code:** 126 645 9512

Corbin Van Arsdale, Mayor  
Tim Kelly, Council Place One  
Mel Kirkland, Council Place Two  
Eric Boyce, Council Place Four

Anne Duffy, Mayor Pro Tem  
Rodney T. Robinson, Council Place Five  
Heather Jefts, Council Place Six  
Brenda Eivens, City Manager

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**A.1 CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN.**

**Mayor Van Arsdale called the meeting to order at 6:00 p.m.**

**Councilmember Jefts arriving at 6:03 p.m. Councilmember Robinson attended meeting by video conference, arriving at 6:10 p.m. Councilmember Kelly was absent. All others present.**

**I. EXECUTIVE SESSION**

**To Commence At 6:00 p.m.**

*In accordance with Chapter 551, Government Code, the City Council will now convene in a Closed Executive Session pursuant to the following provisions of the Texas Open Meetings Act, Chapter 551, of the Texas Government Code:*

**Council convened into Executive Session in Building Three, Multi-Purpose Room, at 6:01 p.m.**

**Council reconvened into a second Executive Session, in Building Three, Multi-Purpose Room, at 9:52 p.m.**

- B.1 Section § 551.071 (1) Consultation With City Attorney Concerning Pending Or Contemplated Litigation Or Settlement Offer.**
- a. Civil Action No. 1:20-CV-00481-RP; In The United States District Court, Western District, Austin Division, *Gregory Raymond Kelley vs. The City Of Cedar Park, Sean Mannix, And Christopher Dailey*.
- B.2 Section § 551.071 (2) Consultation With Attorney Regarding Matters In Which The Duty Of The Attorney To The Governmental Body Under The Texas Disciplinary Rules Of Professional Conduct Of The State Bar Of Texas Clearly Conflict With This Chapter:**

a. Legal Issues Concerning The Settlement Agreement Between The City Of Cedar Park, Emerus Holdings, Inc., And ESWCT Cedar Park, LLC.

B.3 Section § 551.072 Deliberation Concerning The Purchase, Exchange, Lease Or Value Of Real Property.

a. The Bell Boulevard Roadway Realignment Project.

B.4 Section § 551.074 Deliberate The Appointment, Employment, Evaluation, And Duties Of A Public Officer Or Employee.

a. Brenda Eivens, City Manager.

b. J.P. LeCompte, City Attorney.

B.5 Section § 551.087 Deliberation Regarding Economic Development Negotiations.

a. Update Regarding Negotiations With Economic Development Prospects.

The Council Reconvenes into Open Meeting.

## **II. OPEN MEETING**

**To Commence At 7:00 p.m.**

**Council reconvened from Executive Session into Open Meeting at 7:02 p.m.**

C.1 Invocation. (Myr)

**Mayor Van Arsdale read a quote by Robert Zimmerman and Bob Dillon.**

C.2 Pledges Of Allegiance (U.S. and Texas).

**Council led the audience in the Pledges of Allegiance.**

C.3 Public Communications. (Regarding items not listed on this Agenda. Three Minutes each. No deliberations with the Council. The Council may respond only with factual statements, recitation of existing policy, and requests for an item to be placed on a future Agenda.)

**Bob Hucker, Cedar Park, registered to speak regarding trees. Due to audio issues, the speaker could not be heard.**

C.4 City Manager Report: Employee Recognition For Service With The City Of Cedar Park.

a. Randle Blesing, Asst. Fire Chief, Twenty Six Years Of Service And Retirement.

**Chief Mallinger, Fire Chief, addressed the service of Asst. Fire Chief Blesing.**

### **Consent Agenda**

*Pursuant to Council Rule 2.3, the City Council Consent Agenda consists of Agenda Items D, E, and F.*

**Agenda Item D.1 removed from the Consent Agenda.**

***Motion to approve the items on the Consent Agenda consisting of Agenda Items D, E, and F excluding D.1.***

**Movant: Councilmember Kirkland**

**Second: Mayor Pro Tem Duffy**

**Roll Call Vote conducted.**

**Councilmember Jefts      Aye**

**Councilmember Boyce      Aye**

**Mayor Pro Tem Duffy      Aye**

**Councilmember Kirkland      Aye**

**Councilmember Robinson      Aye**

**Mayor Van Arsdale      Aye**

**Vote: 6-0 with Councilmember Kelly absent from meeting.**

**D.1      Approval Of Minutes From The Special Called City Council Meeting Of November 17, 2020.**

**Agenda Item D.1 removed from the Consent Agenda.**

***Motion to approve Agenda Item D.1 as amended by Staff.***

**Movant: Councilmember Kirkland**

**Second: Councilmember Jefts**

**Roll Call Vote conducted:**

**Councilmember Robinson      Aye**

**Councilmember Kirkland      Aye**

**Mayor Pro Tem Duffy      Aye**

**Councilmember Boyce      Aye**

**Councilmember Jefts      Aye**

**Mayor Van Arsdale      Aye**

**Vote: 6-0 with Councilmember Kelly absent from meeting.**

- E.1 (Z-20-012) Second Reading And Approval Of An Ordinance To Rezone Approximately 4.38 Acres From Local Business - Conditional Overlay (LB-CO) To Local Business - Conditional Overlay (LB-CO), Located At 2601 Brushy Creek Road. ***The Planning and Zoning Commission Voted 6-0 To Recommend Local Business – Conditional Overlay (LB-CO) As Requested, With The Additional Conditions Of A 30-Foot Buffer Yard At The Northern Boundary Of The Lot And All Lighting Fixtures Meeting International Dark-Sky Association Requirements.***

**Approved under the Consent Agenda.**

**Ordinance Number Z05.21.12.17.E1**

- F.1 A Resolution Authorizing An Agreement For Construction Of The City Of Cedar Park Field Operations Parking Lot Expansion Project With Terra Path, Inc., In An Amount Not To Exceed \$209,375.10.

**Approved under the Consent Agenda.**

**Resolution Number R030.20.12.17.F1**

- F.2 A Resolution Authorizing Application For And Acceptance Of A Texas Department of Transportation STEP Grant For Fiscal Year 2022.

**Approved under the Consent Agenda.**

**Resolution Number R031.20.12.17.F2**

- F.3 A Resolution Authorizing A Contract For Public Affairs Consulting Services With Hillco Partners.

**Approved under the Consent Agenda.**

**Resolution Number R032.20.12.17.F3**

- F.4 Approval For Appointment Of Erin Osman To Place Three On The Economic Development Sales Tax (Type A) Corporation Board. (Duffy)

**Approved under the Consent Agenda.**

- F.5 Approval For Appointment Of Kevin Harris To Place Four On The Economic Development Sales Tax (Type A) Corporation Board. (Boyce)

**Approved under the Consent Agenda.**

- F.6 Approval For Appointment Of Sade Fashokun To Place Six On The Economic Development Sales Tax (Type A) Corporation Board. (Jefts)

**Approved under the Consent Agenda.**

- F.7 Approval For Reappointment Of Ginger Goodin To Place Three On The Community Development (Type B) Corporation Board. (Duffy)

**Approved under the Consent Agenda.**

- F.8 Approval For Appointment Of Larry Norris To Place Four On The Community Development (Type B) Corporation Board. (Boyce)

**Approved under the Consent Agenda.**

- F.9 Approval For Reappointment Of Ryan Wood To Place Six On The Community Development (Type B) Corporation Board. (Jefts)

**Approved under the Consent Agenda.**

- F.10 Approval For Appointment Of Christina Legrand To Place Six On The Parks, Arts, And Community Enrichment ("PACE") Board. (Jefts)

**Approved under the Consent Agenda.**

- F.11 Approval For Reappointment Of Sara Groff To Place Three On The Planning And Zoning Commission. (Duffy)

**Approved under the Consent Agenda.**

- F.12 Approval For Appointment Of Jonathan Edwards To Place Two On The Tourism Advisory Board. (Kirkland)

**Approved under the Consent Agenda.**

- F.13 Approval For Appointment Of Al K. Shivji To Place Three On The Tourism Advisory Board. (Duffy)

**Approved under the Consent Agenda.**

- F.14 Approval For Reappointment Of Malin Daniels To Place Four On The Tourism Advisory Board. (Boyce)

**Approved under the Consent Agenda.**

### **Public Hearings**

- G.1 (OA-20-001) First Reading And Public Hearing Of Amendments To Cedar Park Code Of Ordinances Chapter 11 Zoning. ***The Planning And Zoning Commissioner Voted 6-0 To Recommend Approval Of the Amendments As Presented.***

**Amy Link, Director of Dvlp. Services, reviewed the proposed amendments to Chapter 11 Zoning. The amendments include land use, design standards, and administrative clean up.**

**Mayor Van Arsdale opened the Public Hearing.**

**No Public Comment.**

**Mayor Van Arsdale closed the Public Hearing.**

**Regular Agenda (Non-Consent)**

- H.1 Discussion For Reappointment Of Linda Ayotte To Place Six On The Tourism Advisory Board. (Jefts)

**Agenda Item H.1 called after the Consent Agenda.**

**Linda Ayotte addressed the Council regarding her interest in serving.**

- H.2 Discussion For Reappointment Of Audrey Wernecke To Place Four On The Planning And Zoning Commission. (Boyce)

**Audrey Wernecke addressed the Council regarding her interest in serving.**

- H.3 (FLU-20-007) Consideration Of A Future Land Use Plan (FLUP) Amendment Petition Requesting An Amendment From Local Office/Retail/Commercial (LOC) To High Density Residential (HDR) For Approximately 5.46 Acres Located At 2230 And 2300 East Whitestone Boulevard.

**Amy Link, Director of Dvlp. Services, reviewed the petition to amend the Future Land Use Plan to High Density Residential for 5.46 acres.**

**Michelle Lynch, representing the Applicant, addressed Council regarding the petition request.**

**Discussion followed regarding high-density residential, commercial uses, limited frontage access on E. Whitestone, and access from Vista Ridge Blvd.**

***Motion to approve Agenda Item H.3 as presented.***

***“A Future Land Use Plan (FLUP) Amendment Petition Requesting An Amendment From Local Office/Retail/Commercial (LOC) To High Density Residential (HDR) For Approximately 5.46 Acres Located At 2230 And 2300 East Whitestone Boulevard”.***

**Movant: Councilmember Jefts**

**Second: Mayor Van Arsdale**

**Roll Call Vote conducted:**

**Councilmember Jefts      Aye**

**Councilmember Boyce      Aye**



**Mayor Pro Tem Duffy      Aye**

**Councilmember Kirkland   Aye**

**Councilmember Robinson   Nay**

**Mayor Van Arsdale        Aye**

**Vote: 5-1 with Councilmember Robinson voting against and Councilmember Kelly absent from meeting.**

- H.4 (FLU-20-008) Consideration Of A Future Land Use Plan Amendment Petition Requesting An Amendment From Local Office/Retail/Commercial (LOC) To Low Density Residential (LDR) For Approximately 57 Acres Located North Of County Road 180 And West Of Ronald Reagan Boulevard.

**Amy Link, Director of Dvlp. Services, reviewed the petition to amend the Future Land Use Plan to Low Density Residential for 57 acres.**

**Mike Boswell, Toll Brothers, addressed the Council regarding the petition request. Joel Wixson, Kimley-Horn, was available for questions.**

**Public Comment:**

**Rodney Shane, Leander, registered a comment on wanting to understand the proposal.**

**General discussion followed related to commercial development on the frontage of Ronald Reagan Blvd, timing for development of commercial, property located in the City's ETJ, required future annexation, and access to proposed development.**

***Motion to approve a Future Land Use Plan Amendment Petition Requesting An Amendment From Local Office/Retail/Commercial (LOC) To Low Density Residential (LDR) For Approximately 57 Acres Located North Of County Road 180 And West Of Ronald Reagan Boulevard.***

**Movant: Councilmember Robinson**

**Second: Councilmember Kirkland**

**Roll Call Vote conducted:**

**Councilmember Boyce      Nay**

**Councilmember Jefts        Nay**

**Mayor Pro Tem Duffy        Nay**

**Councilmember Kirkland   Aye**

**Councilmember Robinson    Aye**

**Mayor Van Arsdale                Nay**

**Vote: 2-4 with Councilmember Kelly absent from meeting. Motion fails.**

- H.5    Consideration Of A Resolution Authorizing The Execution Of An Agreement For Professional Architectural Services With Lake | Flato Architects, Inc. For The Design Of The New Cedar Park Public Library In An Amount Not To Exceed \$3,110,000.

**Randy Lueders, Sr. Project Manager, reviewed the process for the selection of an architect for the new Cedar Park Public Library.**

*Motion to approve Agenda Item H.5 as presented.*

*“A Resolution Authorizing The Execution Of An Agreement For Professional Architectural Services With Lake | Flato Architects, Inc. For The Design Of The New Cedar Park Public Library In An Amount Not To Exceed \$3,110,000.”*

**Movant: Councilmember Kirkland**

**Second: Councilmember Jefts**

**Roll Call Vote conducted:**

**Councilmember Robinson    Aye**

**Councilmember Kirkland    Aye**

**Mayor Pro Tem Duffy            Aye**

**Councilmember Boyce            Aye**

**Councilmember Jefts            Aye**

**Mayor Van Arsdale            Aye**

**Vote: 6-0 with Councilmember Kelly absent from meeting.**

**Resolution Number R033.20.12.17.H5**

- H.6    Discussion And Possible Action Regarding Proposed Amendments To The Cedar Park City Charter.

**JP LeCompte, City Attorney, reviewed the proposed amendments to the City Charter as addressed by Council at the December 3<sup>rd</sup> Council Meeting. The amendments include term lengths, appointments to fill vacancies, expansion of confidentiality, and resign to run.**

**Discussion followed regarding the process and transition for amending Council terms and resign to run requirement.**

- H.7 Discussion And Possible Action Regarding Proposed Amendments To The City Council Rules Of Procedure.

**JP LeCompte, City Attorney, reviewed the proposed amendments to the Council Rules of Procedure.**

**General discussion followed related to Roberts Rules of Order, mobile devices being used during Executive Session, and video conferencing into Executive Session.**

- H.8 Discussion Regarding The COVID-19 Declaration Of Local State Of Disaster For The City Of Cedar Park.

**Called Item H.8 called after Agenda Item H.5.**

**John Cummings, Emergency Mgmt. Coordinator, provided an update on the COVID-19 pandemic in Cedar Park.**

- H.9 Consider Action, If Any, On Items Discussed In Executive Session.

**Council convened into a second Executive Session from 9:52 p.m. to 11:05 p.m.**

**Agenda Item B.3a**

*Motion that outside counsel and the City Manager be authorized to execute documents necessary to settle the pending eminent domain litigation between the City and N.E. Walker on the terms discussed in Executive Session, under the direction and with the approval of the City Attorney.*

**Movant: Councilmember Kirkland**

**Second: Councilmember Boyce**

**Roll Call Vote conducted:**

**Councilmember Jefts      Aye**

**Councilmember Boyce      Aye**

**Councilmember Robinson      Aye**

**Mayor Pro Tem Duffy      Aye**

**Councilmember Kirkland      Aye**

**Mayor Van Arsdale      Aye**

**Vote: 6-0 with Councilmember Kelly absent from meeting.**

**Agenda Item B.4a**

*Motion to authorize the Mayor to execute an amendment to the City Manager's Employment Agreement revising Section 3 to change the submittal deadline from October 1 to November 1 and increase annual base salary by five percent (5%) as of April 1, 2021.*

**Movant: Mayor Pro Tem Duffy**

**Second: Councilmember Kirkland**

**Roll Call Vote conducted:**

**Councilmember Robinson    Aye**

**Mayor Pro Tem Duffy        Aye**

**Councilmember Kirkland    Aye**

**Councilmember Boyce        Aye**

**Councilmember Robinson    Aye**

**Mayor Van Arsdale          Aye**

**Vote: 6-0 with Councilmember Kelly absent from meeting.**

**Agenda Item B.4b**

*Motion to authorize the Mayor to execute an amendment to the City Attorney Employment Agreement, which strikes the waiver of jury trial, which increases the severance determination without cause from six (6) months to twelve (12) months, which changes the annual accomplishment submittal deadline from October 1 to November 1 and increase annual base salary by five percent (5%) as of April 1, 2021.*

**Movant: Mayor Van Arsdale**

**Second: Councilmember Boyce**

**Roll Call Vote conducted:**

**Councilmember Boyce        Aye**

**Councilmember Jefts         Aye**

**Councilmember Robinson    Aye**

**Councilmember Kirkland    Aye**

**Mayor Pro Tem Duffy        Aye**

**Mayor Van Arsdale            Aye**

**Vote: 6-0 with Councilmember Kelly absent from meeting.**

H.10    Mayor And Council Closing Comments.

**Mayor Pro Tem Duffy reflected on the recent passing of a family member due to COVID.**

**Councilmember Robinson and Councilmember Jefts wished Happy Birthdays to the Mayor and Brenda Eivens, City Manager.**

**Councilmember Boyce recognized Jack Biggers, watching the meeting, for working on his communication badge.**

**Mayor Van Arsdale commented on the past year.**

H.11    Adjournment.

**Mayor Van Arsdale adjourned the meeting at 11:12 p.m.**

**PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF JANUARY, 2021.**

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**Corbin Van Arsdale, Mayor**

**ATTEST:**

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**LeAnn M. Quinn, TRMC  
City Secretary**

**File Attachments for Item:**

D.2 Approval Of Minutes From The Regular Scheduled City Council Meeting Of January 14, 2021.

## MINUTES

**CITY OF CEDAR PARK  
REGULAR SCHEDULED CITY COUNCIL MEETING  
CEDAR PARK CITY HALL - COUNCIL CHAMBERS  
450 CYPRESS CREEK ROAD, BUILDING FOUR  
JANUARY 14, 2021 AT 6:00 PM**

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Anne Duffy, Mayor Pro Tem  
Rodney T. Robinson, Council Place Five  
Heather Jefts, Council Place Six  
Brenda Eivens, City Manager

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A.1 CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN.

**Mayor Van Arsdale called the meeting to order at 6:00 p.m.**

**All Council present with Councilmember Kelly attending meeting by video conference.**

### **I. EXECUTIVE SESSION**

*In accordance with Chapter 551, Government Code, the City Council will now convene in a Closed Executive Session pursuant to the following provisions of the Texas Open Meetings Act, Chapter 551, of the Texas Government Code:*

B.1 *NO ITEMS POSTED FOR EXECUTIVE SESSION.*

### **II. OPEN MEETING** **To Commence At 6:00 p.m.**

C.1 Invocation. (1)

**Councilmember Kelly gave the Invocation.**

C.2 Pledges Of Allegiance (U.S. and Texas).

**Council led the Pledges of Allegiance.**

C.3 Public Communications. (Regarding items not listed on this Agenda. Three Minutes each. No deliberations with the Council. The Council may respond only with factual statements, recitation of existing policy, and requests for an item to be placed on a future Agenda.)

**None.**

- C.4 Presentation: Recognition For The 40th Anniversary Of The Cedar Park Public Library.

**Julia Mitschke, Library Director, addressed the Council regarding the 40<sup>th</sup> Anniversary of the Cedar Park Public Library.**

- C.5 City Manager Report: Employee Recognition For Service With The City Of Cedar Park

- a. Chief James Mallinger, Fire Department, Twenty-Five Years Of Service.

**Brenda Eivens, City Manager, recognized Chief Mallinger for his twenty-five years of service with the City.**

### **Consent Agenda**

*Pursuant to Council Rule 2.3, the City Council Consent Agenda consists of Agenda Items D, E, and F.*

**Agenda Item D.3 withdrawn from the Agenda.**

***Motion to approve all items on the Consent Agenda consisting of Agenda Items D, E, and F excluding D.3***

**Movant: Councilmember Kirkland**

**Second: Councilmember Boyce**

**Roll Call Vote conducted:**

<b>Councilmember Jefts</b>	<b>Aye</b>
<b>Councilmember Robinson</b>	<b>Aye</b>
<b>Councilmember Boyce</b>	<b>Aye</b>
<b>Mayor Pro Tem Duffy</b>	<b>Aye</b>
<b>Councilmember Kirkland</b>	<b>Aye</b>
<b>Councilmember Kelly</b>	<b>Aye</b>
<b>Mayor Van Arsdale</b>	<b>Aye</b>

**Vote: 7-0**

- D.1 Approval Of Minutes From The Regular Scheduled City Council Meeting Of November 19, 2020.

**Approved under the Consent Agenda.**

- D.2 Approval Of Minutes From The Regular Scheduled City Council Meeting Of December 3, 2020.



**Approved under the Consent Agenda.**

- D.3 Approval Of Minutes From The Regular Scheduled City Council Meeting Of November 17, 2020.

**Withdrawn from the Agenda.**

- E.1 (OA-20-001) Second Reading And Approval Of An Ordinance Amending Chapter 11 Zoning. *The Planning And Zoning Commission Voted 6-0 To Recommend Approval Of The Amendments.*

**Approved under the Consent Agenda.**

**Ordinance Number CO06.21.01.14.E1**

- F.1 Approval For Reappointment Of Audrey Wernecke To Place Four On The Planning And Zoning Commission. (Boyce)

**Approved under the Consent Agenda.**

- F.2 Approval For Reappointment Of Linda Ayotte To Place Six On The Tourism Advisory Board. (Jefts)

**Approved under the Consent Agenda.**

- F.3 A Resolution Authorizing An Agreement For The Transfer Of Retired Law Enforcement K-9 Officer “Stryker” To Officer Ian White.

**Approved under the Consent Agenda.**

**Resolution Number R034.21.01.14.F3**

- F.4 A Resolution Approving The City of Cedar Park Legislative Platform For The 87th Legislative Session.

**Approved under the Consent Agenda.**

**Resolution Number R037.21.01.14.F4**

- F.5 A Resolution Consenting To The Brushy Creek Regional Utility Authority (“BCRUA”) Authorizing An Emergency Agreement With Excel Construction Services, LLC For Repairs To The 36-Inch Underwater Raw Water Pipeline For The Amount Of \$665,316, With Cedar Park's Portion In The Amount Of \$177,439.78.

**Approved under the Consent Agenda.**

**Resolution Number R035.21.01.14.F5**

**Public Hearings**

- G.1 (Z-20-014) First Reading And Public Hearing Of An Ordinance To Rezone Approximately 4.56 Acres From Development Reserve (DR) To General Business (GB), Located At The Southeast Corner of W Whitestone Boulevard and Toro Grande Boulevard. ***The Planning and Zoning Commission Voted 4-2 To Recommend Denial Of General Business (GB).***

**Agenda Item G.1 requested to be postponed by Applicant. Withdrawn from Agenda.**

- G.2 (Z-20-015) First Reading And Public Hearing Of An Ordinance To Rezone Approximately 13.64 Acres From Light Industrial (LI) To Heavy Industrial – Conditional Overlay (HI-CO), Located At 1800 Hur Industrial Boulevard. ***The Planning and Zoning Commission Voted 6-0 To Recommend Heavy Industrial – Conditional Overlay (HI-CO) As Requested.***

**Amy Link, Dvlp. Services Director, reviewed the request to rezone approximately 13.64 acres from Light Industrial to Heavy Industrial-Conditional Overlay.**

**Doug Loebertman, VP Satellite Industries, addressed Council regarding the rezoning request.**

**Mayor Van Arsdale opened the Public Hearing.**

**No Public Comment.**

**Mayor Van Arsdale closed the Public Hearing.**

- G.3 (OA-20-003) First Reading And Public Hearing Of An Ordinance Amending Cedar Park Code Of Ordinances Chapter 6, Seasonal, Temporary And Mobile Business And Events Regarding Seasonal Businesses And Special Events.

**Amy Link, Dvlp. Services Director, reviewed the proposed amendments to address special events and seasonal retail businesses.**

**Mayor Van Arsdale opened the Public Hearing.**

**No Public Comment.**

**Mayor Van Arsdale closed the Public Hearing.**

- G.4 First Reading And Public Hearing Of An Ordinance Calling And Ordering A Special Called Election To Be Held On May 1, 2021 For The Purpose Of Considering Amendments To The City Charter; Making Provisions For The Conduct Of The Election, And Resolving Other Matters Related To Such Election.

**J.P. LeCompte, City Attorney, addressed the Council regarding the proposed Charter Amendments for consideration at a Special Called Election to be held on May 1, 2021.**

**General discussion followed regarding the five (5) proposed amendments and clarification regarding the ballot wording.**

**Mayor Van Arsdale opened the Public Hearing.**

**No Public Comment.**

**Mayor Van Arsdale closed the Public Hearing.**

**Regular Agenda (Non-Consent)**

- H.1 Discussion For Appointment Of Kimberly Bradford-Brown To Place Six On The Planning And Zoning Commission. (Jefts)

**Agenda Item H.1 called after Agenda Item G.3.**

**Kimberly Bradford-Brown addressed the Council regarding her interest in serving.**

- H.2 Second Reading Of An Ordinance Authorizing An Agreement With Pedernales Electric Cooperative, Inc. Granting Its Legal Representatives, Successors, Lessees And Assigns Certain Powers, Licenses, Rights-Of-Way, Privileges And Franchise To Construct, Maintain, Operate And Use A Transmission And Distribution System In The City Of Cedar Park To Provide Electric Utility Service.

**Jackson Brockway, Asst. to the City Manager, reviewed the background of the Franchise Agreement. The current Agreement was approved in 2000 for twenty years with a franchise of 2%. The proposed agreement would have a term length of five (5) years with a franchise fee at 4%.**

**General discussion followed on the proposed increase to the franchise fee and the benchmark comparisons, impact of increase of the franchise fee to homeowners, and the draft agreement.**

- H.3 Review And Consideration Of Acceptance Of The 2020 Cedar Park Transit Study.

**Sam Roberts, Asst. City Manager, provided an overview of the 2020 Cedar Park Transit Study. The purpose of the study was to gauge resident's interest in public transit in Cedar Park and to identify potential transit options and their associated costs and projected usage.**

***Motion to accept the 2020 Cedar Park Transit Study.***

**Movant: Councilmember Kirkland**

**Second: Councilmember Jefts**

**Roll Call Vote conducted:**

**Mayor Pro Tem Duffy      Aye**

**Councilmember Robinson   Aye**

**Councilmember Jefts      Aye**

**Councilmember Boyce      Aye**

**Councilmember Kirkland      Aye**

**Councilmember Kelly      Aye**

**Mayor Van Arsdale      Aye**

**Vote: 7-0**

H.4      Update On The Future Redevelopment Of The Lime Creek Quarry.

**Chris Copple, Asst. City Manager, provided an update on the future redevelopment of the Lime Creek Quarry. Blasting will stop at the end of 2021 with equipment usage being allowed through 2022. The lease terminates on June 30, 2023. The Redevelopment Feasibility Study was completed in 2020.**

H.5      Consideration Of A Resolution Approving Proposed Amendments To The City Council Rules Of Procedure.

**J.P. LeCompte, City Attorney, reviewed the proposed amendments to the City Council Rules of Procedure.**

**General discussion followed regarding the right to invoke Roberts Rules of Order and advance notice of request, Executive Session, reconsideration of matters, and discipline of Councilmembers.**

*Councilmember Kelly left meeting at 7:59 p.m. during discussion.*

**No action taken.**

H.6      Discussion And Possible Action Regarding The City's Revolving Door Policy.

**Mayor Van Arsdale reviewed the history of the Revolving Door Policy and commented on amending portions of the Ordinance.**

**Discussion followed related to Staff and restrictions, lifetime ban clarification, and possible amendment from lifetime ban to a specified timeframe.**

**No action taken.**

H.7      Discussion Regarding The COVID-19 Declaration Of Local State Of Disaster For The City Of Cedar Park.

**John Cummings, Emergency Mgmt. Coordinator, provided an update on the COVID-19 pandemic in Cedar Park.**

H.8      Consider Action, If Any, On Items Discussed In Executive Session.

**No Executive Session conducted.**

H.9 Mayor And Council Closing Comments.

**Councilmember Jefts commented on upcoming fundraising events.**

**Councilmember Boyce commented on the Transit Study, Council Rules of Procedure, and the opportunity to discuss and engage in conversation on important items.**

**Mayor Pro Tem Duffy commented on the Cedar Park High School Football Team traveling to the State Finals and wished them luck.**

**Councilmember Kirkland stated information related to COVID-19 could be located on the City's website and commented on the recent snow on Sunday and also blood drives in the community.**

**Mayor Van Arsdale commented on a new and better year.**

H.10 Adjournment.

**Mayor Van Arsdale adjourned the meeting at 9:03 p.m.**

**PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF JANUARY, 2021.**

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**Corbin Van Arsdale, Mayor**

**ATTEST:**

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**LeAnn M. Quinn, TRMC  
City Secretary**

**File Attachments for Item:**

E.1 Second Reading And Approval Of An Ordinance Calling And Ordering A Special Called Election To Be Held On May 1, 2021 For The Purpose Of Considering Amendments To The City Charter; Making Provisions For The Conduct Of The Election, And Resolving Other Matters Related To Such Election.



## CITY COUNCIL AGENDA

January 28, 2021

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**Item/Subject:** Second Reading And Approval Of An Ordinance Calling And Ordering A Special Called Election To Be Held On May 1, 2021 For The Purpose Of Considering Amendments To The City Charter; Making Provisions For The Conduct Of The Election, And Resolving Other Matters Related To Such Election.

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### **Commentary**

On December 3, 2020, the City Council discussed several possible amendments to the City Charter regarding term length, confidentiality, appointment to fill vacancies, and automatic resignation upon filing/candidacy for another elective office. Redlines of the proposed amendments were reviewed and again discussed by the Council on December 17. In addition, since the December 17 Council meeting, the City Manager and City Attorney identified an opportunity to clarify the City Manager's authority to sign contracts, agreements, and instruments either as delegated by the Council or as necessary in the prudent administration of City operations. This clarification of the City Manager's signature authority has been included in the proposed redline amendments as well as a separate proposition for the Council's consideration.

State law requires a special election to amend the City Charter, and this special election must be ordered by ordinance. The statutory deadline for ordering a special election on the May 1, 2021 uniform election date is February 12, 2021.

The proposed ordinance presents five (5) propositions for consideration. If approved:

- Proposition A would change the terms of office for the Mayor and Councilmembers from two (2) years to three (3) years. The proposed amendment would not extend any current Mayor or Councilmember's term of office. As proposed, the transition to three (3) year terms would commence at the next general election following the adoption of this Proposition A (May 2022). At that election, two (2) positions would

be elected to three (3) year terms and two (2) positions would be elected to two (2) year terms. In the following general election (May 2023), three (3) positions would be elected to three (3) year terms. And in the next election (May 2024), the last two (2) positions would be elected to three (3) year terms. *\*NOTE: Pursuant to state law, with three (3) year terms, vacancies on the Council must be filled by special election absent specific authorization to appoint for the remainder of an unexpired term of 12 months or less (see Proposition C). Regardless, state law does not authorize appointment to fill a vacancy of more than 12 months, so a special election would be required. Because state law requires this special election within 120 days of the vacancy, it may not occur on a uniform election date – potentially leaving the City responsible for the full cost of administering the election.*

- Proposition B would clarify the City Manager’s authority to sign agreements, instruments, and documents either as delegated by the Council or as necessary in the prudent administration of City operations in accordance with the annual budget and City Charter.
- Proposition C would authorize an appointment to fill a vacancy on the Council for the remainder of an unexpired term of 12 months or less. If three (3) year terms are adopted, state law generally requires a special election to fill a vacancy within 120 days, absent specific authorization to appoint for relatively short unexpired terms of 12 months or less. Regardless, state law does not authorize appointment to fill a vacancy of more than 12 months, so a special election would be required. *\*NOTE: Proposition C only asks whether the Council should be authorized to fill vacancies of 12 months or less by appointment (instead of requiring a special election).*
- Proposition D would protect, in addition to attorney-client privileged communications, confidentiality of sensitive information that has been discussed in closed executive session pursuant to state law. This provision currently applies only to the City Council, but by the proposed amendment it would be extended to City Boards, Commissions, committees, and task forces, and would provide for necessary exceptions.
- Proposition E would provide for automatic and immediate resignation by a Mayor or Councilmember upon their filing or candidacy for any public office other than of the Cedar Park City Council, instead of requiring resignation at least forty-five (45) days prior to the election.

The ordinance includes the proposed language of each proposition as well as the redline Charter provisions reflecting the amendments as they would be implemented, if adopted by the voters.

**Initiating Dept:**      Legal/CS

**Fiscal Impact**

**Budget**



**Fund:**

**Amount:**

☐ **Finance Director Review**

**Article I.     Legal Certification**

Approved as to form and content:

☐ Yes     ☐ No     **City Attorney**

**Associated Information:**

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, CALLING AND ORDERING A SPECIAL CALLED ELECTION TO BE HELD ON MAY 1, 2021 FOR THE PURPOSE OF AMENDING THE CITY CHARTER; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION, AND RESOLVING OTHER MATTERS RELATED TO SUCH ELECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Cedar Park, Texas (the “City”), is a home rule city acting under its City Charter pursuant to Article XI, Section 5 of the Texas Constitution and Section 9.004 of the Texas Local Government Code; and

WHEREAS, it is the intention of the City Council to call a special election to submit proposed amendments to the City Charter to the voters in accordance with Section 9.004 of the Texas Local Government Code; and

WHEREAS, Section 41.001 of the Texas Election Code establishes May 1, 2021 as a uniform election date for the purposes of conducting an election; and

WHEREAS, the City will conduct a joint election with the Williamson and Travis County Elections Administrators and Participating Entities; and

WHEREAS, pursuant to Section 31.092 (a), Texas Election Code, and Chapter 791 Texas Government Code, the City has made provisions with Williamson and Travis County Elections Departments to perform and conduct election services in connection with said election with respect to registered City of Cedar Park voters in their respective Counties; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance is being adopted was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Local Government Code, as amended; and

WHEREAS, that said election shall be held in accordance with the Election Code of the State of Texas, and only resident, qualified voters of said City shall be eligible to vote at said election.

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

SECTION 1. SPECIAL ELECTION ORDERED

It is hereby ordered, pursuant to the laws of the State of Texas and the Charter of the City of Cedar Park that a special election be held in the City of Cedar Park, Texas, on May 1,

2021 for the purpose of submitting to the qualified voters of the City of Cedar Park, certain proposed amendments to the City of Cedar Park Home Rule Charter.

## **SECTION 2. OFFICIAL BALLOT**

The official ballot for the election shall be prepared in accordance with the Texas Election Code Chapter 52 and Local Government Code Chapter 9, Section 9.004.

Where applicable, the ballot will include all participating entities and elections of which Cedar Park citizens are eligible to vote.

The official ballot shall be printed both in English and Spanish languages and shall contain such provisions, markings and language as required by law do as to permit the electors to vote “FOR” or “AGAINST” on each PROPOSITION and with the ballots to contain such provisions, markings and language as required by law, and with such PROPOSITION to be expressed substantially as follows:

### **PROPOSITION A TERMS OF OFFICE**

Shall Section 3.01 of the Cedar Park City Charter be amended to change the Mayor and Councilmembers’ terms of office from two (2) years to three (3) years with such terms staggered such that 2 positions, 3 positions, and 2 positions are to be elected at each general election and provide for transition to 3-year terms over the 3-year period starting at the next general election after the adoption of this amendment?

- ☐ FOR
- ☐ AGAINST

### **PROPOSITION B CITY MANAGER SIGNATURE AUTHORITY**

Shall Section 3.05 and Section 4.01(d) of the Cedar Park City Charter be amended to expressly authorize the City Manager to execute all agreements, conveyances, instruments, and documents as authorized or directed by the Council, or as reasonably necessary in the prudent administration of City affairs in accordance with the annual budget and this Charter?

- ☐ FOR
- ☐ AGAINST

### **PROPOSITION C FILLING OF VACANCIES**

If three (3) year terms are adopted, shall Section 3.06(c) of the Cedar Park City Charter be amended to provide for filling of a vacancy on the Council with an unexpired term of 12 months or less by appointment by the City Council and for filling a vacancy with an unexpired term of more than 12 months by special election in accordance with state law?

- ☐ FOR
- ☐ AGAINST

**PROPOSITION D**  
**PROHIBITIONS: DISCLOSURE OF PRIVILEGED OR CONFIDENTIAL**  
**INFORMATION**

Shall Section 3.08(d) of the Cedar Park City Charter be amended to protect, in addition to attorney-client privileged communications, confidentiality of information that has been discussed in closed executive session pursuant to state law, to apply to the City Council and also appointees of City Boards, Commissions, committees, and task forces, and to provide for necessary exceptions?

- ☐ FOR
- ☐ AGAINST

**PROPOSITION E**  
**FILING FOR OFFICE; RESIGN TO RUN**

Shall Section 5.02(f) of the Cedar Park City Charter be amended to provide for automatic and immediate resignation by a Mayor or Councilmember upon their filing or candidacy for any public office other than of the Cedar Park City Council, instead of requiring resignation at least forty-five (45) days prior to the election, and renumbered as Section 5.07?

- ☐ FOR
- ☐ AGAINST

**SECTION 3. CONDUCT OF ELECTION; LEGAL COMPLIANCE**

The City of Cedar Park is located in Williamson and Travis Counties. As authorized under Section 31.092 of the Texas Election Code the City will make provisions with Williamson County and Travis County Elections Departments to perform and conduct election services in connection with said election. The Williamson County Elections Administrator and the Travis County Election Manager and his/her employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election for the entire City pursuant to the contracts for election services between the City and Williamson County and Travis County Elections Departments. The election shall be held as a joint election pursuant to Chapter 271 of the Texas Election Code in accordance with joint election agreements to be entered into between the City and the other participating entities. The election shall be held and conducted by the Williamson County Elections Administrator and/or the Travis County Elections Manager in compliance with all federal, state, and local laws and the executed Election Services Agreements.

**SECTION 4. ELECTION PRECINCTS, POLLING PLACES AND ELECTION JUDGES.**

The Election Day precincts for the election shall be the election precincts as established by Williamson and Travis Counties and shall contain and include geographic area within the City. The precincts and polling places within the City designated for holding the election are identified in **Exhibit A** and **Exhibit B** to this Ordinance and this exhibit is incorporated by reference for all purposes. Election judges and clerks shall be appointed in accordance with the Texas Election Code and/or the Joint Election Agreements executed by Williamson County and/or Travis County. The exhibits may be revised as necessary to conform to final county polling locations as amended and finalized by Williamson County Elections and Travis County Elections.

**SECTION 5. ELECTION CLERKS**

The Presiding Election Judge is hereby authorized to appoint the number of election clerks necessary to assist in the proper conduct of the election and such election clerks shall be qualified electors of the City. However, if the Presiding Judge appointed actually serves, the Alternate Presiding Judge shall serve as one of the clerks. The appointment of such clerks must include a person fluent in the Spanish language to serve as a clerk or render oral aid in the Spanish language to any voter desiring such aid at the polls on the day of the election. In the absence of the Presiding Judge named above, the Alternate Judge shall perform the duties of the Presiding Judge.

**SECTION 6. EARLY VOTING**

Early Voting shall be conducted by Williamson County Elections Administrator and/or Travis County Elections Manager, who are hereby designated and appointed as the Early Voting Clerks for the special called election and shall perform such duties in accordance with all laws in the Texas Elections Code. Early voting shall be conducted at the branch and part-time early voting polling places identified in **Exhibit C** and **Exhibit D** to this Resolution and this exhibit is incorporated by reference for all purposes. These offices or places shall remain open on the dates and at times set forth in **Exhibit C** and **Exhibit D** hereto as authorized by Williamson County Elections Administrator and/or Travis County Elections Manager. Early voting shall commence on the 12<sup>th</sup> day before the election and continue through the 4<sup>th</sup> day preceding the date of the election all as provided by the provisions of the Texas Election Code and **Exhibit C** and **Exhibit D** attached hereto. The exhibits may be revised as necessary to conform to final county polling locations as amended and finalized by Williamson County Elections and Travis County Elections.

The Early Voting Clerk's mailing address to which ballot applications and ballots to be voted by mail may be sent to:

Christopher Davis, Elections Administrator  
Williamson County Elections  
P.O. Box 209  
Georgetown TX 78627

Dana DeBeauvoir, Travis County Clerk

Travis County Elections  
P.O. Box 149325  
Austin, TX 78714-9325

**SECTION 7. EARLY VOTING BALLOT BOARD**

An early voting ballot board is hereby created to process early voting results and the Presiding Judge will be appointed by the Williamson County Elections Administrator and/or Travis County Elections Manager. The Presiding Judge shall appoint not less than two nor more than eighteen (18) qualified electors to serve as members of the Early Voting Ballot Board.

**SECTION 8. VOTERS**

All resident, qualified electors of the City shall be entitled to vote at the election.

**SECTION 9. NOTICE**

Pursuant to and in accordance with Chapter 4 of the Texas Election Code and Section 9.004 of the Texas Local Government Code, notice of said election shall be given by posting and publication; a copy of this resolution to be served on the Presiding Judge as notice of said election; and immediately after said election, the officers holding the same shall make returns of the results thereof to the Mayor. The attached **Exhibit E** shall serve as order of said election.

Notice of the Election: shall include a Spanish translation thereof, shall be posted not later than the twenty-first (21<sup>st</sup>) day before the election on the bulletin board used for posting notices of meetings of the City Council and shall be published at least once, not early than the thirtieth (30<sup>th</sup>) day nor later than the tenth (10<sup>th</sup>) day before the election in a newspaper published and or general circulation in the City of Cedar Park.

Publication of Amendments: Additionally, in accordance with Section 9.004(c) of the Local Government Code, notice shall be published in a newspaper of general circulation in Cedar Park on the same day, in each of two consecutive weeks, with the first publication occurring on or before the 14<sup>th</sup> day before Election Day. The notice shall contain a substantial copy of the proposed amendments and include an estimate of the anticipated fiscal impact to the City if the proposed amendment is approved at the election.

**SECTION 10. ADOPTION OF VOTING SYSTEMS**

An electronic voting system, as defined by the Texas Election Code, may be used for voting at the polling places for said election and the tabulation of the results. The conduct of the election and the use of the electronic voting systems shall be accordance with the Texas Election Code. In accordance with the Texas Election Law, Chapter 123, Section 123.001, the City of Cedar Park hereby adopts the voting systems utilized by the Williamson County Elections Department and Travis County Elections Department for Early Voting and Election Day as certified by the Secretary of State.

#### SECTION 11. VOTING DEVICES

The City of Cedar Park authorized the use of Direct Recording Electronic Voting Machines (“DRE’s”) by Resolution Number R069.20.03.12.F3 for Williamson County and Travis County. Electronic Optical scan voting devices may also be used in conducting the election. The Williamson County Voter Registrar and Travis County Voter Registrar may also utilize a central counting station as provided by Section 127.000 *et. seq.*, as amended, of the Texas Election Code.

#### SECTION 12. RESULTS; RETURNS AND CANVASSING

The Williamson County Elections Administrator and/or the Travis County Elections Manager shall conduct an unofficial tabulation of results after the closing of the polls on election day. The official canvass and tabulation of the results of the Special Election shall be conducted in accordance with the Texas Election Code and other applicable provisions of state law.

#### SECTION 13. CUSTODIAN OF ELECTION RECORDS

Pursuant to the Election Code and the application Election Services Contract, the Williamson County Elections Administrator and/or the Travis County Election Manager shall serve as the Custodian of Election Records for the conduct of the election and voted ballots in their respective counties, and the City Secretary shall serve as custodian of all other election records as maintained by the City.

#### SECTION 14. APPROVAL OF THE PROPOSITIONS; EFFECTIVITY

The proposed amendments shall take effect upon their adoption and the entering of an order by the City Council declaring the amendments adopted. The proposed amendments affect only the Articles and Sections listed in **Exhibit F** attached hereto and submitted for amendment to read as stated therein (with proposed new language being underlined, bolded, and italicized and language proposed to be removed is struck through).

#### SECTION 15. AUTHORIZATION FOR OTHER ACTION

The Mayor and the City Secretary of the City, in consultation with the City Attorney, are hereby authorized and directed to take any and all action necessary to comply with provisions of the Texas Election Code or state and federal statutes and constitutions in carrying out the conduct of the election, whether or not expressly authorized therein.

#### SECTION 16. SEVERABILITY

The provisions of this Ordinance are severable; and in case any one or more the provisions of this Ordinance of the application thereof to any person or circumstances should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SECTION 17. REPEALER.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 18. COMPLIANCE WITH TEXAS OPEN MEETINGS ACT.

That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 14<sup>th</sup> day of January, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 28<sup>th</sup> day of January, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
J.P. LeCompte, City Attorney

ORDINANCE NO. \_\_\_\_\_





**EXHIBITS**

- A Williamson County Polling Locations – Election Day  
*[To be finalized by Williamson County]*
- B Travis County Polling Locations – Election Day  
*[To be finalized by Travis County]*
- C Williamson County Polling Locations and Times– Early Voting  
*[To be finalized by Williamson County]*
- D Travis County Polling Locations and Times– Early Voting  
*[To be finalized by Travis County]*
- E Order Of Election  
*[To be finalized by City Secretary]*
- F Proposed Amendments to City of Cedar Park Home Rule Charter

**EXHIBIT F**  
**Proposed Amendments to City of Cedar Park Home Rule Charter**

**If Proposition A is adopted, then Section 3.01 shall be revised as follows:**

**Section 3.01    Number, Selection and Term**

The Council shall be composed of the Mayor and six (6) Councilmembers. The Mayor and all Councilmembers shall be elected from the City at Large and each Councilmember shall occupy a position on the Council, such positions being numbered one (1) through six (6) consecutively. The Mayor and Councilmembers shall be elected in the manner in [Article V](#) of this Charter to serve for ~~two (2)~~ three (3) year terms. ~~The Mayor, Councilmember Place Two (2), Councilmember Place Four (4), and Councilmember Place Six (6) shall be elected in the even years. Councilmember Place One (1), Councilmember Place Three (3), and Councilmember Place Five (5) shall be elected in the odd years.~~ In order to provide for an orderly transition from two (2) year terms to three (3) year terms, at the first general election held after the adoption of this amended Section, two (2) positions (either the Mayor and one (1) Councilmember, or two (2) Councilmembers) shall be elected to serve two (2) year terms and two (2) positions (either the Mayor and one (1) Councilmember, or two (2) Councilmembers) shall be elected to serve three (3) year terms. The places which shall be elected to two (2) year terms shall be determined by Mayor/Councilmember volunteer or drawing lots at the first regular City Council meeting held after this amended Section is adopted and confirmed by majority vote of the Council. The following year, and each year thereafter, all elections shall be for three (3) year terms.

**If Proposition B is adopted, then Section 3.05 and Section 4.01(d) shall be revised as follows:**

### **Section 3.05 Mayor and Mayor Pro Tem**

The Mayor shall be the official head of the City Government, and shall work with the City Manager with assistance from the City Secretary and other City staff members, as required, in preparing agendas for the Council meetings. The Mayor shall preside at all meetings of the Council, shall sign all ordinances, orders, resolutions, statements, agreements, conveyances, plats, instruments, and documents, authorized or enacted by the Council, except as delegated to the City Manager or their designee. The Mayor shall vote on all issues, proposals, questions, and motions which require Council votes. The Mayor shall not have the power to veto or modify any ordinance adopted by the Council and shall not, in any way, neutralize or negate any action of the Council. The Mayor shall be recognized as the head of City government for all ceremonial purposes and shall be responsible for providing initiative and guidance in the orderly management and growth of the City.

The Mayor Pro Tem shall act as Mayor during the disability or absence of the Mayor, and, in this capacity, shall have the rights conferred upon the Mayor.

### **Section 4.01 City Manager**

(a) Appointment and Qualifications: The Council, by a majority vote, shall appoint a City Manager. The method of selection shall be left to the discretion of the Council so long as the method insures orderly, non-partisan action in securing a competent and qualified person to fill the position. The City Manager shall be chosen upon the basis of executive and administrative training, experience and ability. The City Manager does not need to be a resident of the City when appointed. However, within a reasonable period of time after the appointment, shall reside within the City during employment. The City Manager shall be bonded in an amount of not less than one hundred thousand dollars (\$100,000.00) and the cost thereof shall be borne by the City.

(b) Compensation: The City Manager shall receive compensation as may be fixed by the Council according to experience, education, and training. The compensation shall be agreed upon before appointment with the understanding that the Council may change it at its discretion.

(c) Term and Removal: The City Manager shall not be appointed for a definite term but may be removed at the discretion of the Council, by a vote of the majority of the

Council. The action of the Council in suspending or removing the City Manager shall be final. It is the intention of this Charter to vest all authority and fix all responsibilities of such suspension or removal in the Council.

(d) Powers and Duties: The City Manager shall be the Chief Administrative Officer of the City, and shall be responsible to the Council for the proper administration of all the affairs of the City and to that end shall have the power to:

- (1) See that all federal, State, and local laws and ordinances are effectively enforced.
- (2) Appoint, suspend or remove all or any one of the directors of departments, Assistant City Managers and City employees except as otherwise provided in this Charter.
- (3) Attend all meetings of the Council except when excused by the Council.
- (4) Prepare the budget annually and submit it to the Council and be responsible for its administration after its adoption.
- (5) Prepare and submit to the Council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
- (6) Submit to the Council a monthly budget summary and keep the Council advised of the financial condition and future needs of the City and make recommendations as may seem advisable.
- (7) Make reports as the Council may require concerning the operation of City departments, offices and agencies subject to his direction and supervision.
- (8) Perform duties prescribed by this Charter and duties required of them by the Council.
- (9) Insure that all public records are accessible to the public and available upon request.
- (10) To execute all agreements, conveyances, instruments, and documents as authorized or directed by the Council, or as reasonably necessary in furtherance of the proper administration of City affairs in accordance with the annual budget and this Charter.

(11)\_\_\_To have all such additional authority not inconsistent with the City Charter to carry out the duties reasonably necessary of a City Manager.

(e) Acting City Manager: The City Manager, within sixty (60) days after taking office, shall designate by letter filed with the City Secretary, a qualified administrative officer of the City, approved by the Council, to perform the duties of the City Manager in their absence or disability. No member of the Council shall serve as Acting City Manager.

**If Proposition C is adopted, then Section 3.06(c) shall be revised as follows:**

### **Section 3.06 Vacancies, Forfeiture, Filling of Vacancies**

(a) Vacancies: The office of a Councilmember or office of the Mayor shall become vacant upon their death, resignation, removal from office in any manner authorized by law, or forfeiture of their office.

(b) Forfeiture of Office: If the Mayor or any Councilmember:

- (1) Fails to maintain the qualifications as required in [Section 3.02](#) and [Section 5.02](#) herein;
- (2) Violates any expressed prohibition of this Charter;
- (3) Is convicted of a crime involving moral turpitude; or
- (4) Fails to attend three (3) consecutive Regular Council Meetings without being excused by the Council,

the Council shall, at its next regular meeting, after validation of any of the above, declare the office to be vacant and shall fill such vacancy as set forth in subsection (c) below.

(c) Filling of Vacancies: If the office of Mayor or a Councilmember becomes vacant, the vacancy shall be filled as follows:

(i) If, at the time of the vacancy, twelve (12) months or less remain on the term, the Council shall within thirty (30) days of the vacancy, by majority vote of the remaining members of the Council, appoint a qualified person to fill the vacancy  
~~A single vacancy in the Council shall be filled within thirty (30) days of the occurrence of the vacancy, by a majority of the remaining members of the Council by the appointment of a person qualified for the position as described in this Charter. The Council shall, within 90 days of the election adopting this provision, adopt a pursuant to the procedure for such appointment to be as stated in the Council Rules of Procedure under Section 3.11 of this Charter; any amendment, supplement, or alteration of the adopted appointment procedure shall be void if it was adopted or became effective within the 90 days prior to any vacancy under this Section. This appointee shall serve until the position is filled at the next regular City election and shall be disqualified from candidacy for any place on the City Council for the next general or special election following the appointment.~~

~~When more than one vacancy shall develop at any time, a special election shall be called by the Council within thirty (30) days following the occurrence of the vacancies to fill the vacancies in the same manner as described herein for regular elections. However, if the vacancies occur within 120 days of a regular election, then no special election shall be called and the remaining Councilmembers shall appoint qualified persons to fill vacancies until the regular election.~~ Notwithstanding the requirement in [Section 3.10](#), if at any time the membership of the Council is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to four (4). These appointees shall serve until the positions can be filled at the next regular or special City election.

(ii) If, at the time of the vacancy, more than twelve (12) months remain on the term, the Council shall within 120 days of the vacancy call a special election to fill such vacancy. The date for a special election to fill the vacancy shall be the first uniform election date after the vacancy occurs and for which there is sufficient time to call and give notice of the election as required by State law; provided that, if a vacancy occurs and no such election date falls within 120 days after the date of the vacancy, the Council shall, without regard for the specified uniform election dates, order such election to be held on a Saturday within 120 days from the date of the vacancy.

All vacancies filled by election shall be for the remainder of the unexpired term of the office so filled.



**If Proposition D is adopted, then Section 3.08(d) shall be amended as follows:**

**Section 3.08 Prohibitions**

(a) Holding Other Office: No Mayor or Councilmember shall hold any other City office or City employment during their term as Mayor or Councilmember and no former Mayor or Councilmember shall hold any compensated appointive City office or City employment until one (1) year after the expiration of their term as Mayor or Councilmember.

(b) Appointments and Removals: Neither the Council nor any of its members shall in any manner dictate the appointment, promotion, demotion, discipline or removal of any City employees other than the City Manager or City Attorney, but any Councilmember may express its views and fully and freely discuss with the City Manager or City Attorney anything pertaining to appointment and removal of such employees.

(c) Interference with Administration: Except for the purpose of inquiries and investigations under [Section 3.16](#) of this Charter, the Council shall deal with City employees who are subject to the direction and supervision of the City Manager or City Attorney solely through the City Manager or City Attorney. Neither the Council nor any of its members shall give orders to or in any way publicly or privately exercise the influence of their office on any City employee in their official or personal capacity, except as otherwise authorized in this Charter.

(d) ~~Attorney-Client Privilege~~Disclosure of Privileged or Confidential Information: No Mayor or Councilmember, nor any appointee to a City Board, Commission, committee, or task force, shall disclose any information that has been discussed in closed executive session pursuant to the Texas Open Meetings Act, Texas Government Code, Chapter 551, as amended, or any attorney-client privileged communication. ~~The City Council as the governing body of the City solely holds and is entitled to the attorney-client privilege, and it may only be waived by an affirmative vote of two-thirds of the City Council.~~This provision does not prohibit disclosure of attorney-client privileged or confidential information:

(i) to and between the Mayor and Councilmembers, or to and between members of the same Board or Commission, subject to the Texas Open Meetings Act;

(ii) to and between City staff, as necessary and in conjunction with the performance of their role and responsibilities as City employees;

(iii) if the attorney-client privilege is waived by an affirmative two-thirds vote of the City Council, Board, Commission, committee, or task force that is privy to the subject attorney-client privileged information;

(iv) to a law enforcement officer, if the person disclosing the information in good faith believes the information was discussed in closed executive session in violation of the Texas Open Meetings Act; or

(v) if the information has otherwise been disclosed publicly.

**If Proposition E is adopted, then Section 5.02(f) shall be amended and Section 5.07 added as follows:**

### **Section 5.02 Filing for Office**

Eligibility to File. Each candidate for an elective City office shall meet the requirements of State law and the following qualifications:

- (a) Shall be a registered voter of the City and at least eighteen (18) years of age.
- (b) Shall have resided within the corporate limits of the City, including territory annexed prior to the filing deadline, for at least the twelve (12) months immediately preceding the date of the election.
- (c) Shall have paid a filing fee of fifty dollars (\$50.00) or tendered a petition signed by the greater of twenty-five (25) qualified voters residing in the City or one-half of one percent (0.5%) of the total votes received by all candidates for Mayor in the last mayoral election, with each signatory thereto providing their printed name, residential address, date of birth, signature, and date of signing.
- (d) An incumbent seeking re-election must file for the same position number presently held.
- (e) No candidate may file for more than one office or position number per election.
- ~~(f) In addition to the requirements of State law, an elected official filing for any office other than the office presently held or for Mayor, shall resign from such presently held office at least forty five (45) days prior to the election.~~

### **Section 5.07 Resign to Run**

If a member of the Council files or becomes a candidate for election to any public office, other than for reelection to their current position on the Council or for Mayor, such filing or candidacy shall constitute an automatic and immediate resignation of the city office then held and the vacancy thereby created will be filled in accordance with the provisions of this Charter and State law.



**File Attachments for Item:**

E.2 (OA-20-003) Second Reading And Approval Of An Ordinance Amending Cedar Park Code Of Ordinances Chapter 6, Seasonal, Temporary And Mobile Business And Events Regarding Seasonal Businesses And Special Events.



## **CITY COUNCIL AGENDA**

January 28, 2021

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**Item/Subject:** (OA-20-003) Second Reading And Approval Of An Ordinance Amending Cedar Park Code Of Ordinances Chapter 6, Seasonal, Temporary And Mobile Business And Events Regarding Seasonal Businesses And Special Events.

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### **Commentary**

On December 3, 2020, City Council directed staff to draft amendments to Cedar Park Code of Ordinances Chapter 6, Seasonal, Temporary and Mobile Business and Events, to address some recently identified concerns related to special events.

Proposed amendments are attached as Exhibit A to the ordinance, with all changes shown in red.

### **Summary of proposed amendments**

#### Special Events

- Special events will continue to be allowed for a maximum of nine (9) consecutive days. Exception language allowing an extension of that timeframe is proposed for removal.
- Special events located at the same address are limited to a maximum of six (6) per year.

#### Seasonal Retail Businesses

Seasonal retail businesses are those businesses that establish a business within the city for at least five (5) days per week and typically operate for a period of 30 to 60 days. These businesses routinely include Christmas tree sales, pumpkin patches, etc.; however, this

category can also include holiday events that are intended for a longer period of time than anticipated under the special event process.

Currently, seasonal retail businesses are permitted in the General Business (GB), Heavy Commercial (HC) and Public Services (PS) districts. For seasonal businesses proposed in the GB district, there is a current restriction that requires the seasonal retail business be located on a site with an existing 80,000 square foot anchor tenant. As part of these amendments, staff is proposing the addition of an exception to this requirement that could be considered by City Council. This proposed amendment would allow consideration of seasonal businesses on GB zoned tracts that do not have an 80,000 square foot anchor tenant. Reference Section 6.02.002(c)(9) in the attached amendments.

#### City Council Public Hearing

The City Council held a public hearing on January 14, 2021. No public testimony was received.

#### Public Information Plan:

*December 30, 2020:* Public notice of the City Council public hearing published in the Austin American Statesman

*January 14, 2021:* City Council 1<sup>st</sup> Reading and Public Hearing

*January 28, 2021:* City Council 2<sup>nd</sup> Reading

**Initiating Dept:** Development Services

#### Fiscal Impact

**Fund:** n/a

#### Budget

**Amount:** n/a

☐ **Finance Director Review**

#### Legal Certification

Approved as to form and content:

☐ Yes

☐ No **City Attorney**

#### Associated Information:

Draft ordinance, including proposed ordinance amendments

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING THE CEDAR PARK CODE OF ORDINANCES CHAPTER 6 SEASONAL, TEMPORARY AND MOBILE BUSINESS AND EVENTS REGARDING SEASONAL BUSINESSES AND SPECIAL EVENTS (OA-20-003); PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Cedar Park (“City Council”) desires to update regulations related to special events; and

WHEREAS, the proposed amendments provide additional clarifications regarding seasonal retail businesses and special events; and

WHEREAS, the proposed amendments promote the health, safety and general welfare of the citizens of Cedar Park; and

WHEREAS, the Cedar Park City Charter Section 2.04 authorizes the Council to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority vested in the cities by State statutes; and

WHEREAS, the City Council finds that the proposed amendments to Chapter 6 Seasonal, Temporary and Mobile Business and Events in the best interest of the City and its residents.

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

SECTION 1. That Chapter 6 Seasonal, Temporary and Mobile Business and Events of the Cedar Park Code of Ordinances be amended as provided in the attached Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.



READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 14<sup>th</sup> day of January, 2021 at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 28th day of January, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
JP LeCompte, City Attorney

**EXHIBIT A**

Amendments to Chapter 6 Seasonal, Temporary and Mobile Business and Events are shown in red. Only the text shown in red shall change.

## **ARTICLE 6.02 SEASONAL RETAIL BUSINESSES**

### **Sec. 6.02.001 General provisions**

- (a) This ~~A~~article is intended to provide a safe, orderly means for seasonal retail businesses to conduct business within the corporate limits of the city. All regulations of this ~~A~~article are deemed necessary for the protection of the health, safety and general welfare of the businesses as well as the citizens of the city. Seasonal retail businesses are permitted in ~~GRGB~~, ~~CS-HC~~ and PS districts.
- (b) Seasonal retail businesses shall be defined as those retail businesses that establish a business within the city for at least five (5) days each week for the period in which the business is in operation.
- (c) A seasonal retail business shall be in operation for a minimum of thirty (30) consecutive days and for maximum of sixty (60) consecutive days per calendar year.
- (d) The sale of used clothing and/or accessories, used furniture, used household and/or sporting goods is prohibited. Examples of seasonal retail businesses permitted under this ~~a~~Article could include Christmas tree sales, or snow cone sales.
- (e) The site is adequately served by utilities and sanitary facilities.

### **Sec. 6.02.002 Permit required for seasonal retail businesses**

- (a) A permit issued by the ~~e~~City's ~~building-inspections~~~~Development Services d~~Department shall be required for any seasonal retail business. Any individual making application for permit approval to conduct a ~~fundraiser-seasonal business~~ shall submit a written application to the ~~building official~~~~Development Services Director or his/her designee~~ for a permit that shall include:
  - (1) The name and address of the applicant.
  - (2) The application shall show satisfactory written proof of the applicant's authority to represent the organization or sponsor the applicant represents.
  - (3) The name and address of the sponsor, company or organization for whom the applicant represents.
  - (4) The kinds of goods to be sold or services to be offered.
  - (5) The dates of operation and business hours.
  - (6) A layout drawing to scale depicting the location of the event and the traffic access and circulation planned.
  - (7) Evidence that each of the required conditions in this ~~a~~Article has been addressed.
  - (8) No permit shall be issued until such application has been filed with the city for a period of no less than fourteen (14) calendar days.
- (b) Any seasonal retail business shall provide evidence to the city that the following regulations have been met:
  - (1) Written, signed permission from the property owner giving his approval for the seasonal retail business to be conducted on the premises is provided. The permission letter must include the dates, times, and activities of the seasonal retail business that is requesting the permit.
  - (2) Documentation from the owner of the seasonal retail businesses that provides evidence of full insurance coverage, including liability.
  - (3) The establishment of a barrier restricting pedestrian or vehicular traffic from imposing onto the property of any adjacent residential uses. If such barrier is temporary with the business, it shall be removed on or before the last day the business is permitted for operation.

(c) Seasonal retail businesses shall be permitted only if all of the following site facilities and approved permits are secured for the entire duration of the event:

- (1) Adequate, available off-street parking, calculated at a ratio of 1 per 100 square feet of vendor space, with a minimum 5 spaces required.
- (2) A safe access driveway and traffic circulation plan; approved by the **Planning Development Services** Department.
- (3) Tent permits, when applicable.
- (4) Electrical permits, plumbing permits, sign permits, and other permits as applicable that are required by code.
- (5) Location and placement of dumpsters, carts and/or barrels for trash and recycling shall be established at a capacity level adequate to keep all such materials within their appropriate containers. Businesses that include food items shall have the containers emptied a minimum of twice weekly. All dumpsters shall be located no closer than twenty (20) from the property line of any residence and at a location not visible from any public street. All containers shall be hauled away no later than one (1) day after the close of business.
- (6) Health permits (food handlers), any other applicable county, state, or federal permits shall be prominently displayed at all times.
- (7) Bathroom facilities for employees/patrons when applicable.
- (8) Handicapped accessibility compliance when applicable.
- (9) Within the **GR-GB** district, seasonal retail businesses must be located on a site containing a minimum 80,000 sf anchor tenant. ~~If located within thirty (30) feet of a primary entrance of an 80,000, or greater sf anchor, a seasonal business shall be exempt from the 60-day per calendar year limitation established by section 6.02.001(c).~~ An exception to this requirement may be considered by the City Council if determined to be in the best interest of the health, safety and general welfare of the citizens of the City. A person seeking this exception shall submit a letter in writing to the Director of Development Services, stating the reason for the exception request, including the hardship that will result to the applicant, his/her client, or the public if the exception is not granted. In making the determination on whether to grant the exception, the City Council should consider:
  - (A) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
  - (B) The value to the community of the activity for which the exception is sought; and
  - (C) The proximity to residences at which reasonable persons would be disturbed by the proposed business.

Council action on the exception request shall occur within 60 days of receipt of the written request. The City Council shall consider each application on the same basis as that used for other similarly situated applicants and shall make each exception decision free from consideration of race, sex, national origin, religion, the content of speech, or any other factors not provided for in this Article.

- (10) One seasonal retail business per property shall be permitted.
- (11) Along with every permit issued under the provisions of this chapter, the permittee shall be issued an acknowledgment of permit certificate that shall be posted in a prominent place at the business. This certificate shall contain the following:
  - (A) Name of the permittee;
  - (B) Name of the business approved by permit;
  - (C) Date of expiration of permit;

- (D) Permitted hours of operation;
- (E) Signature of the building official or his designee; and
- (F) Signature of the fire marshal or his designee.
- (G) It shall be unlawful for the permittee to engage in his business without having such a certificate in his possession and prominently posted at his business.
- (H) Each permit issued under these provisions shall not be transferable or assignable and shall give to no person other than the permittee, authority to transact any business in the city.
- (I) Each permit required by this ~~a~~Article shall be valid for a period of one calendar year and may be removed by the city for good cause. Any such business that opens without a permit under the regulations of this chapter shall be considered in violation. Any such business that operates without compliance to all the regulations of this chapter shall be considered in violation of this chapter.

## **ARTICLE 6.03 SPECIAL EVENTS**

### **Sec. 6.03.001 Definition**

*Special event.* An event including street fairs, races, runs, arts and crafts shows, carnivals, circuses, rallies, public entertainments, parades, block parties requiring neighborhood road closures, or other events that:

- (1) Interfere with the normal flow or regulation of pedestrian or vehicular traffic; or
- (2) Require City services, including but not limited to, street closure, provision of barricades, parking arrangements, or Police services.

### **Sec. 6.03.002 General regulations**

(a) This Article is intended to provide a safe, orderly means for special events to be held within the corporate limits of the City. All regulations of this Article are deemed necessary for the protection of the health, safety and general welfare of the volunteers, members, and their patrons.

(b) The duration of the special event shall not exceed the time period specified on the permit, not to exceed a maximum of nine (9) consecutive days. ~~Exceptions may be made by the Director of Development Services or their designee based on the determination that the exception is in the best interest of the health, safety and general welfare of the citizens of the City.~~

(c) The site of the special event shall be adequately served by utilities and sanitary facilities, which may be provided by the applicant.

(d) A special event for the purpose of selling used clothing and/or accessories, used furniture, used household and/or sporting goods is prohibited.

(e) Special events that require road or lane closure in residential-zoned areas shall not be held within at least twelve (12) calendar days of another event requiring the closure of that same road. Exceptions may be made by the Director of Development Services or their designee based on the determination that the exception is in the best interest of the health, safety and general welfare of the citizens of the City.

(f) A maximum of six (6) events may occur annually at the same property address.

### **Sec. 6.03.003 Exemptions**

(a) The following events are exempt from the provisions of this Article:

- (1) Events which are officially hosted by the City;
- (2) Events which are solely confined to property, excluding right-of-way, owned by governmental entities; and
- (3) Funeral processions.

(b) The following events are exempt from special event fees:

- (1) Nonprofit organizations; and
- (2) Other tax exempt entities.

### **Sec. 6.03.004 Permit required for special events**

It shall be unlawful for any person to conduct a special event without a valid special event permit from the City unless exempted per [section 6.03.003](#).

### **Sec. 6.03.005 Relationship to City Fire Code**

This Article is separate and independent of the requirements of [Article 5.01](#). Events governed by [Article 5.01](#) shall obtain a separate permit under the requirements of that Article, regardless of whether the event is governed by this Article.

### **Sec. 6.03.006 Filing period**

An application for a permit under this Article shall be filed within the following filing periods:

- (1) At least thirty (30) calendar days before the date of the special event if City services are

requested;

- (2) At least fourteen (14) calendar days before the date of all other special events; or
- (3) If the circumstance precipitating the special event occurs within a period of time rendering compliance with the applicable time period requirement pursuant to subsection (1) or (2) herein impossible, a period of time determined by the Director of Development Services or their designee based on the determination that the different period of time is in the best interest of the health, safety and general welfare of the citizens of the City.

### **Sec. 6.03.007 Contents of application**

Any person desiring to conduct a special event in the City shall first file an application for permit with the City's Development Services Department, which application shall include:

- (1) The name, address, telephone number and email address of the applicant;
- (2) If the special event is to be held for or by an organization, the name, address, and telephone number of the headquarters of the organization and name, address, telephone number, and email address of the authorized representatives of such organization;
- (3) If the special event is to be held by or for any other person other than the applicant, a written statement from that other person showing authority to make the application;
- (4) If any portion of the special event, including parking, is to be held on private property, written permission for the holding of the special event or parking from the owner of the property or an authorized representative;
- (5) The name, address, telephone number, and email address of the person who will be the point of contact for the special event and who will be responsible for its conduct;
- (6) A description of planned activities at the special event;
- (7) The dates and times the event will start and terminate;
- (8) The time at which on-site activities in preparation for the event will begin and end;
- (9) The proposed location of parking areas and the number of spaces provided for the special event in accordance with requirements stated in [section 6.03.014](#);
- (10) A layout drawing to scale depicting the location, size and number of stages, seating, tents, awnings, canopies, food service booths, first-aid stations, portable restrooms, or other temporary structures;
- (11) A layout drawing to scale depicting the location of the event and the access for and circulation of traffic in compliance with the standards provided in the Manual on Uniform Traffic-Control Devices (MUTCD);
- (12) The proposed location of entrances and exits and a plan of evacuation in case of emergency, which shall include a plan for directing the arrival of emergency services through the event to the site of the emergency;
- (13) The approximate number of people who will be attending the special event, including the maximum number of people expected at peak times, event staff and performers, if any, and, if applicable, the types of animals that will be involved with the special event;
- (14) If food or beverages will be served or sold, copies of any licenses or permits required by [Article 4.09](#) or [Article 6.06](#) of this Code;
- (15) Copies of any required electrical permits, plumbing permits, or other permits required by this Code of Ordinances;
- (16) A communications plan specifying how applicant will notify the public about the special event, including the number, size, material and location of any planned signage, and, if applicable, start and end times in which amplified sound will occur;
- (17) A copy of a certificate of insurance pursuant to [section 6.03.019](#), herein and as amended;
- (18) A surety bond or cash deposit pursuant to [section 6.03.021](#), herein and as amended;

- (19) An application fee pursuant to [section 2.200](#) of Appendix A of this Code, as amended;
- (20) If necessary, proof of acquisition of adequate Police services pursuant to [section 6.03.022](#), herein and as amended; and
- (21) Any other information which the City finds necessary under the standards of issuance.

### **Sec. 6.03.008 Denial of application**

A special event permit shall not be issued if:

- (1) The event will require the diversion of a number of Police Officers, fire protection or Emergency Medical Services (EMS) personnel so as to:
  - (A) Unduly interfere with the provision of these services to the City; or
  - (B) Interfere with the efficient response movement of firefighting equipment and services en route to a fire;
- (2) The occurrence of the event is likely to result in injury to persons or property;
- (3) The applicant fails to submit a completed application pursuant to [section 6.03.006](#), herein and as amended;
- (4) The contents of the submitted application do not comply with the requirements of this Article, as amended, this Code, as amended, or State or Federal law;
- (5) The proposed event includes vendors who have not provided evidence that the business is fully insured, including for liability;
- (6) The proposed event conflicts in date, time or location with another special event, parade or assembly for which a permit has already been granted or is being held by the City;
- (7) The proposed event will unduly interfere or disrupt the educational activities of a school when such school is in session;
- (8) The proposed event does not comply with the Americans with Disabilities Act;
- (9) The applicant has previously been convicted of violating this Article;
- (10) The applicant has had a special event permit revoked within the preceding 12 months;
- (11) The applicant has failed to pay any additional costs assessed by the City for a previous special event; or
- (12) The Director of Development Services Department or their designee has determined that the event is not in the best interest of the health, safety, and general welfare of the citizens of the City.

### **Sec. 6.03.009 Notice of denial of application**

If the City denies the application, the City shall notify the applicant of this action stating the reasons for the denial of the permit no fewer than five (5) calendar days before the date of the special event, or as soon as reasonably possible.

### **Sec. 6.03.010 Revocation of permit**

The Director of Development Services Department or their designee may revoke a special event permit if the Director of the Development Services Department or their designee finds:

- (1) The applicant failed to comply with, or the special event violates, any provision stated in this Article, any ordinance of the City, or any other applicable law;
- (2) The applicant made or permitted the making of a false or misleading statement or omission of material fact on an application for a special event;
- (3) The applicant is unable or unwilling to pay any additional fees as may be required by the City to cover the cost of City services related to the special event;
- (4) The applicant failed to provide any additional information requested by the City;
- (5) The event substantially interrupts the safe and orderly movement of traffic near its location or



route, unless the traffic variances are those pursuant to the issued special event permit; or

(6) The event is not in the best interest of the health, safety, and general welfare of the citizens of the City.

### **Sec. 6.03.011 Appeal of revocation**

Any person or entity whose permit has been revoked as provided in [section 6.03.010](#), may within, five (5) business days after the receipt of a notice thereof, appeal to the Director of Development Services or their designee for a hearing thereon and the decision of the Director of Development Services or their designee shall be final. If the appeal is filed during the occurrence of the special event, the Director of Development Services or their designee shall hear the appeal as soon as practically possible. Otherwise, the Director of Development Services or their designee shall hear the appeal within ten (10) business days.

### **Sec. 6.03.012 Permit to be maintained on-premises**

The special event permit shall be maintained at all times on the premises, and shall be made available to any Police Officer, Fire Marshal or other authorized City employee or representative, upon request.

### **Sec. 6.03.013 Notice to abutting property owners**

At least ten (10) calendar days prior to the date of the special event, the permittee shall send written notice of the event to each residential property owner, as indicated by the most recently approved municipal tax roll, of real property within three hundred (300) feet of the property on which the special event is proposed. The notice may be served by its deposit in the municipality, property addressed with postage paid, in the United States mail. Block parties requiring road closures that do not require City services are exempt from this requirement.

### **Sec. 6.03.014 Applicant parking requirements**

(a) An applicant shall submit, as part of an application for a special event permit, evidence that sufficient parking will be available to accommodate the projected number of users with a ten percent surplus. The number of spaces deemed sufficient will be determined by the nature of the event, number and age of people attending, including event staff, participants and performers during peak times. If said parking is to be on private property adjacent to the special event, written evidence that the applicant has a right of possession of said property through ownership, lease, license, or other property interest must be provided. When the location is not an established parking area, a plan shall be submitted which will show how the needed parking will be achieved and arranged. The number of parking spaces and layout of parking area, including aisle widths, size of parking spaces and whether parking attendants will be provided, shall be included in the application for permit.

(b) When adequate parking is not available at or immediately adjacent to the site of the special event, off-site parking may be used. Plans shall be submitted which will show how off-site parking and transfer of attendees will be accomplished.

### **Sec. 6.03.015 City authority over parking**

The City shall have the authority, when reasonably necessary as determined by the Police Department, to prohibit or restrict the parking of vehicles along a street or highway or part thereof adjacent to the site of the special event. The City shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

### **Sec. 6.03.016 Water usage and disposal of wastewater**

(a) Any special event or related activity desiring use of water from the City water system must coordinate with the Public Works Department to obtain a temporary meter. Deposit for the meter and payment for water used shall be in accordance with ordinances of the City.

(b) An applicant shall submit a plan for the disposal of wastewater and the plan shall be approved by the Public Works Department.

### **Sec. 6.03.017 Waste collection and solid waste**

An applicant shall provide for the collection of all solid waste resulting from such special event.

**Sec. 6.03.018 Noise regulations**

During the special event, the permit holder shall comply with all applicable noise regulations of the City as set forth in chapter 8, [Article 8.08](#) of this Code.

**Sec. 6.03.019 Liability insurance**

When a special event is partially or fully contained on City property or City rights-of-way, the applicant for a special event permit shall furnish the City with a certificate of insurance in amounts of not less than \$500,000.00 for one person and \$1,000,000.00 for any one accident. Block parties requiring road closures that do not require City services are exempt from this requirement.

**Sec. 6.03.020 Indemnification**

When a special event is partially or fully contained on City property, an applicant shall sign an agreement to indemnify and hold harmless the City, its officers, employees, agents, and representatives against all claims of liability and causes of action resulting from injury or damage to persons or property arising out of the special event.

**Sec. 6.03.021 Surety bond/cash deposit**

(a) When a special event is partially or fully contained on City property, a surety bond or cash deposit in the penal sum of \$2,000.00 shall accompany each application conditioned that no damage will be done to the City property, streets, sewers, trees, or adjoining property and that no paper, litter, or other debris will be permitted to remain upon the City property, streets or upon any private property by the applicant. The surety bond or cash deposit shall be returned to the permittee within ten (10) business days after said special event permit expires upon certification by the City of compliance with all conditions of this Article. In the event the actual cost for policing and cleaning is less than this amount, the remainder shall be refunded to the permittee by the City. In the event that the actual cost exceeds this amount, the permittee shall pay such additional sum to the City within ten (10) business days from the date of notification. Nothing herein shall preclude the City from enforcing any legal or equitable remedy against the permittee in addition to the bond. Block parties requiring road closures that do not require City services are exempt from this requirement.

(b) The Director of Development Services or their designee, shall have the right to lower or waive the surety bond or deposit for nonprofits and tax-exempted entities.

**Sec. 6.03.022 Police services; additional costs**

(a) The Police Department shall determine whether and to what extent additional Police services are reasonably necessary for the special event for traffic-control and public safety. The Police Department shall base this decision on the size, location, duration, time and date of the special event, and the need to detour or preempt citizen travel and use of the streets and sidewalks. If additional Police services for the special event are deemed necessary by the Police Department, they shall so inform the applicant. The applicant then shall have the duty to secure the Police services deemed necessary by the Police Department.

(b) In the event the City determines, upon a review of the application, that a Special Event may require the special attention and involvement of City personnel or facilities, the City shall so notify the applicant. In such event, prior to the issuance of a special event permit, the applicant and the City shall agree upon the cost of policing, and cleaning, and the closure of roads, and the applicant shall pay that amount to the City upon application. Prior to the issuance of a special event permit, the applicant shall agree in writing to pay any additional costs to the City incurred as a result of the special event within five (5) business days of the date upon which the City informs the permittee of the amount of such additional costs. Nothing herein shall preclude the City from enforcing any legal or equitable remedy against the permittee for recovery of such additional costs.

**Sec. 6.03.023 Offenses and penalty**

(a) A person commits an offense if they commence or hold a special event without a special event permit or with a special event permit that has expired or been revoked, or occurs in violation of this Article.

(b) Any person who violates the provisions of this Article shall be charged with a class C misdemeanor; and upon conviction shall be fined as provided for in [section 1.01.009](#) of this Code for each day that a violation exists, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

A culpable mental state is not required for the commission of an offense under this Article.

(d) It is hereby determined that this Article governs fire safety, public health, and sanitation and, therefore, any person violating or failing to comply with any of the provisions of this section shall be subject to the penalty for such type of violation as provided for in [section 1.01.009](#) of this Code.

**File Attachments for Item:**

E.3 (Z-20-015) Second Reading And Approval Of An Ordinance To Rezone Approximately 13.64 Acres From Light Industrial (LI) To Heavy Industrial – Conditional Overlay (HI-CO), Located At 1800 Hur Industrial Boulevard. ***The Planning and Zoning Commission Voted 6-0 To Recommend Heavy Industrial – Conditional Overlay (HI-CO) As Requested.***



## CITY COUNCIL AGENDA

January 28, 2021

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**Item/Subject:** (Z-20-015) Second Reading And Approval Of An Ordinance To Rezone Approximately 13.64 Acres From Light Industrial (LI) To Heavy Industrial – Conditional Overlay (HI-CO), Located At 1800 Hur Industrial Boulevard. *The Planning and Zoning Commission Voted 6-0 To Recommend Heavy Industrial – Conditional Overlay (HI-CO) As Requested.*

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<b>Staff</b>	Brad Jackson, 512-401-5054, Brad.Jackson@cedarparktexas.gov
<b>Owner</b>	Cedar Park 20 Partners LTD
<b>Agent</b>	William A. Davies, AIA (512) 259-4175
<b>City Limits</b>	Yes
<b>Current Zoning</b>	Light Industrial (LI)
<b>Proposed Zoning</b>	Heavy Industrial – Conditional Overlay (HI-CO)
<b>Current Future Land Use Plan (FLUP)</b>	Heavy Commercial (HC)
<b>Major Corridor</b>	Not located along a Major Corridor
<b>Summary of Applicant's Request</b>	The applicant's request is to rezone approximately 13.65 acres from Light Industrial (LI) to Heavy Industrial-Conditional Overlay (HI-CO) to develop a manufacturing and fabrication facility.
<b>Staff Recommendation</b>	Staff recommends the applicant's request of Heavy Industrial – Conditional Overlay (HI-CO) zoning for this property.

## COMMENTARY

### **Staff Recommendation:**

Staff recommends approval of the applicant's request to rezone the property to Heavy Industrial – Conditional Overlay (HI-CO).

### **Reason for Staff Recommendation:**

The proposed zoning change will provide an appropriate zoning designation, compliant with the FLUP and compatible with surrounding commercial land uses.

**P&Z Recommendation:** Recommend approval of Heavy Industrial – Conditional Overlay (HI-CO) as requested.

**Stated Reasons for P&Z Recommendation:** Support staff recommendation.

### **Planning & Zoning Commission Recommendation to the City Council:**

On December 15, 2020, the Planning and Zoning Commission voted 6-0 to recommend approval of the applicant's request with the above conditions.

In favor: Audrey Wernecke, Sara Groff, Bob Ingraham, Bobbi Hutchinson, Jeff Baker and Randy Strader

Opposed: None

Absent: None (Place 1 currently vacant)

### **Planning & Zoning Commission Public Hearing:**

The Planning and Zoning Commission held a public hearing on December 15, 2020. No public commentary was provided on the rezoning request.

### **City Council Public Hearing:**

The City Council held a public hearing on January 14, 2021. There was no public testimony provided.

### **Public Input:**

Staff has received one letter in support of the rezoning request (attached in Neighborhood Communication Summary).

### Applicant's Neighborhood Communication Summary:

The applicant mailed 9 letters to the adjacent single-family properties within 500 feet on December 10, 2020 to communicate the proposed development. See attached Neighborhood Communication Summary.

### Public Information Plan:

*December 2, 2020:* Public notice of the Planning and Zoning Commission and City Council public hearings published in the Austin-American Statesman

*December 4, 2020:* Thirteen (13) letter notices for the Planning and Zoning Commission and City Council public hearings were sent to property owners within 300 feet of the subject tract

*December 15, 2020:* Planning and Zoning Commission public hearing

*January 14, 2021:* City Council 1st reading and public hearing

*January 28, 2021:* City Council 2nd reading

### Existing Site and Surrounding Land Uses:

The site consists of a 13.65-acre lot that is currently developed with a small office building and storage of portable toilets on approximately 1.75 acres of the tract. This site compliments Satellite Industries existing facility located at 1713 Hur Industrial Boulevard. North of the property is the Brushy Creek Regional Utility Authority Water Treatment Plant zoned Public Services (PS). The property is bordered to the east by the City of Cedar Park Veteran's Memorial Park. The property is bordered to the south by Josco Supply Bath and Kitchen Showroom, an Office/Showroom/Warehouse use for plumbing fixture sales. Across Hur Industrial Boulevard there are additional office/warehouse developments zoned Light Industrial (LI).

### Purpose of Requested Zoning District:

This rezoning to Heavy Industrial – Conditional Overlay (HI-CO) is requested to allow the applicant to develop the property with a new 50,000-square-foot manufacturing and warehouse facility. The Heavy Industrial (HI) zoning district allows the most intense land uses allowed within the City, which may include heavy manufacturing and operational activities. This district is designed for locations that provide adequate access for trucks and heavy equipment and do not impose environmental impacts on adjacent uses. The current LI zoning on the property limits the outdoor storage area to 30% of the gross site area. This rezoning request to Heavy Industrial – Conditional Overlay (HI-CO) will increase the allowed area of outdoor storage to 65%.

### Future Land Use Plan:

The Future Land Use Plan (FLUP) currently identifies the subject tract within the Heavy Commercial (HC) designation and this rezoning request to HI-CO complies with the current FLUP designation.

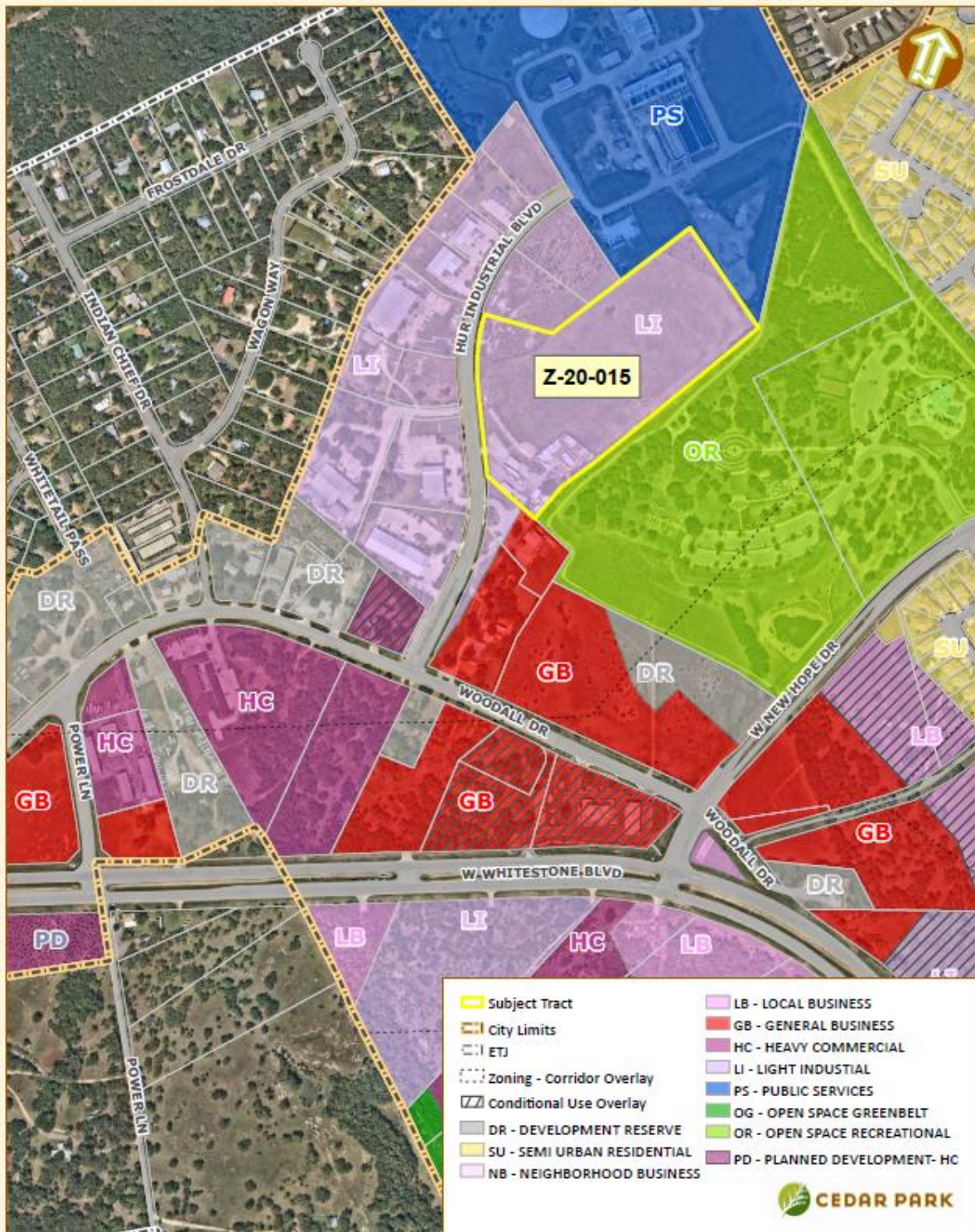
Future Land Use Plan Goals:

- Focus on business attraction and retention to be a destination for major employers and innovative entrepreneurs.
- Ensure an appropriate mix of land use types within the City.

The maps on the following pages depict the current and proposed zoning classifications.

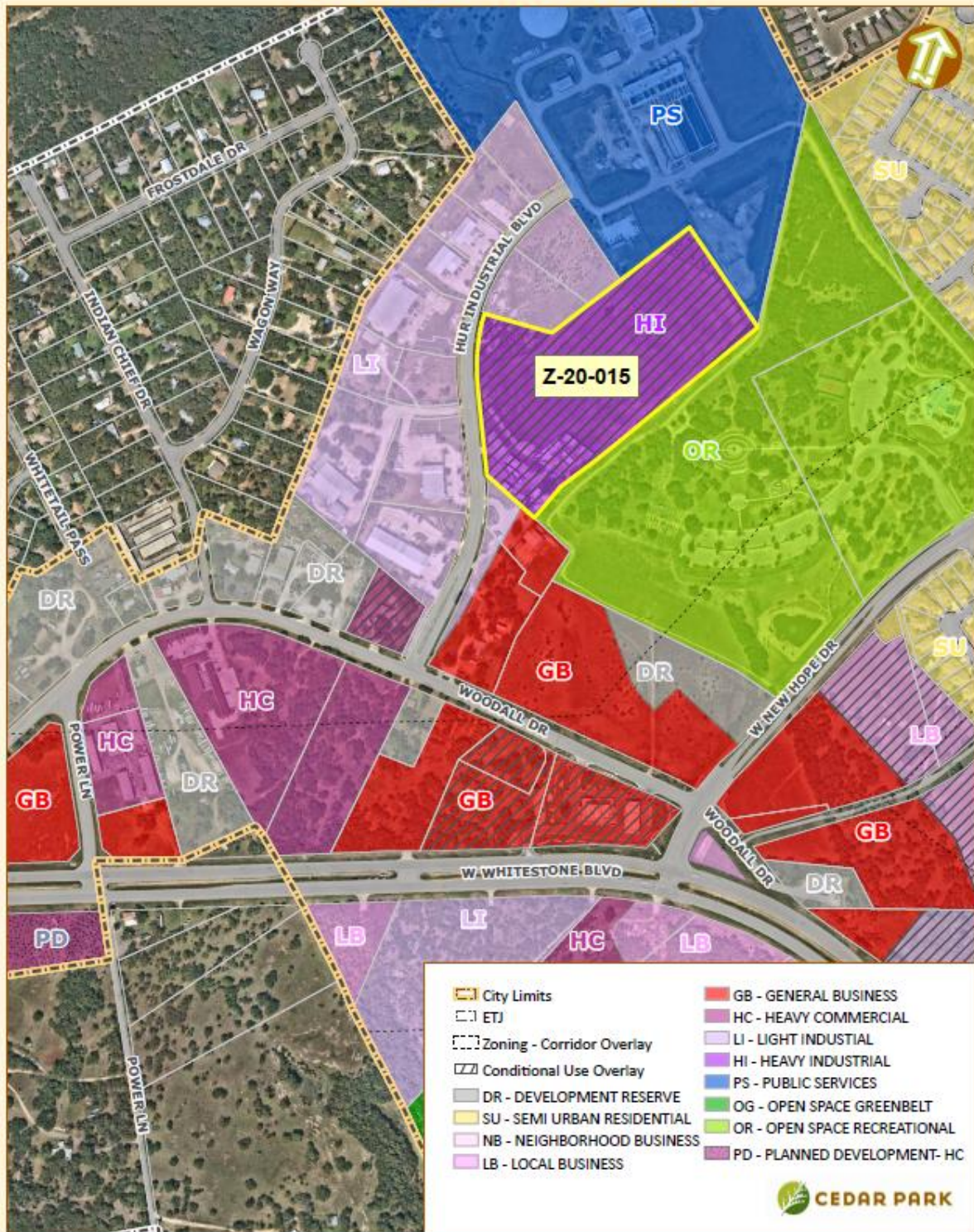


# CITY OF CEDAR PARK Z-20-015 CURRENT





# CITY OF CEDAR PARK Z-20-015 PROPOSED



### **Site Information**

#### **Previous Case History:**

<b>Year</b>	<b>Case Number</b>	<b>Request</b>	<b>P&amp;Z Recommendation</b>	<b>Council Action</b>
1995	ANX-95-042	Annexation of 54.44 acres	N/A	12-21-1995
1995	Z-95-024	I-1 Light Industrial	Recommended for Approval 12-19-95	Approved 01-11-96
2010	Z-10-011	Open Space Recreation (Rezoning application withdrawn by applicant)	NA	NA

#### **Building Setback and Height Requirements:**

	<b><u>HI-CO</u></b>
Front Setback	100'
Interior Side Setback	100'
Rear to Property Line	100'
Maximum Height	60' *

*\*Outdoor storage height limited to 25' within 200' of any park property.*

#### **Major Corridor:**

The subject property is not adjacent to a Major Corridor.

#### **Subdivision:**

This property is platted as Lot 1A, Block A, Replat of Lot 1, Hur Industrial Park II Section One Subdivision. (Doc. # 201200225)

#### **Staff Commentary:**

The purpose of this rezoning request is to develop the property with a new 50,000-square-foot manufacturing and warehouse facility. The rezoning to Heavy Industrial – Conditional Overlay will allow the facility to store materials outdoors on up to 65% of the gross site area of the lot. The current zoning of LI limits outdoor storage to 30% of the gross site area. Outdoor storage at the property shall be limited to 25 feet in height within 200 feet of the southeast property boundary with Veteran's Memorial Park (Sec. 11.03.091). In addition, the eastern boundary of the property shared with Veteran's Memorial Park will have a thirty-foot (30') landscaped buffer yard and eight-foot (8') masonry fence constructed at the property line.

This rezoning request is consistent with the Future Land Use Plan (FLUP) and the purpose statement of the Heavy Industrial (HI) zoning district. The conditional overlay in this rezoning

request prohibits uses that are not allowed in the current LI zoning district but are allowed uses in HI zoning. Those seven uses proposed as prohibited uses are listed below.

**Proposed Prohibited Uses in HI-CO:**

- Archery range
- Bus or taxi depot/ transit station
- Extraction (gas, gravel, minerals, oil, or sand)
- Pawnshop
- Sexually oriented business
- Stone cutting
- Wrecker, impound yard

**Initiating Dept:** Development Services

**Fiscal Impact**

**Account No.:** n/a

**Budget**

**Budget/Expended:** n/a

**Legal Certification**

Approved as to form and content:

☐

**Finance Director Review**

☐ Yes

☐ No

**City Attorney**

**Associated Information:**

Ordinance with Exhibits

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING ORDINANCE NO. 75-2 (ZONING) OF THE CITY OF CEDAR PARK, TEXAS TO REZONE APPROXIMATELY 13.64 ACRES FROM LIGHT INDUSTRIAL (LI) TO HEAVY INDUSTRIAL – CONDITIONAL OVERLAY (HI-CO) LOCATED AT 1800 HUR INDUSTRIAL BOULEVARD (Z-20-015); AUTHORIZING THE DIRECTOR OF DEVELOPMENT SERVICES TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF CEDAR PARK SO AS TO REFLECT THIS CHANGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, on March 24, 1975, the Cedar Park City Council adopted Ordinance No. 75-2: Comprehensive Zoning Ordinance, which created a variety of zoning districts, and a zoning district map, as amended; and

WHEREAS, all zoning districts located within the City are regulated pursuant to Chapter 11 of the Cedar Park Code of Ordinances; and

WHEREAS, Texas Local Government Code Chapter 211 authorizes the City to regulate the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

WHEREAS, the Cedar Park City Charter Section 2.04 authorizes the Council to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority vested in the cities by State statutes; and

WHEREAS, the Cedar Park City Charter Section 7.02 authorizes the Council to zone the City after recommendation of the Planning and Zoning Commission, and requires the Council to enact necessary implementing legislation as authorized by law and after all public hearings required by law; and

WHEREAS, City staff, after communication with the affected property owners, determined the most appropriate zoning designations based on the City's Comprehensive Plan, existing use of land and structures within the affected area, and uses surrounding the affected area; and

WHEREAS, the City published notice and conducted the requisite public hearings in accordance with Texas Local Government Code Chapter 211; and

WHEREAS, on December 15, 2020 the Planning and Zoning Commission voted 6-0 to recommend approval of the proposed zoning; and

WHEREAS, the City Council finds the proposed zoning to be in accordance with the City's Comprehensive Plan, existing use of land and structures within the affected area, and uses surrounding the affected area, and are for the purpose of promoting the public health, safety, morals, and general welfare of the City; and

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

SECTION 1. City of Cedar Park Ordinance No. 75-2: Comprehensive Zoning Ordinance is hereby amended to rezone approximately 13.64 acres from Light Industrial (LI) To Heavy Industrial – Conditional Overlay (HI-CO), located at 1800 Hur Industrial Boulevard, otherwise set forth in the legal description labeled Exhibit “A” and the property location map labeled Exhibit “B,” with the prohibited uses listed in Exhibit “C”.

SECTION 2. That the Director of Development Services is hereby authorized and directed to officially designate the tract of land zoned herein as such on the official zoning district map of the City of Cedar Park and by proper endorsement indicated the authority for said notation.

SECTION 3. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 14th day of January, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 28th day of January, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

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Corbin Van Arsdale, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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J.P. LeCompte, City Attorney

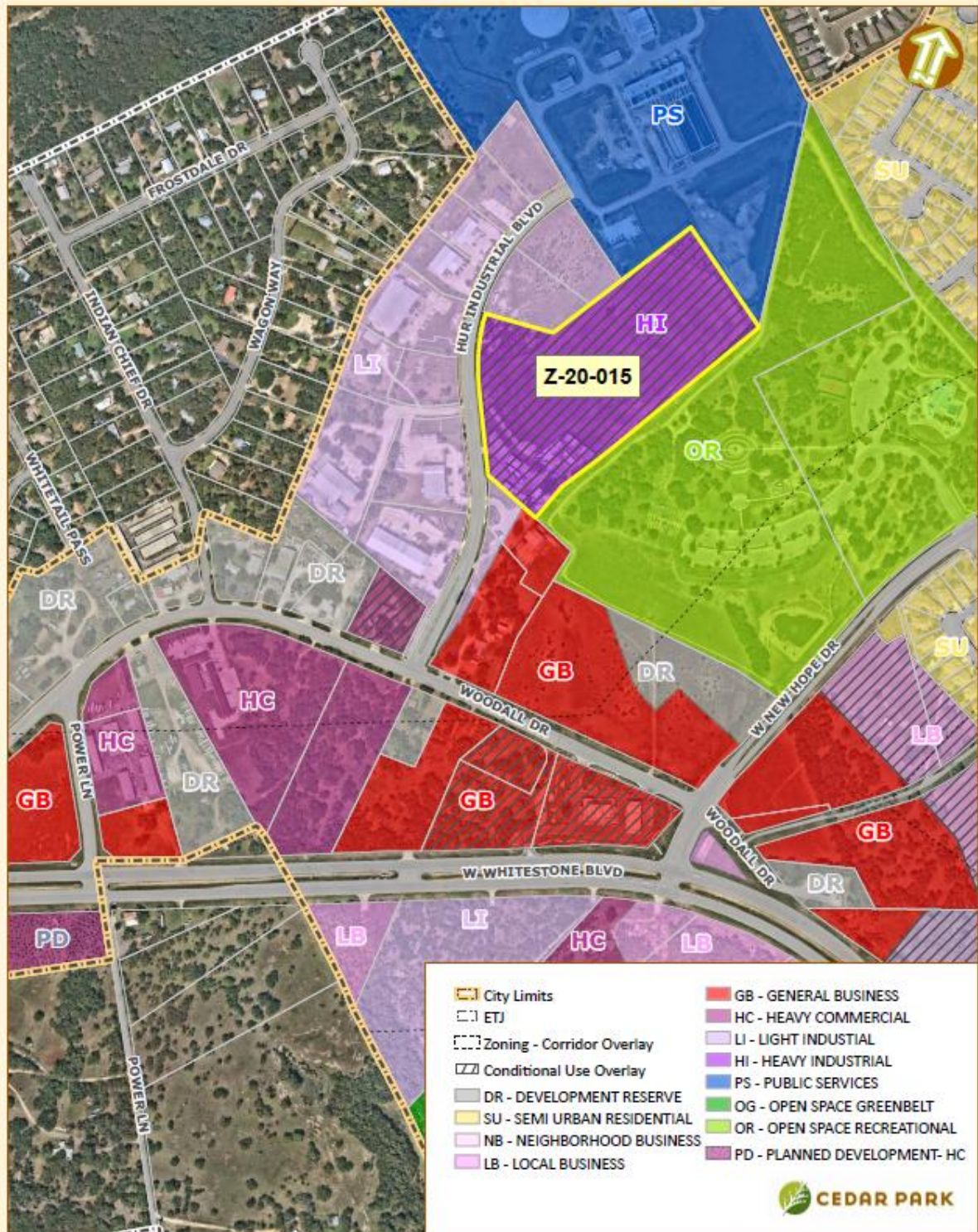
## EXHIBIT A

Lot 1A, Block A, Replat of Lot 1, Hur Industrial Park II Section One Subdivision. (Doc. # 201200225)



## EXHIBIT B

CITY OF CEDAR PARK

**Z-20-015 PROPOSED**

## EXHIBIT C

**PROHIBITED USES FOR 13.64 ACRES ZONED HI-CO**

**The uses listed below are prohibited on the property. Any use not listed below shall be deemed an allowable use, if allowed within HI.**

- Archery range
- Bus or taxi depot/ transit station
- Extraction (gas, gravel, minerals, oil, or sand)
- Pawnshop
- Sexually oriented business
- Stone cutting
- Wrecker, impound yard



### APPLICANT'S SUMMARY OF NEIGHBORHOOD COMMUNICATIONS

1. How and when were the surrounding neighborhood and property owners notified, how was information shared, and who was directly involved in the communication process?

The attached letters were mailed to the property owners within 500 feet of the property. Will Davies, President of DFD Architects, Inc. produced the letters and Karen Walas with DFD Architects, Inc. mailed the letters.

2. Who was notified (i.e. property owners, HOA, etc)?

See attached mailing list.

3. What concerns were raised during these communications?

none

4. What specific conditions were added to or modified within the zoning request in response to the concerns raised at the meeting?

none

The above information is deemed to be true to the best of my knowledge.

Signature: Will Davies

Date: December 10, 2020



# SAMPLE LETTER SENT TO NEIGHBORS

December 10, 2020

Brian Eugene Johnson  
13415 Wagon Way  
Cedar Park, Texas 78613

Re: 1800 Hur Industrial Blvd. rezoning request

Dear Mr. Johnson:

Our firm, DFD Architects, Inc. represents the property owners of 1800 Hur Industrial Blvd., Cedar Park, Texas 78641 which is located in the industrial park to the East of your property. See attached map for location. The property owner is proposing to rezone the property from its current zoning of Light Industrial (LI) to Heavy Industrial (HI).

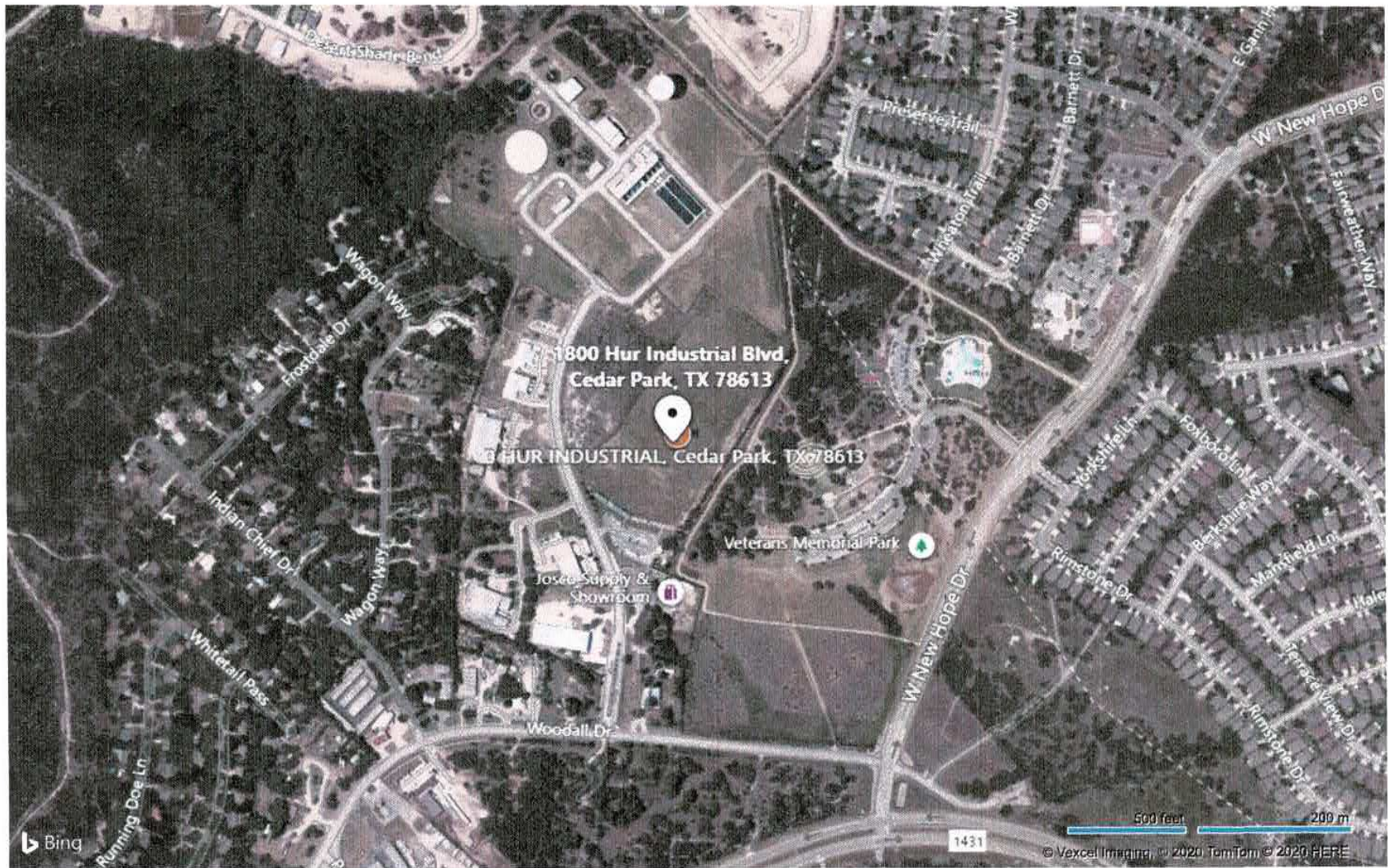
The property is currently undeveloped and is surrounded by other industrial uses as well as the Brushy Creek Regional Utility (water) and Cedar Park Veterans Memorial Park. The property owner intends to develop the property with a manufacturing and storage facility. The current zoning allows for both functions but limits the overall allowed storage. The new zoning will allow for additional storage.

Please review the attached information and feel free to contact our firm with any questions or comments.

Sincerely,

William A. Davies, AIA  
President





MAP OF 1800 HUR INDUSTRIAL BLVD., CEDAR PARK, TEXAS

Jose Bautista  
13427 Wagon Way  
Cedar Park, Texas 78613

Ramos and Elionai Martinez  
6766 Crestway Drive  
San Antonio, Texas 78239

Brian Eugene Johnson  
13415 Wagon Way  
Cedar Park, Texas 78613

Scott Michael  
505 Harvest Cove  
Cedar Park, Texas 78613

Jason Farrington  
134259 Wagon Way  
Cedar Park, Texas 78613

Steven A Schmidt  
13411 Wagon Way  
Cedar Park, Texas 78613

Joe Galvan  
13425 Wagon Way  
Cedar Park, Texas 78613

Richard Henderson  
2512 4th Avenue N  
Seattle, Washington 98109

Romelia & Martin Herrera  
13423 Wagon Way  
Cedar Park, Texas 78613





# CEDAR PARK

## Notice of Public Hearings on a Proposed Zoning Change

**These meetings may be virtual.**

**See reverse for information on how to access the virtual meetings.**

**NOTICE IS HEREBY GIVEN TO ALL INTERESTED PERSONS, THAT: Z-20-015**

The City of Cedar Park shall hold public hearings on a request by William Davies to rezone approximately 13.65 acres from Light Industrial (LI) to Heavy Industrial (HI) located at 1800 Hur Industrial Blvd in Travis County, Texas.

Agent: William Davies  
Phone: (512) 259-4175

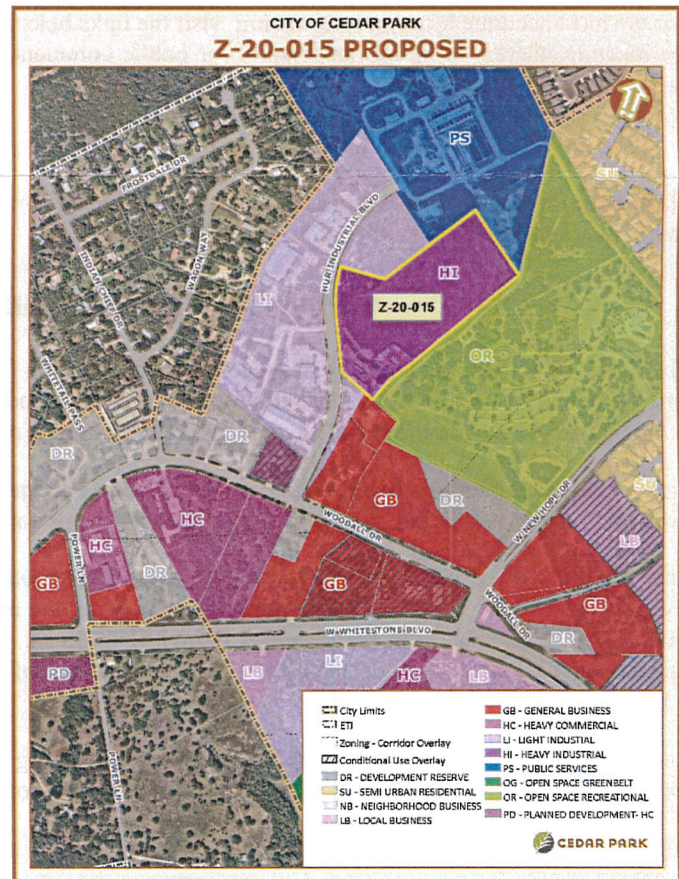
The Planning and Zoning Commission may recommend and City Council may approve any zoning district which is equivalent or more restrictive than that which is requested and which is deemed consistent with the Comprehensive Plan and the Future Land Use Plan.

For more information regarding this application, call the Planning Division at (512) 401-5054.

A public hearing will be held by the Planning and Zoning Commission on Tuesday, December 15, 2020 at 6:30 PM.

A public hearing will be held by the City Council on Thursday, January 14, 2021 at 7:00 PM.

Council action and second reading may be considered at the meeting following the public hearing (January 28, 2021)



Cedar Park City Council Chambers  
450 Cypress Creek Road, Building 4  
Cedar Park, Texas 78613

You may send your written comments to the Planning Division, 450 Cypress Creek Road, Bldg 1, Cedar Park, Texas 78613 or e-mail: [brad.jackson@cedarparktexas.gov](mailto:brad.jackson@cedarparktexas.gov) (attention: Zoning File #: Z-20-015)

Name: Pillar Properties Group LLC Address: 1713 Hur Industrial Blvd

☒ I am in favor, this is why Significant ☐ I am not in favor, and this is why \_\_\_\_\_

upgrade to the Hur Ind Park with  
a new Building, more jobs.  
and Increased property values !!!

Very much in Favor  
of this move!

**File Attachments for Item:**

F.1 A Resolution Ordering And Calling A General Election For May 1, 2021 For The Purpose Of Electing Council Place One, Council Place Three, And Council Place Five; Making Provisions For Conducting The Election; And Resolving Other Matters Related To Such Election.





## **CITY COUNCIL AGENDA**

January 28, 2021

---

**Item/Subject:** A Resolution Ordering And Calling A General Election For May 1, 2021 For The Purpose Of Electing Council Place One, Council Place Three, And Council Place Five; Making Provisions For Conducting The Election; And Resolving Other Matters Related To Such Election.

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### **Commentary**

The City of Cedar Park will have a General Election on May 1, 2021 for the purpose of electing Council Place One, Council Place Three, And Council Place Five. These three (3) positions are for full, two year terms.

Pursuant to separate agreements with Williamson County and Travis County, the Williamson County Elections Department and Travis County Elections Department will be providing election services for Cedar Park voters located in Williamson County and Travis County, respectively. The City will be sharing Early Voting and Election Day polling locations, staff, and equipment with all participating entities within each Williamson and Travis County.

Both Counties utilize a countywide polling place program for Early Voting and Election Day. The program eliminates county election precinct polling places and establishes countywide polling places or vote centers. Voters may go to any voting location within the County they reside in for Early Voting and Election Day.

Election Day and Early Voting Polling Locations are determined by the final entities that will be having a May 1<sup>st</sup> election.

Registered voter summary:

Approximately 5,009 registered voters are located in Travis County.

Approximately 41,119 registered voters are located in Williamson County.

Total registered voters: 46,128

**Initiating Dept:** Legal/CS

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**Fiscal Impact**  
**Fund:**

**Budget**  
**Amount:**

☐ **Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes

☐ No **City Attorney**

**Associated Information:**

## RESOLUTION NUMBER \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, ORDERING AND CALLING THE CITY OF CEDAR PARK, TEXAS, GENERAL FOR MAY 1, 2021; FOR THE PURPOSE OF ELECTING COUNCIL PLACE ONE, COUNCIL PLACE THREE, AND COUNCIL PLACE FIVE; MAKING PROVISIONS FOR CONDUCTING THE ELECTION; AND RESOLVING OTHER MATTERS RELATED TO SUCH ELECTION; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, pursuant to the provisions of the Cedar Park Charter, the Texas Election Code, as amended, and other related statutes the City Council of the City of Cedar Park, Texas ("City") is authorized to call a General Election for the purpose of electing the following positions: Council Place One, Council Place Three, And Council Place Five, all of which are positions of the City of Cedar Park; and

WHEREAS, Section 41.001 of the Texas Election Code establishes Saturday, May 1, 2021 as a uniform election date for the purposes of conducting an election; and

WHEREAS, the City will conduct a joint election with the Williamson and Travis County Elections Administrators and Participating Entities; and

WHEREAS, pursuant to Section 31.092 (a), Texas Election Code, and Chapter 791, Texas Government Code, the City has made provisions with the Williamson County Elections Department and the Travis County Elections Department to perform and conduct election services in connection with said election with respect to registered City of Cedar Park voters in their respective Counties; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution is being adopted was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Government Code, as amended; and

WHEREAS, that said election shall be held in accordance with the Texas Election Code and only resident, qualified voters of said City shall be eligible to vote at said election.

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

SECTION 1. General Election Ordered

It is hereby ordered, pursuant to the laws of the State of Texas and the Charter of the City of Cedar Park that a general election be held in the City of Cedar Park, Texas, on May 1, 2021 at which all resident qualified voters of the City of Cedar Park, shall be entitled to

vote for the purpose of electing Council Place One, Council Place Three, And Council Place Five.

#### SECTION 2. Applications For Place On Ballot

Candidates may file an application for a place on the election ballot in accordance with Chapter 143 of the Texas Election Code commencing on January 13, 2021. Application shall be filed with the City Secretary, located in City Hall, 450 Cypress Creek Road, Building One, Cedar Park, Texas. The last day for filing such applications shall be February 12, 2021, at 5:00 p.m.

#### SECTION 3. Official Ballot

The official ballot for the election shall be prepared in accordance with Texas Election Code, Chapter 52, with the order of offices on the ballot as follows:

- a. General Election:
  - Council Place One
  - Council Place Three
  - Council Place Five

Where applicable, the ballot will include all participating entities and elections of which Cedar Park citizens are eligible to vote. The official ballot shall be printed both in English and Spanish languages and shall contain such provisions, markings, and language as required by law.

#### SECTION 4. Drawing For Places On The Ballot

In the event there are two (2) or more candidates for the office of Council Place One, Council Place Three, And Council Place Five, the order in which the names of such candidates are to be printed on the ballot shall be determined by a drawing to be conducted by the City Secretary. Three (3) days prior to the date, on which the drawing is to be held, the City Secretary shall post a notice in the official posting place of the City for the time and place of the drawing. Personal notice shall be given to any candidate who makes a written request thereof and furnishes to the City Secretary a self-addressed stamped envelope. Each candidate involved in the drawing or a representative designed by said candidate shall have a right to be present and observe the drawing.

#### SECTION 5. Conduct Of Election

The City of Cedar Park is located in Williamson and Travis Counties. As authorized under Section 31.092 of the Texas Election Code, the City will make provisions with Williamson County and Travis County Elections Departments to perform and conduct election services in connection with said election. The Williamson County Elections Administrator and the Travis County Election Manager and his/her employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and

conduct the election for the entire City pursuant to the contracts for election services between the City and Williamson and Travis County Elections. The election shall be held as a joint election pursuant to Chapter 271 of the Texas Election Code in accordance with joint election agreements to be entered into between the City and the other participating entities. The election shall be held and conducted by the Williamson County Elections Administrator and the Travis County Elections Manager in compliance with all state laws and the Election Services Agreements.

**SECTION 6.** Election Precincts, Polling Places And Election Judges.

The Election Day precincts for the election shall be the election precincts as established by Williamson and Travis Counties and shall contain and include geographic area within the City. The precincts and polling places within the City designated for holding the election are identified in Exhibit A and Exhibit B to this Resolution and these exhibits are incorporated by reference for all purposes. Election judges and clerks shall be appointed in accordance with the Texas Election Code and the Joint Election Agreements executed by Williamson County and/or Travis County. The exhibits may be revised as necessary to conform to final county polling locations as amended and finalized by Williamson County Elections and Travis County Elections.

**SECTION 7.** Election Clerks

The Presiding Election Judge is hereby authorized to appoint the number of election clerks necessary to assist in the proper conduct of the election and such election clerks shall be qualified electors of the City. However, if the Presiding Judge appointed actually serves, the Alternate Presiding Judge shall serve as one of the clerks. The appointment of such clerks must include a person fluent in the Spanish language to serve as a clerk or render oral aid in the Spanish language to any voter desiring such aid at the polls on the day of the election. In the absence of the Presiding Judge named above, the Alternate Judge shall perform the duties of the Presiding Judge.

**SECTION 8.** Early Voting

Early Voting shall be conducted by Williamson County Elections Administrator and Travis County Elections Manager, who are hereby designated and appointed as the Early Voting Clerks for the called election and shall perform such duties in accordance with all laws in the Texas Elections Code. Early voting shall be conducted at the branch and part-time early voting polling places identified in Exhibit C and Exhibit D to this Resolution and this exhibit is incorporated by reference for all purposes. These offices or places shall remain open on the dates and at times set forth in Exhibit B hereto as authorized by Williamson County Elections Administrator and/or Travis County Elections Manager. Early voting shall commence on the 12<sup>th</sup> day before the election and continue through the 4<sup>th</sup> day preceding the date of the election all as provided by the provisions of the Texas Election Code and attached hereto. The exhibits may be revised as necessary to conform to final county polling locations as amended and finalized by Williamson County Elections and Travis County Elections.

The Early Voting Clerk's mailing address to which ballot applications and ballots to be voted by mail may be sent to:

Christopher Davis, Elections Administrator  
Williamson County Elections  
P.O. Box 209  
Georgetown TX 78627

Dana DeBeauvoir, Travis County Clerk  
Travis County Elections  
P.O. Box 149325  
Austin, TX 78714-9325

#### SECTION 9. Early Voting Ballot Board

An early voting ballot board is hereby created to process early voting results and the Presiding Judge will be appointed by the Williamson County Elections Administrator and/or Travis County Elections Manager. The Presiding Judge shall appoint not less than two (2) nor more than eighteen (18) qualified electors to serve as members of the Early Voting Ballot Board.

#### SECTION 10. Voters

All resident, qualified electors of the City shall be entitled to vote at the election.

#### SECTION 11. Notice

Pursuant to and in accordance with Chapter 4 of the Texas Election Code, the Mayor shall cause the notice of said election to be given, that the Mayor shall cause to have such notice posted and/or published; that the Mayor shall cause a copy of this resolution to be served on the Presiding Judge as notice of said election; and that immediately after said election is held, the officers holding the same shall make returns of the results thereof to the Mayor. The attached Exhibit E shall serve as order of said election.

Notice of the Election: shall include a Spanish translation thereof, shall be posted not later than the twenty-first (21<sup>st</sup>) day before the election on the bulletin board used for posting notices of meetings of the city council and shall be published at least once, not early than the thirtieth (30<sup>th</sup>) day nor later than the tenth (10<sup>th</sup>) day before the election in a newspaper published and or general circulation in the City of Cedar Park.

#### SECTION 12. Adoption Of Voting Systems

An electronic voting system, as defined by the Texas Election Code, may be used for voting at the polling places for said election and the tabulation of the results. The conduct of the

election and the use of the electronic voting systems shall be accordance with the Texas Election Code. In accordance with the Texas Election Code, Chapter 123, the City of Cedar Park hereby adopts the voting systems utilized by Williamson and Travis County Elections for Early Voting and Election Day, as certified by the Secretary of State.

#### SECTION 13. Voting Devices

The City of Cedar Park adopted the voting systems for City elections and the use of Direct Recording Electronic Voting Machines (“DRE’s”) by Resolution Number R069.20.03.12.F3 for Williamson County and Travis County. Electronic Optical scan voting devices may also be used in conducting the election. Williamson County and Travis County may also utilize a central counting station as provided by Section 127.000 *et. seq.*, as amended, of the Texas Election Code.

#### SECTION 14. Texas Election Code

In all respects the election shall be conducted in accordance with the Texas Election Code, and all other applicable statutes, and the City of Cedar Park Home Rule Charter.

#### SECTION 15. Results

The Williamson County Elections Administrator and the Travis County Elections Manager shall conduct an unofficial tabulation of results after the closing of the polls on May 2, 2020. The official canvass and tabulation of the results of the election shall be conducted by the City Council at a Special or Regular Called Council Meeting in accordance with the Texas Election Code.

#### SECTION 16. Custodian Of Election Records

Pursuant to the Election Code and the application Election Services Contract, the Williamson County Elections Administrator and the Travis County Elections Manager shall serve as the Custodian of Election Records for the conduct of the election and voted ballots in their respective counties, and the City Secretary shall serve as custodian of all other election records as maintained by the City.

#### SECTION 17. Other Action

The Mayor and the City Secretary of the City, in consultation with the City Attorney, are hereby authorized and directed to take any and all action necessary to comply with provisions of the Texas Election Code or state and federal statutes and constitutions in carrying out the conduct of the election, whether or not expressly authorized therein.

#### SECTION 18. Provisions

The provisions of this Resolution are severable; and in case any one or more the provisions of this Resolution of the application thereof to any person or circumstances should be held

to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Resolution nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SECTION 19. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

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Corbin Van Arsdale, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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J.P. LeCompte, City Attorney



## EXHIBITS

- A Williamson County Polling Locations – Election Day  
*To Be Finalized by Williamson County*
- B Travis County Polling Locations – Election Day  
*To Be Finalized by Travis County*
- C Williamson County Polling Locations – Early Voting  
*To Be Finalized by Williamson County*
- D Travis County Polling Locations – Early Voting  
*To Be Finalized by Travis County*
- E Order Of Election  
*Pending finalization of polling locations*

**File Attachments for Item:**

F.2 A Resolution Authorizing A Joint Election Agreement With Travis County For The May 1, 2021 General And Special Elections.



## **CITY COUNCIL AGENDA**

January 28, 2021

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**Item/Subject:** A Resolution Authorizing A Joint Election Agreement With Travis County  
For The May 1, 2021 General And Special Elections.

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### **Commentary**

The Travis County Elections Department will provide election services for the May 1, 2021 General and Special Elections for residents (registered voters) residing in Cedar Park within Travis County. The City has contracted with Travis County since approximately 2006.

The Joint Election Agreement allows all Participating Entities to proportionally share the cost of election equipment, election officials, voting locations, and election ballots where appropriate. This assists with reducing the cost for each entity. Texas Election Code, Chapter 271.002 provides for the authorization of joint elections.

Travis County utilizes voting centers for Early Voting and Election Day. All registered voters in Cedar Park within Travis County will be able to vote at any center located within Travis County, regardless of the location.

The Election Services Agreement provides for Travis County Elections Department's services to conduct the election to include equipment, programming, election personnel, supplies, and administrative services. The purpose of the Election Services Agreement is to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the Participating Entity.

**Initiating Dept:** Legal/City Secretary

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**Fiscal Impact**  
**Fund:**

**Budget**  
**Amount:**

☐ **Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes

☐ No **City Attorney**

**Associated Information:**

## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING AND DIRECTING THE CITY MANAGER'S TO EXECUTE A JOINT ELECTION AGREEMENT WITH TRAVIS COUNTY FOR THE MAY 1, 2021 GENERAL AND SPECIAL ELECTIONS; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, pursuant to Section 31.092 (a), Texas Election Code, and Chapter 791 Texas Government Code, the City has made provisions with Travis County Elections Departments to perform and conduct all election services in connection with said election; and

WHEREAS, Travis County has contracted with each Participating Entity to conduct and provide election services for such Participating Entity's May 1, 2021 elections; and

WHEREAS, the Participating Entity's all desire to enter into a Joint Election Agreement for the purpose of sharing election equipment, election officials, and sharing precinct polling locations and election ballots where appropriate; and

WHEREAS, the Election Services Agreement provides for Travis County Elections Department to provide services to conduct the election to include equipment, programming, election personnel, supplies, and administrative services; and

WHEREAS, the City Council finds that it is in the City's best interest to contract with Travis County to perform election services and utilize election equipment and personnel to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the City.

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

SECTION 1. Council hereby authorizes and directs the City Manager to execute a Joint Election Agreement with Travis County for the May 1, 2021 General and Special Elections.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

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Corbin Van Arsdale, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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J.P. LeCompte, City Attorney

## **JOINT ELECTION AGREEMENT FOR MAY 1, 2021 ELECTIONS**

### **Recitals**

1. Travis County (the “County”) will be conducting general and special elections for the participating entities (each, a “Participating Entity,” and together, the “Participating Entities”) listed in Exhibit A, which is attached to and incorporated into this agreement, on May 1, 2021. The Participating Entities require elections to be held on May 1, 2021 in those portions of Travis County as shown on the maps and metes and bounds descriptions in Exhibit B, also attached to and incorporated into this agreement.
2. Under Texas Election Code Section 271.002, political subdivisions of the State of Texas are authorized to hold elections jointly in voting precincts that can be served by common polling places if elections are ordered by the authorities of two or more political subdivisions to be held on the same day in all or part of the same territory
3. Texas Government Code Chapter 791 authorizes local governments to contract with one another and with state agencies for various governmental functions, including those in which the contracting parties are mutually interested.
4. It would benefit the County, the Participating Entities, and their respective citizens and voters to hold the elections jointly in the election precincts that common polling places can serve.

Pursuant to Texas Election Code Sections 271.002 and 271.003 and Texas Government Code Chapter 791, this Joint Election Agreement is entered into by and between Travis County, a political subdivision of the State of Texas acting by and through the Travis County Commissioners Court, and the Participating Entities, each acting by and through their respective governing bodies.

### **I. Scope of Joint Election Agreement**

This agreement covers the May 1, 2021 Joint General and Special Elections for the parties to this agreement to be held on May 1, 2021. The County and the Participating Entities will hold these elections on May 1, 2021 (“Election Day”) jointly for the voters in those portions of Travis County identified on the maps and descriptions in Exhibit B.

### **II. Election Officer**

The Participating Entities hereby appoint the Travis County Clerk, the election officer for Travis County, as the election officer to perform or supervise the County’s duties and responsibilities involved in conducting the joint election covered by this agreement.

### **III. Early Voting**

Each of the Participating Entities agrees to conduct its early voting jointly. Each of the Participating Entities appoints the Travis County Clerk, the early voting clerk for Travis County,

as the early voting clerk for the joint election. Early voting for the Participating Entities will be conducted at the dates, times, and locations to be mutually agreed upon by the election officer and authorized and ordered by the governing body of each Participating Entity.

A. County Responsibilities [continue]

1. The County will provide to the governing body of each Participating Entity a list of places, times, and dates of early voting suitable for consideration and adoption by the governing body, under Texas Election Code chapter 85.
2. The Travis County Clerk, as the early voting clerk, will be responsible for conducting early voting by mail and by personal appearance for all Travis County voters voting in the joint election. The Travis County Clerk will receive from each Participating Entity's regular early voting clerk applications for early voting ballots to be voted by mail, under Texas Election Code Title 7. The Travis County Clerk will send early voting ballots by mail and receive early voting ballots for early voting by mail. And the Travis County Clerk may appoint such deputy early voting clerks as necessary to assist the Travis County Clerk with voting to take place at the early voting locations.
3. The County will determine the number of election workers to hire to conduct early voting in the joint election. The Travis County Clerk will arrange or contract for training for all election workers and will assign all election workers employed for early voting in the joint election. The training of these election workers is mandatory; these individuals will be compensated for their time in training. The County will provide a training facility for election schools to train election workers employed in conducting early voting, including early voting by personal appearance at main and temporary branch early voting polling places, early voting by mail, and other aspects of the early voting program for the joint election. The County will name early voting deputies and clerks employed to conduct early voting.
4. The County will provide and deliver all supplies and equipment necessary to conduct early voting for the joint election, including ballots, election forms, any necessary ramps, utility hook-ups, signs, registration lists and ballot boxes, to early voting polling places. The County will designate and confirm all early voting polling place locations.
5. The County will be responsible for preparing and transporting the electronic voting equipment necessary to conduct early voting. The County will perform all tests of voting equipment as required, including posting notice of equipment testing.
6. Under Election Code sections 66.058 and 271.010, the Participating Entities appoint the Travis County Clerk as the joint custodian of records for the sole purpose of preserving all voted ballots securely in a locked room in the locked ballot boxes for the preservation period that the Election Code requires.
7. The County will receive ballot language in both English and Spanish from each Participating Entity and format the ballots as needed to include these languages. The County will provide each Participating Entity with a final proof of ballot language for approval before printing



the ballots. Upon final proof approval, ballots will be printed in an expedited timeframe so as to allow ballot allocations for the Early Voting by Personal Appearance Program, and the ballot mail outs for the Early Voting by Mail Program.

8. A single joint voter sign-in process consisting of a common list of registered voters, and common signature rosters will be used for early voting. A single, combined ballot and single ballot box will be used. The County will use an electronic voting system, as defined and described in Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.

9. The County will be responsible for conducting the Early Voting Ballot Board. The County will designate a person to serve as the presiding judge for the Early Voting Ballot Board and will provide that information to the governing body of each Participating Entity for entry of an order by that authority appointing this official. The presiding judge for the Early Voting Ballot Board is eligible to serve in this capacity. The presiding judge for the Early Voting Ballot Board will appoint two or more election clerks, and the judge and clerks will compose the Early Voting Ballot Board and will count and return early voting ballots, and perform other duties the Election Code requires of it.

#### **B. Participating Entities' Responsibilities**

1. Each Participating Entity will appoint a qualified person to serve as the regular early voting clerk for the Participating Entity. The regular early voting clerk for each respective Participating Entity will receive requests for applications for early voting ballots to be voted by mail and will forward in a timely manner, as prescribed by law, any and all applications for early voting ballots to be voted by mail, received in the Entity's office, to the Travis County Clerk.

2. Each Participating Entity will appoint a qualified person to act as custodian of records for the Participating Entity to perform the duties imposed by the Election Code on the custodian of records for its respective entity.

3. Each Participating Entity will provide ballot language for the respective portion of the official ballot to the County in both English and Spanish. The Participating Entity must make any additions, modifications, deletions, or other changes to such ballot contents or language before the Participating Entity's final proof approval. The County will provide the Participating Entity with a final proof of ballot language, as it is to appear on the ballot, for final proof approval. Upon final proof approval, the ballot will be programmed for the voting equipment in an expedited timeframe so as to allow ballot allocations for the Early Voting by Personal Appearance Program, and the printed ballot mail outs for the Early Voting by Mail Program.

### **IV. Election Day**

#### **A. County Responsibilities**

1. The County will designate and confirm all Election Day polling place locations for the joint election, and will forward such information to the Participating Entities in a timely fashion to allow the governing body of the respective Participating Entities to enter orders designating such polling places.

2. The County will designate the presiding election judge and the alternate presiding election judge to administer the election in the precinct in which a common polling place is to be used and will forward such information to the Participating Entities to allow the governing bodies of the respective Participating Entities to enter appropriate orders designating such officials before the election. The presiding election judge and alternate presiding election judge must be qualified voters of the Travis County election precinct in which the joint election is held. The presiding election judge for the precinct in which a common polling place is used may appoint election clerks as necessary to assist the judge in conducting the election at the precinct polling place. The alternate presiding election judge may be appointed as a clerk. The alternate presiding election judge may serve as the presiding election judge for the precinct in the presiding election judge's absence. Election judges and clerks will be compensated at the rate established by the County. The Texas Election Code and other applicable laws will determine compensable hours.
3. One set of election officials will preside over the election in the precinct using a common polling place. There will be a single joint voter sign-in process consisting of a common list of registered voters and common signature rosters in the precinct using a common polling place. A single, combined ballot and single ballot box will be used. The officer designated by law to be the custodian of the voted ballots for the County will be custodian of all materials used in common in the precinct using a common polling place. The County will use an electronic voting system, as defined and described by Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.
4. The County will arrange for training and will provide the instructors, manuals and other training materials deemed necessary for training all judges and clerks. Training for election judges and alternate judges is mandatory, and these individuals will be compensated for their time in training.
5. The County will arrange for election-day voter registration precinct lists for the joint election. The County will determine the amount of election supplies needed for Election Day voting.
6. The County, by and through the County Clerk's Elections Division, and Administrative Operations, will be responsible for preparing and transporting voting equipment and election-day supplies for use on Election Day.
7. The County, by and through the County Voter Registrar, will provide the list of registered voters as needed in the overlapping jurisdictions identified in the attached exhibits, with designation of registered voters in each Participating Entity, for use at the joint election day polling place on Election Day.
8. The common polling place is designated as the polling place that the County uses. At the common polling place, a single ballot box will be used for depositing all ballots cast in the joint election. At this polling place, one voter registration list and one combination poll list and signature roster form will be kept for the joint election. The final returns for each Participating Entity and the County will be canvassed separately by each respective Participating Entity. The

Travis County Clerk will maintain a return center on Election Day for the purpose of receiving returns from the County. The Travis County Clerk will provide unofficial election results to the qualified individual appointed by each Participating Entity.

9. On Election Day, the Travis County Clerk or the clerk's Elections Division will field all questions from election judges.

10. The County will make available translators capable of speaking English and Spanish to assist Spanish-speaking voters in understanding and participating in the election process in the territory covered by this agreement.

#### **B. Participating Entities' Responsibilities**

1. Before Election Day, each Participating Entity will answer questions from the public with respect to the Participating Entity's election during regular office hours of 8:00 a.m. – 5:00 p.m.

2. The custodian of records for each Participating Entity will receive returns from the Travis County Clerk on Election Day.

### **V. Election Night**

#### **A. County Responsibilities**

1. The County will be responsible for all activities on election night, including setting up a central counting station, coordinating and supervising the results tabulation, coordinating and supervising the physical layout of the support stations that are the joint election's receiving substations, and coordinating and managing election media coverage.

2. The County is responsible for transporting voted ballot boxes to the central counting station.

3. The County will appoint the presiding judge and alternate presiding judge of the central counting station to maintain order at the central counting station, to administer oaths as necessary, to receive sealed ballot boxes, and to perform such other duties that the Texas Election Code requires, and will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election. The presiding judge of the central counting station may appoint clerks to serve at the central counting station. In addition, the County will appoint a tabulation supervisor to be in charge of operating the automatic tabulating equipment at the central counting station; an individual to serve as central counting station manager; and an assistant counting station manager to be in charge of administering the central counting station and generally supervising the personnel working at the central counting station. The County will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election.

4. The County will provide the Participating Entities with reasonable space in a public area adjacent to the central counting station at which each Participating Entity may have representatives or other interested persons present during the counting process.

#### B. Participating Entities' Responsibilities

1. Other than receiving returns from the Travis County Clerk, the Participating Entities have no role or responsibility on the night of the election.

### VI. County Resources

- A. The County will provide the Elections Division permanent staff and offices to administer the joint election, under the Travis County Clerk's direction.
- B. For early voting, the County will provide a locked and secure area in which voted ballot boxes will be stored until the Early Voting Ballot Board convenes. The County, by and through Administrative Operations, will be responsible for transporting the ballot boxes to the central counting station for the Early Voting Ballot Board.
- C. The County will be responsible for providing and maintaining voting equipment and testing any voting equipment as required by the Texas Election Code.
- D. The County will process the payroll for all temporary staff hired to conduct the joint election. The payroll processing includes statutory reporting and providing W-2 forms where applicable.
- E. The County will conduct early voting as indicated in this agreement.

### VII. Joint Election Costs; Payment

- A. Concurrently with its submittal of an executed copy of this agreement, each Participating Entity must also submit payment via check or ACH, in the amount equal to the deposit identified for that Participating Entity in the Cost Estimate attached as Exhibit C, which is also incorporated into this agreement. **The County is under no obligation to conduct a Participating Entity's elections until the County receives that Participating Entity's payment of Cost Estimate.** All checks must be made payable to Travis County. This deposit represents approximately 75% of the costs of the Participating Entity's share of the estimated election costs. The County will submit an invoice to each Participating Entity for the balance of the Participating Entity's actual joint election expenses upon the election's completion. Joint-election expenses include expenses for facilities, personnel, supplies, and training that the County actually incurs for establishing and operating all early voting and election-day activities at the polling place in the joint election territory as well as activities related to tabulating votes, all as reflected on the Cost Estimate. Each Participating Entity will pay the total amount of its invoice within thirty (30) days of receiving it.

B. In the event of a recount, the expense of the recount will be borne by the Participating Entity involved in the recount on a pro-rata basis.

C. In the event a Participating Entity cancels its respective election because of unopposed candidates under Texas Election Code Title 1, the Participating Entity will be responsible for its respective share of election expenses incurred through the date that the election is canceled as allocated to the cancelling entity based on the formula in the Cost Estimate, adjusted for the actual expenses incurred by the County through the date of the cancellation. When the Participating Entity cancels its election, the County will recalculate the allocation percentages among the remaining Participating Entities according to the formula used in the Cost Estimate.

D. In the event there are any expenses associated with processing a ballot arising from a write-in candidate, the Participating Entity that received the declaration will bear the expenses.

E. A Participating Entity that establishes an early voting polling place, other than one that was mutually agreed upon by all Participating Entities, will bear the expense of doing so. The Cost Estimate for each individual Participating Entity will include additional polling locations for each Participating Entity, as set forth in Exhibit C.

## **VIII. General Provisions**

### **A. Legal Notices**

Each of the Participating Entities will be individually responsible for preparing the election orders, resolutions, notices, and other pertinent documents for adoption or execution by its own respective governing board and for all related expenses. The Travis County Clerk will provide each Participating Entity information on changes affecting the Participating Entity's election, such as polling place changes and changes in voting equipment, when such changes are confirmed, verified, or otherwise become known to the clerk's office. Each of the Participating Entities will be individually responsible for posting or publishing election notices and for all related expenses. Each of the Participating Entities further will be individually responsible for election expenses incurred in relation to any polling place that is not a common polling place as designated in this agreement.

### **B. Communication**

Throughout this agreement's term, the Travis County Clerk or the clerk's employee will meet as necessary with the designated representative of each Participating Entity to discuss and resolve any problems that might arise regarding the joint election.

### **C. Custodian**

The Travis County Clerk will serve as the custodian of the keys to the ballot boxes for voted ballots in the joint election.

### **D. Effective Date**

This agreement takes effect upon its complete execution by all Participating Entities and the County. The obligation of each Participating Entity to the County under this agreement will not end until that Participating Entity pays the County its share of the joint election costs.

## **IX. Miscellaneous Provisions**

### **A. Amendment/Modification of Exhibits A, B, and C**

1. The Participating Entities acknowledge and agree that Exhibits A, B, and C may be amended to add or remove entities wishing to participate or cease participating in the agreement. The Participating Entities agree to future amendments of Exhibits A, B, and C and authorize the County to enter into such amendments without the Participating Entities' having to sign the future amendments. The County agrees to notify all Participating Entities of any amendments to Exhibits A, B, and C.

2. Except as otherwise provided, this Agreement may not be amended in any respect whatsoever except by a further agreement in writing, duly executed by the parties to this agreement. No official, representative, agent, or employee of the County has any authority to modify this Agreement except by express authorization from the Travis County Commissioners Court. No official, representative, agent, or employee of any Participating Entity has any authority to modify this agreement except by express authorization from the governing body of the respective Participating Entity. The Travis County Clerk may propose necessary amendments to this agreement in writing in order to conduct the joint election smoothly and efficiently, except that any such proposed amendment must be approved by the Travis County Commissioners Court and the governing body of each respective Participating Entity before the amendment will be effective.

### **B. Notice**

Any notice to be given in this agreement, by any party to the other, must be in writing and delivered personally or by certified mail, return receipt requested, to the proper party at the addresses listed in Exhibit A.

Each party may change the address for notice to it by giving notice of the change under this section's terms.

### **C. Force Majeure**

In the event that the County cannot perform any of its obligations in this agreement or is interrupted or delayed by any occurrence not occasioned by its own conduct, whether it be an act of God, the result of war, riot, civil commotion, sovereign conduct, or like reason, then the County will be excused from performing for such period of time as is reasonably necessary after such occurrence to remedy its effects.

### **D. Venue and Choice of Law**

The Participating Entities agree that venue for any dispute arising under this agreement will lie in the appropriate courts of Austin, Travis County, Texas. This agreement is governed by and is to be construed under the laws of Texas and the United States of America.

E. Entire Agreement

This agreement contains the parties' entire agreement relating to the rights granted and the obligations assumed in it, and it supersedes all prior agreements, including prior election services contracts relating to each Participating Entity's May 1, 2021 election. Any prior agreements, promises, negotiations, or representations not expressly contained in this agreement are of no force or effect. Any oral representations or modifications concerning this agreement have no force or effect, except a subsequent amendment in writing as this agreement provides.

F. Severability

If any provision of this agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability will not affect the agreement's remaining provisions; and its parties will perform their obligations under the agreement's surviving terms and provisions.

G. Breach

In the event that any Participating Entity or the County breaches any of its obligations under this agreement, the non-breaching party will be entitled to pursue any and all rights and remedies allowed by law.

H. Payments from Current Revenues

Payments made by the Participating Entities in meeting their obligations under this agreement will be made from current revenue funds available to the governing body of the respective Participating Entity. Payments made by the County in meeting its obligations under this agreement will be made from current revenue funds available to the County.

I. Other Instruments

The Participating Entities agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out this agreement's purposes.

J. Third-Party Beneficiaries

Except as otherwise provided in this agreement, nothing in this agreement, expressed or implied, is intended to confer upon any person, other than the parties to it, any of its benefits, rights or remedies.

K. Other Joint Election Agreements

The County and the Participating Entities expressly understand and acknowledge that each may enter into other joint election agreements with other political subdivisions, to be held on Election Day and at common polling places covered by this agreement, and that the addition of other political subdivisions as parties to this agreement will require amending Exhibits A, B, and C.

L. Mediation

When mediation is acceptable to both parties in resolving a dispute arising under this agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Texas Civil Practice and Remedies Code section 154.023. Unless both parties are satisfied with the mediation's result, the mediation will not constitute a final and binding resolution to the dispute. All communications within the scope of the mediation will remain confidential as described in section 154.073, unless both parties agree, in writing, to waive the confidentiality. Despite this, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term "confidential" as used in this agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act. Notwithstanding any provision to the contrary, nothing in this Agreement requires the County or a Participating Entity to waive any applicable exceptions to disclosure under the Texas Public Information Act.


M. Counterparts

This Agreement may be executed in multiple counterparts, all of which will be deemed originals and with the same effect as if all parties to it had signed the same document. Signatures transmitted electronically by e-mail in a "PDF" format or by DocuSign or similar e-signature service shall have the same force and effect as original signatures. All of such counterparts will be construed together and will constitute one and the same agreement.

**TRAVIS COUNTY**

BY: \_\_\_\_\_  
 Andy Brown  
 County Judge

Date: \_\_\_\_\_

BY:   
 Dana DeBeauvoir  
 County Clerk



**SIGNATURE PAGE**

Name of Participating Entity \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Name of Authorized Signatory \_\_\_\_\_

Signature \_\_\_\_\_

Date signed \_\_\_\_\_

E-mail address \_\_\_\_\_

**File Attachments for Item:**

F.3 A Resolution Authorizing An Election Agreement With Travis County For Election Services.

**CITY COUNCIL AGENDA**

January 28, 2021

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**Item/Subject:** A Resolution Approving An Election Agreement With Travis County For Election Services.

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**Commentary**

The Travis County Elections Department will provide election services for the May 1, 2021 General Election for residents (registered voters) residing in Cedar Park within Travis County.

This agreement only provides for the election services. A Joint Election Agreement which allows all Participating Entities to share election equipment, election officials, voting locations, and election ballots where appropriate will be presented to Council for consideration at a future meeting.

Travis County utilizes voting centers for Early Voting and Election Day. All registered Cedar Park voters residing in Travis Council will be able to vote at any center located within Travis County, regardless of the location.

**Initiating Dept:** Legal/City Secretary

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**Fiscal Impact**  
**Fund:**

**Budget**  
**Amount:**

**Finance Director Review**

**Legal Certification**

Approved as to form and content: ☐ Yes ☐ No **City Attorney**

**Associated Information:**

## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AN ELECTION AGREEMENT WITH TRAVIS COUNTY; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, pursuant to Section 31.092 (a), Texas Election Code, and Chapter 791 Texas Government Code, the City has made provisions with Travis County Elections Departments to perform and conduct all election services in connection with said election; and

WHEREAS, Travis County is contracting with each Participating Entity to conduct and provide election services for such Participating Entity's elections; and

WHEREAS, the Participating Entity's all desire to enter into a joint election agreement for the purpose of sharing election equipment, election officials, and sharing precinct polling locations and election ballots where appropriate; and

WHEREAS, the City Council finds that it is in the City's best interest to contract with Travis County to perform election services and utilize election equipment and personnel to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the City.

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

SECTION 1. Council hereby authorizes and directs the City Manager to execute an Election Agreement for Election Services with Travis County, subject to final review by the City Attorney.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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J.P. LeCompte, City Attorney

## ELECTION AGREEMENT BETWEEN TRAVIS COUNTY AND **NAME OF PARTICIPATING ENTITY**

Pursuant to Chapter 31, Subchapter D, Chapter 123, and Chapter 271 of the Texas Election Code and Chapter 791 of the Texas Government Code, Travis County (the "County") and **Name of Participating Entity** ("Participating Entity") enter into this agreement (this "Agreement") for the Travis County Clerk, as the County's election officer (the "Election Officer"), to conduct the Participating Entity's elections, including runoffs, and for the Participating Entity's use of the County's current or future-acquired election equipment for any voting system that the County adopts, as authorized under Title 8 of the Texas Election Code, for all Participating Entity elections. The purpose of this Agreement is to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the Participating Entity.

### Section 1. GENERAL PROVISIONS

- (A) Except as otherwise provided in this Agreement, the term "election" refers to any Participating Entity election, occurring on any uniform election date prescribed by the Texas Election Code or a primary election date, along with any resulting runoff, if necessary, within all Participating Entity's territory located in Travis County. If a runoff is necessary, the Participating Entity shall work with the Election Officer to determine a mutually acceptable run-off date. In the event that the Participating Entity (and any other entity for which the County is providing election services or for which the County is conducting a joint election) do not agree on a run-off date, the Participating Entity agrees to whichever run-off date is selected by the Election Officer.
- (B) If the Participating Entity determines it is necessary to conduct an election during a time other than that specified in Section 1(A), the Election Officer and a representative designated by the Participating Entity will meet as soon as possible thereafter to determine the feasibility of the Election Officer conducting such an election. If both parties agree that the Election Officer will administer the election, the new election will be based on all other applicable provisions of this Agreement except provisions that are inconsistent and cannot be feasibly applied.
- (C) Except as otherwise provided in this Agreement:
  - (1) The term "Election Officer" refers to the Travis County Clerk;
  - (2) The term "precinct" means all precincts in the territory of the Participating Entity located within Travis County.
  - (3) The term "election services" refers to services used to perform or supervise any or all of the duties and functions that the Election Officer determines necessary for the conduct of an election.
  - (4) The term "cost for election services" includes the costs for personnel, supplies, materials, or services needed for providing these services as

permitted by the Texas Election Code but does not refer to costs relating to the use of the voting equipment.

- (D) Except as otherwise provided in this Agreement, the cost for “use of voting equipment” for a particular election is the amount the County will charge the Participating Entity for use of the County’s voting equipment in use at the time of that election.
- (E) The Participating Entity agrees to commit the funds necessary to pay for all election-related expenses for Participating Entity elections in accordance with this Agreement.
- (F) The Election Officer has the right to enter into agreements with other entities at any time, including during the dates listed in Section 1(A).
- (G) As a condition for providing election services and equipment usage, the Election Officer may require authorities of political subdivisions holding elections on the same day in all or part of the same territory to enter into a joint election agreement as authorized in Chapter 271 of the Texas Election Code, and the Participating Entity agrees to enter into any joint election agreement required by the County.

## **SECTION 2. PARTICIPATING ENTITY’S USE OF VOTING EQUIPMENT; DUTIES OF THE ELECTION OFFICER AND OF THE PARTICIPATING ENTITY**

The County shall make available to the Participating Entity the County’s current voting system and any future-acquired voting system as authorized under Title 8 of the Texas Election Code, subject to restrictions and conditions imposed by the Election Officer to ensure availability of the equipment for County-ordered elections, primary elections, special elections, and subsequent runoff elections, if applicable. The Election Officer may also impose restrictions and conditions to protect the equipment from misuse or damage.

## **SECTION 3. APPOINTMENT OF ELECTION OFFICER**

- (A) The Travis County Election Officer (“Election Officer”) is appointed to serve as the Participating Entity’s Election Officer and Early Voting Clerk to conduct the Participating Entity’s elections described in Section 1.
- (B) As the Participating Entity’s Election Officer and Early Voting Clerk, the Election Officer shall coordinate, supervise, and conduct all aspects of administering voting in Participating Entity elections in compliance with all applicable laws, subject to Section 3(C) below.
- (C) The Participating Entity shall continue to perform those election duties listed in (1) through (7) below and any other election duties, such as receipt of candidate applications, that are not allowed to be delegated to another governmental entity:



- (1) preparing, adopting, and publishing all required election orders, resolutions, notices, and other documents, including bilingual materials, evidencing action by the governing authority of the Participating Entity necessary to the conduct of an election, except that:
  - a. The Election Officer may provide newspaper notices on behalf of the Participating Entity with respect to a specific election if:
    - i. Not later than 60 days before election day for that election, the Participating Entity submits a written request to the Election Officer to provide newspaper notices on behalf of the Participating Entity, provides the Election Officer the content of the notices and information as which newspapers those notices are to be published and the dates of publication and any other information required by the Election Officer for providing newspaper notices, and
    - ii. The Participating Entity pays the Election Officer all costs associated with providing the newspaper notices.
  - b. With respect to each debt obligation election the Election Officer conducts for the Participating Entity pursuant to this Agreement:
    - i. The Election Officer, after receiving from the Participating Entity a copy of the debt obligation election order, shall post the notice required by and in accordance with Texas Election Code Section 4.003(f)(1) on election day and during early voting by personal appearance, in a prominent location at each polling place;
    - ii. The Election Officer shall provide written confirmation that to the Participating Entity that the debt obligation election order was posted in accordance with Texas Election Code Section 4.003(f)(1); and
    - iii. The Participating Entity shall pay any applicable expenses incurred by the Election Officer that directly relates to the posting required by Texas Election Code Section 4.003(f)(1).
- (2) Preparing the text for the Participating Entity's official ballot in English and Spanish and any other languages as required by law;
- (3) Providing the Election Officer with a list of candidates or propositions showing the order and the exact manner in which the candidates' names and the propositions are to appear on the official ballot;
- (4) Conducting the official canvass of a Participating Entity election;
- (5) administering the Participating Entity's duties under state and local campaign finance laws;
- (6) having a Participating Entity representative serve as the custodian of its election records; and

- (7) Filing the Participating Entity's annual voting system report to the Secretary of State as required under Texas Election Code Chapter 123.
- (D) The Participating Entity shall also be responsible for proofing and attesting to the accuracy of all ballot language, including any required language translations, and format information programmed by the County. This includes any information programmed for use with the audio or tactile button features of the equipment. The Participating Entity will also monitor and review all logic and accuracy testing and mandatory tabulations. The Participating Entity will complete its duties within timeframes as prescribed by the County. If the Participating Entity finds any discrepancies or concerns, it will immediately report them to the Election Officer and work with her to resolve any issues so that final approval can be reached. The Participating Entity shall be responsible for any and all actual costs associated with correcting the ballot and ballot programming if the error is discovered after the Participating Entity has signed off on its final proof containing the error.
- (E) (Insert name or job title) will assist the County whenever possible when the conduct of the election requires assistance from Participating Entity departments and staff. (insert name or job title) will serve as the Regular Early Voting Clerk for the Participating Entity to receive requests for applications for early voting ballots and forward these applications to the Joint Early Voting Clerk. (insert name or job title) will serve as the Custodian of Records for the Participating Entity to complete those tasks in the Texas Election Code that the Election Officer will not perform.

#### **SECTION 4. ELECTION WORKERS AND POLLING PLACES**

- (A) For presentation to the governing body of the Participating Entity, the County shall provide a list containing the locations, times, and dates of early voting polling places suitable for consideration and adoption by the governing body in accordance with Texas Election Code Chapter 85. The Election Officer will designate and confirm all Election Day polling place locations.
- (B) The Election Officer will assume the responsibility for recruiting election personnel; however, if by the 5th day before the Election, the Election Officer reports vacancies in positions for election judges, alternate judges, election day clerks, early voting ballot board, receiving substation clerks, or any other key election personnel, the Participating Entity shall provide emergency personnel in these positions.
- (C) The Election Officer shall notify each of the election judges and alternates of their appointment and the eligibility requirements that pertain to them and to the selection of Election Day clerks. Included in this notification will be the number of clerks that each precinct should have in addition to the election judge and alternate judge. The election judges and/or the alternates are responsible for recruiting and supervising their clerks.

- (D) All election workers must agree to attend training sessions as determined by the Election Officer. Costs for these training sessions and compensation for attendees will be included as part of the election services costs.
- (E) During any election and any subsequent runoff election that involve entities in addition to the Participating Entity, the Election Officer will work with all parties to find a plan that can be agreed upon regarding the designation of polling places. If agreement cannot be reached, the Election Officer will resolve the differences. **In all cases, the Election Officer has sole discretion to determine whether polling place changes are necessary.**

## SECTION 5. PAYMENTS FOR ELECTION SERVICES

- (A) Costs and payments for the use of voting equipment are addressed separately in Section 6 of this Agreement.
- (B) Requests for Election Services. For each election the Participating Entity desires the Election Officer to conduct, the Participating Entity must submit a written request to the Election Officer that describes the general nature of the election and specifies the date of the election. Each request for election services, including each request for the Election Officer to conduct a runoff election, must be accompanied by a non-refundable payment of \$150 to the Election Officer.
- (C) Cancellations. On or before 11:59 p.m. on the 68<sup>th</sup> day before an election for which the Participating Entity has requested election services, the Participating Entity shall notify the Election Officer as to whether the Participating Entity anticipates the cancellation of its election, and on or before 11:59 p.m. on the 60<sup>th</sup> day before the election the Participating Entity shall notify the Election Officer as to whether the Participating Entity will cancel that election. If the Election Officer receives written notice from the Participating Entity on or before 11:59 p.m. of the 60<sup>th</sup> day before an election that the Participating Entity's election will be cancelled, the Participating Entity will accrue no further costs relating to that cancelled election.
- (D) Notice, Cost Estimate, Initial Invoicing, and Initial Payment.
  - (1) Notwithstanding the provisions in Section 9(B), the County and the Participating Entity agree that notice under Section 5 can be provided via e-mail. The following e-mail address will be used for e-mail communications to or from the County pursuant to Section 5: [elections@traviscountytexas.gov](mailto:elections@traviscountytexas.gov), with a copy to [Election.Entities@traviscountytexas.gov](mailto:Election.Entities@traviscountytexas.gov). The Participating Entity has designated (give the name or job title of the person who will send notification) as the Participating Entity's representative for sending and receiving e-mail communications under Section 5, and the Participating Entity designates the following e-mail address as the Participating Entity's

email address for sending and receiving e-mail communications pursuant to Section 5: \_\_\_\_\_@\_\_\_\_\_.

- (2) Initial Cost Estimate. On or before the 60<sup>th</sup> day before an election for which the Participating Entity has requested election services, the Election Officer will mail and/or email to the Participating Entity a cost estimate for conducting the election. The cost estimate will include an administrative fee that is equal to 10% of the total estimated cost of conducting the Participating Entity's election, excluding the costs of voting equipment. In the event of a joint election, the cost estimate will reflect that election costs will be divided on a pro rata basis among all entities involved in the election in the manner set forth in this Section 5. The proportional cost for the Election Officer to conduct each participating entity's election will be calculated by dividing the number of registered voters in the territorial jurisdiction of each participating entity by the total number of registered voters for all of the participating entities involved in the joint election and multiplying that quotient by the total cost of the election. The product of these numbers is the pro rata cost share for each participating entity. The Participating Entity acknowledges and understands that if any other participating entity listed in the cost estimate cancels its election, each remaining participating entity's pro rata cost (including the Participating Entity's pro rata cost share) will result in a proportionate cost increase.
- (3) Initial Invoice and Initial Payment. Along with the initial cost estimate, the Election Officer will also include an initial invoice for the Participating Entity to pay 75% of the initial cost estimate. The Participating Entity must pay the County the amount specified in each invoice no later than 30 days after the Participating Entity's receipt of the invoice.
- (4) Runoff Elections. For each runoff election the Participating Entity has requested that the Election Officer conduct, the Participating Entity must make a payment equal to 75% of the projected costs for the runoff election no later than three business days after receiving that cost estimate from the Election Officer. The projected share of election costs will include an administrative fee that is equal to 10% of the total estimated cost of conducting the Participating Entity's runoff election, excluding the costs of voting equipment.
- (5) Each party may change its respective email addresses for e-mail communications under this Section 5, without the need to amend this Agreement, by sending notice to the other party in accordance with Section 9(B).
- (F) Final Accounting and Final Invoice. The County will send the Participating Entity a final invoice of election expenses not later than 90 day unless the Election Officer notifies the Participating Entity during that 90-day period following the election that

the Election Officer requires additional time to send a final invoice to the Participating Entity. The final invoice will include a listing of additional costs incurred at the Participating Entity's behalf and specify the total payment due from the Participating Entity for any unpaid portion of the Participating Entity's costs.

- (1) Within thirty days after receipt of an election cost invoice setting forth the Election Officer's actual contract expenses and charges incurred in the conduct of the election, the Participating Entity shall pay the Election Officer the balance due on each final invoice no later than 30 days after the Participating Entity's receipt of that invoice.
  - (2) A refund may be due from the County to the Participating Entity if the final costs are lower than the amount already paid by the Participating Entity or if, at the end of the calendar year, the County Auditor's Office makes adjustments to the election workers' payroll and the amount already paid by the Participating Entity for election worker payroll costs exceeds the payroll amounts calculated by the County Auditor's Office.
- (G) The Participating Entity shall promptly review an election invoice and any supporting documentation when received from the County. The Participating Entity may audit, during the County's normal business hours, relevant County election or accounting records upon reasonable notice to the County. The Participating Entity shall pay the entire final invoice or the undisputed portion of the final invoice not later than the 30th day after receiving the invoice. Failure by the Participating Entity to timely pay an invoice in full may impact the Election Officer's participation in future elections with the Participating Entity.

## **SECTION 6. PAYMENTS FOR USE OF VOTING EQUIPMENT**

- (A) The Election Officer shall conduct elections using a voting system certified by the Secretary of State in accordance with the Texas Election Code and that has been approved for use by the Travis County Commissioners Court unless otherwise agreed upon by the Participating Entity, the Travis County Clerk, and the Travis County Commissioners Court.
- (B) The Participating Entity shall make payments to Travis County as consideration for the use of the County's voting equipment.
- (1) For each election the Election Officer conducts for the Participating Entity after January 1, 2021 through January 1, 2022, the Participating Entity shall pay one half of one percent of the cost of the electronic voting system equipment installed at a polling place and one percent for each unit of other electronic equipment used by the Travis County Clerk's Office to conduct the election or provide election services.
  - (2) In this Agreement "other electronic equipment" includes ballot marking devices, ballot scanners, ballot printers, ballot tabulators, and ballot programming software.

- (C) Payment by the Participating Entity to the County for voting equipment is due no later than 30 days after the Participating Entity's receipt of an invoice from the County.
- (D) If the County acquires additional equipment, different voting equipment, or upgrades to existing equipment during the term of this Agreement, the charge for the use of the equipment may be renegotiated.

## **SECTION 7. ADDITIONAL EARLY VOTING LOCATIONS**

- (A) All of the Participating Entity's voters within Travis County will have access to all of the Travis County Early Voting sites in each election at no additional cost.
- (B) If the Participating Entity desires to have one or more early voting sites that are in addition to those sites the Election Officer has already selected for a specific election, the Participating Entity must submit the request to the Election Officer no later than 60 days before the election, and the Election Officer will thereafter provide a written estimate to the Participating Entity that sets forth the estimated cost for providing the additional early voting location(s) and the deadline by which the cost estimate must be paid. If, after receiving the cost estimate, the Participating Entity desires to move forward with having the additional early voting location(s), the Participating Entity will notify the Election Officer and include payment of the cost estimate with the Participating Entity's notice to the Election Officer no later than the deadline specified in the Election Officer's cost estimate. *Pursuant to Texas Election Code Section 85.064(b) and notwithstanding any provision to the contrary, the Election Officer has sole discretion to determine whether to provide any additional early voting sites requested by the Participating Entity.*

## **SECTION 8. COMMUNICATIONS**

- (A) The Participating Entity and the Election Officer shall each designate a member of their staff to serve as the primary contact for the respective offices under this Agreement and provide the name and contact information for that individual to the other party. Each party may change their designated staff members by sending notice to the other party without the further need to amend this Agreement.
- (B) Throughout the term of this Agreement, the Participating Entity and the County will engage in ongoing communications on issues related to Participating Entity elections, the use of County's voting equipment, and the delivery of services under this Agreement and, when necessary, the County Clerk, elections division staff members, and other election workers shall meet with the Participating Entity to discuss and resolve any problems which might arise under this Agreement.

- (C) The Election Officer shall be the main point of media contact for election information related to election administration. The Participating Entity shall designate a contact to be the main point of contact for matters related to the content of the Participating Entity's ballot or candidates.

## **SECTION 9. MISCELLANEOUS PROVISIONS**

(A) Amendment/Modification

Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing and duly executed by the parties hereto. No official, representative, agent, or employee of the County has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the Commissioners Court of Travis County, Texas. No official, representative, agent, or employee of the Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the Participating Entity. Dana DeBeauvoir, Travis County Clerk, may propose necessary amendments or modifications to this Agreement in writing in order to conduct a joint election smoothly and efficiently, except that any such proposals must be approved by the Commissioners Court of the County and the governing body of the Participating Entity.

(B) Notice

Unless otherwise provided herein, any notice to be given hereunder by any party to the other shall be in writing and may be affected by personal delivery, by certified mail, or by common carrier. Notice to a party shall be addressed as follows:

**PARTICIPATING ENTITY**

XXXXXXX  
XXXXXXX  
XXXXXXX

**TRAVIS COUNTY**

Honorable Dana DeBeauvoir, Travis County Clerk  
1000 Guadalupe Street, Room 222  
Austin, Texas 78701

Cc: Honorable Delia Garza, Travis County Attorney (or her successor)  
314 West 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Austin, Texas 78701

Notice by hand-delivery is deemed effective immediately, notice by certified mail is deemed effective three days after deposit with a U.S. Postal Office or in a U.S.

Mail Box, and notice by a common carrier, is deemed effective upon receipt. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this Section. When notices by e-mail are permitted by this Agreement, (1) the notice is deemed effective upon the day it is sent if the e-mail is received before 5:00 p.m. on a business day; (2) the notice is deemed effective on the first business day after the e-mail was received if the email was received after 5:00 p.m. on a business day or anytime on a Saturday or Sunday. In this Agreement, "business day" means any weekday that is not a holiday designated by the Travis County Commissioners Court.

(C) Force Majeure

In the event that the performance by the County of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party hereto or in privity thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(D) Venue and Choice of Law

The Participating Entity agrees that venue for any dispute arising under this Agreement will lie in the appropriate courts of Austin, Travis County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America.

(E) Entire Agreement

This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and also supersedes all prior agreements, including prior election services contracts and prior agreements to conduct joint elections. Any prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force or effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

(F) Severability

If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement. Parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.



(G) Breach

In the event that Participating Entity or County breaches any of its obligations under this Agreement, the non-breaching party shall be entitled to pursue any and all rights and remedies allowed by law.

(H) Payments from Current Revenues

Payments made by the Participating Entity in meeting its obligations under this Agreement shall be made from current revenue funds available to the governing body of the Participating Entity. Payments made by the County in meeting its obligations under this Agreement shall be made from current budget or revenue available to the County.

(I) Other Instruments

The County and the Participating Entity agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

(J) Third Party Beneficiaries

Except as otherwise provided herein, nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights or remedies under or by reason of this Agreement.

(K) Joint Election Agreements

The County and the Participating Entity expressly understand and acknowledge that each may enter into other joint election agreements with other jurisdictions, to be held on Election Day and at common polling places covered by this Agreement.

When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.053 of the Texas Civil Practice and Remedies Code unless both parties agree, in writing, to waive the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term “confidential” as used in this Agreement has the same meaning as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.

(L) Addresses for Payments

Payments made to the County or the Participating Entity under this Agreement shall be addressed to following respective addresses:

Travis County Clerk – Elections Division  
P.O. Box 149325  
Austin, Texas 78714

Participating Entity

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX

- (M) This Agreement is effective upon execution by both parties and remains in effect until either party terminates this agreement for any reason upon providing 60 days written notice to the other party.
- (N) All times referenced in this Agreement are to Central Time, and in all instances, the time-stamp clock used by the Travis County Clerk's Office at 5501 Airport Boulevard in Austin, Texas is the official clock for determining the correct time.
- (O) The individuals below have been authorized to sign this Agreement.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, and this Agreement takes effect on the date it is fully executed by the Participation Entity, the Travis County Judge (on behalf of the Travis County Commissioners Court), and the Travis County Clerk.

*[Signatures on following page]*

**PARTICIPATING ENTITY**

BY: \_\_\_\_\_  
Name  
Title

DATE: \_\_\_\_\_

**TRAVIS COUNTY**

BY: \_\_\_\_\_  
Andy Brown (or his successor)  
County Judge

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Dana DeBeauvoir  
County Clerk

DATE: \_\_\_\_\_

**File Attachments for Item:**

F.4 A Resolution Authorizing The Release Of The City of Cedar Park's Interest In An 0.110-Acre Temporary Turnaround Easement In Misty Valley Subdivision Phase Two Recorded In Document No. 2015136345 Of The Official Records Of Travis County, Texas.



## CITY COUNCIL AGENDA

January 28, 2021

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**Item/Subject:** A Resolution Authorizing The Release Of The City of Cedar Park's Interest In An 0.110-Acre Temporary Turnaround Easement In Misty Valley Subdivision Phase Two Recorded In Document No. 2015136345 Of The Official Records Of Travis County, Texas.

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### Commentary

The Misty Valley subdivision is located on Trails End Road south of the intersection of Trails End Road and F.M. 1431 in Travis County, Texas. An 0.110-acre temporary turnaround easement was recorded at the end of Scenic Valley Drive for emergency vehicle access in Document No. 2015136345 as a permitting requirement for Misty Valley Phase 1. The easement document states that the owner can request the easement be terminated upon completion and acceptance of the street (Scenic Valley Drive). Scenic Valley Drive was completed and accepted as part of Misty Valley Phase 2 in 2020. Therefore, the owner requests the temporary turnaround easement be terminated. The easement release document will be prepared with the guidance of the City Attorney's office upon the formal approval of this item.

A resolution outlining the release of the City of Cedar Park's interest in the temporary turnaround easement is included in this item. By approving this resolution, City Council is authorizing the City Manager to execute the easement release document, and directing the City Manager to have the document recorded with the Travis County Clerk.

**Initiating Dept:** Engineering

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**Fiscal Impact**  
**Fund:**

**Budget**  
**Amount:**

☐ **Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes

☐ No **City Attorney**

**Associated Information:**

Resolution authorizing the release of the City of Cedar Park's interest in the temporary turnaround easement in Misty Valley Subdivision Phase Two.

## RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING THE RELEASE OF THE CITY OF CEDAR PARK'S INTEREST IN AN 0.110-ACRE TEMPORARY TURNAROUND EASEMENT IN MISTY VALLEY SUBDIVISION PHASE TWO RECORDED IN DOCUMENT NO. 2015136345 OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Misty Valley Subdivision is located on Trails End Road south of the intersection of Trails End Road and F.M. 1431 in Travis County, Texas; and

WHEREAS, a temporary turnaround easement for emergency access was recorded in Document No. 20151363345 as depicted in Exhibit A ("Temporary Turnaround Easement"); and

WHEREAS, Scenic Valley Drive was completed and accepted by the City in 2020 as part of Misty Valley Phase Two Subdivision; and

WHEREAS, in accordance with easement documents, the Grantor requests the City release the temporary turnaround easement; and

WHEREAS, the easement to be released is not needed, nor is it anticipated to be needed in the future; and

WHEREAS, the City Manager recommends the release of the City of Cedar Park's Temporary Turnaround Easement.

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

SECTION 1. The City Manager is hereby authorized and directed to release the City of Cedar Park's Temporary Turnaround Easement in Misty Valley Subdivision Phase Two recorded in Document No. 2015136345 of the Official Records of Travis County, Texas as described in the attached Exhibit A, subject to final review by the City Attorney.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

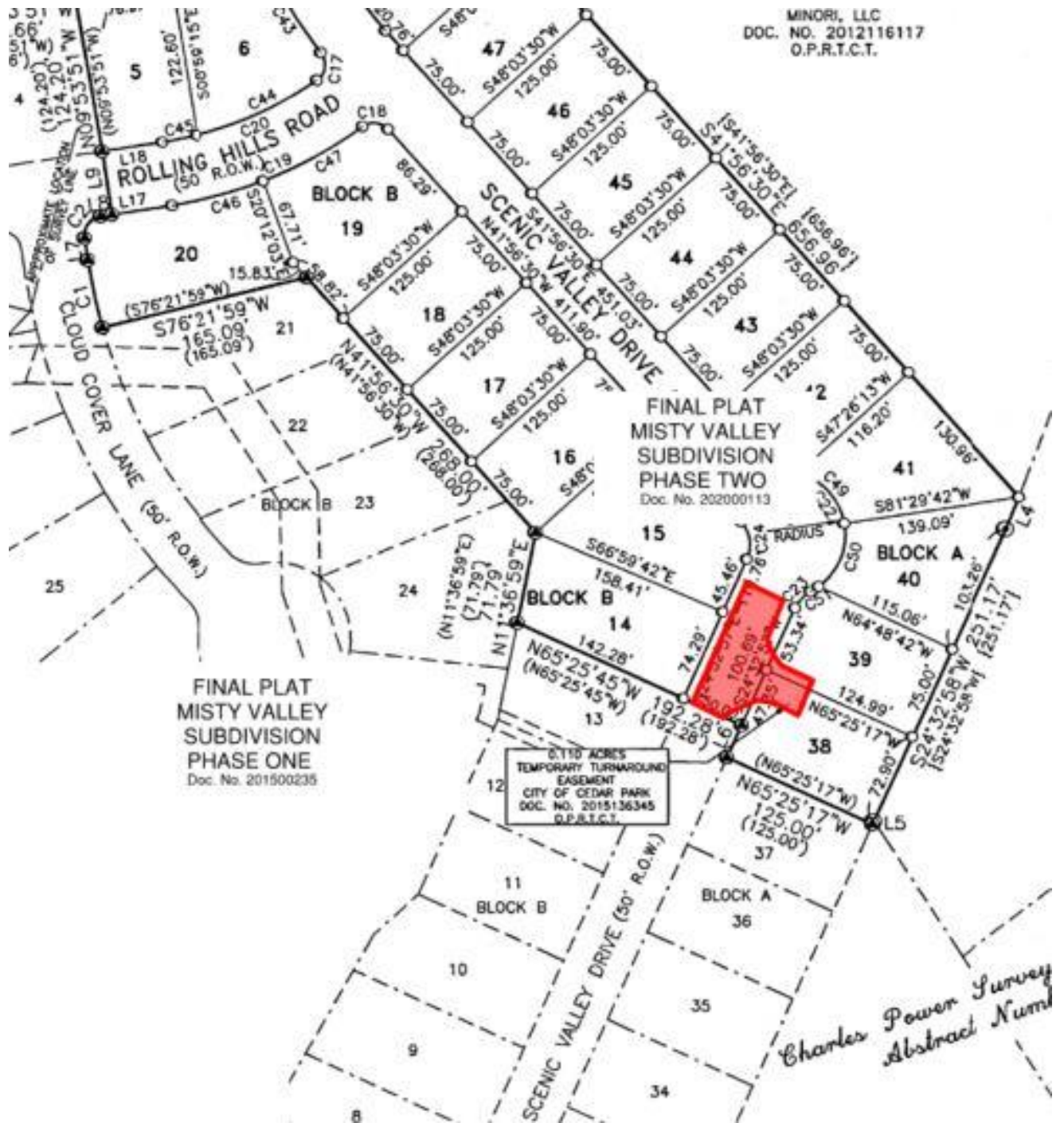
APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
J.P. LeCompte, City Attorney

RESOLUTION NO.



## EXHIBIT A



**File Attachments for Item:**

F.5 A Resolution Authorizing The Acceptance Of CARES Act Funds From The Travis County Coronavirus Relief Fund In An Estimated Amount Of \$15,096.75 To Reimburse The City For Necessary Expenditures Incurred Due To The COVID-19 Public Health Emergency.



## CITY COUNCIL AGENDA

January 28, 2021

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**Item/Subject:** A Resolution Authorizing The Acceptance of CARES Act Funds From The Travis County Coronavirus Relief Fund In An Estimated Amount Of \$15,096.75 To Reimburse The City For Necessary Expenditures Incurred Due To The COVID-19 Public Health Emergency

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### Commentary

Staff applied to both WILCO Forward Phase IIA and Travis County Coronavirus Relief Fund CARES programs to reimburse the City for unplanned expenses related to the COVID-19 pandemic. In the application submission process, the City split the reimbursement requests to the counties based on population. We requested 90% of the total reimbursement from Williamson County and 10% from Travis County. This agenda item allows the City to accept a reimbursement of \$15,096.75 from Travis County.

Travis County's process is to reimburse approved eligible expenses to cities in phases through the end of December 2021.

Staff submitted packets of qualified expenses through the end of September 2020 to the counties totaling \$740,678. These packets included expenses for personnel protective equipment, enhanced disinfection services, and various other COVID-19 pandemic related supplies and services. If Council approves this acceptance, our total reimbursements to date will be \$170,894.

Staff will work with both counties to continue the application processes and validate expenses.

**Initiating Dept:** Finance

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### Fiscal Impact

**Fund:** General and Utility

### Budget

**Amount:**

☐ **Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes      ☐ No    **City Attorney**

**Associated Information:**

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, DESIGNATING THE CITY MANGER AS THE CITY'S AUTHORIZED OFFICIAL WITH THE POWER TO ACCEPT AND REJECT CARES ACT FUNDS AND AUTHORIZING THE ACCEPTANCE OF CARES ACT FUNDS FROM THE TRAVIS COUNTY CORONAVIRUS RELIEF FUND AWARDS PROGRAM, IN AN ESTIMATED AMOUNT OF \$15,096.75 TO REIMBURSE THE CITY FOR NECESSARY EXPENDITURES INCURRED DUE TO THE COVID-19 PUBLIC HEALTH EMERGENCY; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, federal funding ("Fund") was made available to the states under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"); and

WHEREAS, the Fund is used to make payments for specified uses to states and certain local governments; the District of Columbia and US territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands), and tribal governments; and

WHEREAS, the CARES Act provides that payments from the Fund: may only be used to cover costs that are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19), were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government, and were incurred during the period that began on March 1, 2020, and ends on December 30, 2021; and

WHEREAS, Travis County is managing CARES Act distributions to the cities through the Travis County Coronavirus Relief Fund Awards Program; and

WHEREAS, the City Council wishes to designate the City Manager or designee as the City's authorized official with the power to accept and reject distributions on behalf of the City.

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

SECTION 1. The Cedar Park City Council hereby designates the City Manager or designee as the City's authorized official with the power to accept and reject CARES Act distributions on behalf of the City, including the acceptance of funds from Travis County Coronavirus Relief Fund Awards Program in an estimated amount of \$15,096.075 to reimburse the City for necessary expenditures incurred due to the COVID-19 public health emergency.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28th day of January, 2021.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
J.P. LeCompte, City Attorney

RESOLUTION NO.

**File Attachments for Item:**

F.6 A Resolution Approving Proposed Amendments To The City Council Rules Of Procedure.





**CITY COUNCIL AGENDA**  
January 28, 2021

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**Item/Subject:** Consideration Of Proposed Amendments To The City Council Rules Of Procedure.

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**Commentary**

In the fall of 2019, the City Council considered its Rules of Procedure (current version as amended 07/26/2018), which are to provide rules, procedures, and order of business for the City Council. At that time, the Council directed the City Attorney to advise and make recommendations regarding “mechanisms for civility and enforcement”. Subsequently, the City Attorney briefed the Council in closed Executive Session regarding legal authority and implications, and possible amendments were discussed at the Council’s January 2020 Retreat, at the December 17, 2020 Council meeting, and again at the January 14 Council meeting.

Based on these several discussions, the City Attorney has prepared the attached redline draft revised Rules of Procedure to clarify and enhance the Council’s rules, procedures, and order of business, to promote civility, and to expressly provide for enforcement.

**Initiating Dept:**

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**Fiscal Impact**  
**Fund:**

**Budget**  
**Amount:**



**Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes

☐ No **City Attorney**

**Associated Information:**

## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS APPROVING AMENDMENTS TO THE CITY COUNCIL RULES OF PROCEDURE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Cedar Park City Charter Section 3.11 provides that the Council shall, by resolution, determine, adopt and amend its own rules, procedures and order of business; and

WHEREAS, the current version of the City Council Rules of Procedure was adopted on July 26, 2018; and

WHEREAS, the City Council proposes certain amendments to its Rules of Procedure to clarify and enhance its rules, procedures, and order of business, to promote civility, and to expressly provide for enforcement; and

WHEREAS, the City Council finds it is in the best interest of the City to amend the City Council Rules of Procedure as presented in the attached Exhibit A.

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

SECTION 1. The City Council hereby approves the amendments to the City Council Rules of Procedure, attached as Exhibit A.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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J.P. LeCompte, City Attorney

## RULES OF PROCEDURE OF THE CEDAR PARK CITY COUNCIL

These Rules of Procedure are adopted pursuant to the City of Cedar Park Home Rule Charter to provide rules, procedures, and order of business for the City Council, and to provide the citizens of the City a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

These Rules shall not be construed to discriminate against any person or group, nor as or as a content-based restriction on free speech; rather, these Rules present reasonable time, place, and manner restrictions regarding public discourse in order to provide the appropriate structure, process, and decorum for meetings of the City Council, to advance the Council's strategic goals, policies and objectives, and to facilitate matters of official City business, while promoting transparency, public participation and engagement, informed decision making, and efficiency.

### Chapter Article 1: Meetings, Work Sessions, and Retreats

1.1 Regular Meetings. Regular meetings of the City Council shall be held at the Cedar Park Council Chambers generally on the second and fourth Thursdays of each month and shall generally commence at 6:00 pm, except as specifically modified by the City Council, and may be held at such other times as may be necessary or beneficial. Public notice of all regular meetings of the City Council shall be given as required by Texas Government Code Chapter 551, as amended ("Texas Open Meetings Act").

1.2 Special Meetings. Special meetings of the City Council shall be held on such dates and at such times as called by the Mayor or ~~in their absence, the Mayor Pro Tem~~ a majority of the Councilmembers. Public notice of all special meetings of the City Council shall be given as required by the Texas Open Meetings Act.

1.3 Council Work Sessions and Retreats. The City Council may hold work sessions and retreats as needed. The City Council work sessions and retreats shall be held on such dates and times as called by the Mayor, or in their absence, the Mayor Pro Tem. Public notice of all City Council work sessions shall be given as required by the Texas Open Meetings Act.

1.4 Joint Meetings. The City Council may hold ~~a~~-joint meetings with each board, commission, and task force appointed by the City Council and/or with the boards of other governing bodies. Public notice of all joint meetings shall be given as required by the Texas Open Meetings Act.

1.5 Location of Meetings. Regular meetings of the City Council shall be held at the Cedar Park City Council Chambers unless the Chair (a) determines that an irresolvable scheduling conflict exists in the use of the Cedar Park City Council Chambers; and (2) promptly notifies the City Council of the choice of an alternate location. Special meetings, work sessions, retreats,

and joint meetings may be held at such locations as may be necessary or beneficial to the purpose of such meeting, work session, or retreat.

## Chapter Article 2: Agenda

2.1 Preparation of the Agenda. The Mayor or, in their absence, the Mayor Pro Tem is responsible to prepare or ensure the preparation of the agenda for each meeting, work session, or retreat.

2.2 Agenda Categories for City Council Meetings. For each City Council meeting, the agenda may contain any of the following categories:

- (a) Call to order;
- (b) Invocation and Pledges of Allegiance;
- (c) Citizen-Public Communications;
- (d) Mayor and Council Opening Comments;
- (e) Presentations;
- (f) City Manager's Report;
- (g) Consent Agenda;
- (h) Public Hearings;
- (i) Regular Agenda;
- (j) Executive Session;
- (k) Possible Action on Executive Session Matters;
- (l) Mayor and Council Closing Comments; and
- (m) Adjournment.

The categories listed above are demonstrative and are not meant or intended to be exclusive.

2.3 Consent Agenda. All second readings and resolutions shall ~~presumptively generally~~ be placed on the Consent Agenda. Any item on the Consent Agenda shall be removed at the request of a single Councilmember. ~~A request for removal from the Consent Agenda may be made prior to the Consent Agenda being called for action.~~ Any item removed from the Consent Agenda shall be considered as a separate action item at the meeting on which such item appears on the Consent Agenda.

2.4 Placement of Agenda Items by Councilmember. Any Councilmember may request the placement of any item on an upcoming agenda which shall be honored within a reasonable time. Any agenda item so requested shall bear the requesting Councilmember's name on each occasion at which the item appears on the agenda. A Councilmember may request the placement of any item on the agenda (a) during Mayor and Council Opening Comments or Mayor and Council Closing Comments, or (b) in writing directed to the Mayor.

2.5 Public Availability of Agenda. The City Council agenda and packet materials shall be made available to the public on the City's -website.

2.6 Description of Certain Agenda Items. For each agenda item requiring consideration and/or action by the City Council, excluding items on the Executive Session agenda, the agenda shall include a brief substantive description of the matter for consideration and/or action.

### Chapter~~Article~~ 3: Conduct of Meetings

#### 3.1 Rules of Procedure.

(a) Purpose; Right to Invoke Robert's Rules of Order. ~~These Rules shall govern the procedure City Council shall determine its own rules of procedure, voting, and order of business at City Council meetings. except that, upon the request of a~~Any Councilmember, ~~may request~~ the most current form of Robert's Rules of Order shall be followed for ~~the~~a designated agenda item before the City Council, provided the Councilmember's request specifies the agenda item for which Robert's Rules of Order is to be invoked and the specific provision(s) of Robert's Rules of Order to be invoked, is supported in writing by the Mayor or another Councilmember as a co-sponsor, and is submitted to the City Attorney and Chair not less than 48 hours prior to the commencement of the meeting at which the item is to be considered.

(b) Scope of Discussions. Pursuant to the Texas Open Meetings Act, Tex. Gov't. Code, Chapter 551, the Council may not deliberate or take action regarding any matter not posted on the meeting agenda. Councilmembers shall confine their discussions concerning a motion or a question to the merits of a motion made and seconded or to a question already presented to them.

(c) Conduct of Councilmembers. Councilmembers shall show respect and courtesy to, and refrain from making disparaging comments about, fellow Councilmembers, the public, and City staff in the conduct of a City Council meeting, outside of Council meetings, in social settings, and on social media.

(d) Administration and Enforcement of Rules. Whether by the Chair and/or collectively by the Council, administration and enforcement of these Rules shall be considered procedural in nature and does not necessitate a posted agenda item; except that any deliberation and/or action per Article 4: Appointments, and Article 6, Section 6.6, Discipline of Councilmembers, shall only occur in relation to a posted agenda item.

(e) Violation Does Not Invalidate Council Action. Any errors or omissions by the Council or one or more Councilmembers to follow the procedures during any such meeting shall not invalidate the Council's action or constitute the Council's action to be illegal. The validity of any motions or meeting procedures not expressly defined herein shall be determined by the Chair, so long as the determination is consistent with federal, state, and local law.

**Commented [JL1]:** Revised per Council discussion on 01/14/2021  
(require specification re: provision being invoked, co-sponsorship, and 48hrs advance notice)

3.2 Chair. The Mayor or, in their absence, the Mayor Pro Tem shall preside over and conduct all City Council meetings. In the absence of both the Mayor and the Mayor Pro Tem, the

City Council shall, by majority vote of those present, determine which member shall preside over and conduct the meeting.

3.3 Parliamentarian. The City Attorney shall serve as parliamentarian for the City Council, ~~and shall construe all applicable procedural rules liberally.~~

3.4 Sergeant-at-Arms. ~~and The Chief of Police or their designated officer in attendance shall serve as Sergeant at Arms for City Council meetings in conjunction with any police representative present.~~

3.45 Mayor & Council Opening and Closing Comments. Councilmembers may comment during Opening and/or Closing Comments regarding matters not posted on the agenda for discussion; provided (a) no action is taken or discussed, and (b) the subject of the commentary is limited to:

(a) Requests for future agenda items; and

(b) "Items of community interest", which pursuant to Tex. Gov't. Code, Section 551.0415, includes:

(i) expressions of thanks, congratulations, or condolence;

(ii) information regarding holiday schedules;

(iii) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;

(iv) a reminder about an upcoming event organized or sponsored by the City;

(v) information regarding a social, ceremonial, or community event organized or sponsored by a non-City entity that was attended or is scheduled to be attended by a City official or employee; and

(vi) announcements involving an imminent threat to the public health and safety of people in the City that has arisen after the posting of the agenda.

3.6 Applicant Presentation. With the exception of the Consent Agenda, the applicant for any item involving possible City Council action may make a presentation at the outset of a public hearing or before consideration of a possible action item. Such presentation shall be concise and non-repetitive.

3.57 Presentation by City Staff. With the exception of the Consent Agenda, City staff may make any presentation necessary for a public hearing or before consideration of a possible action item. Such presentation shall be concise and non-repetitive.

3.68 Written Memorandum by City Staff. For each ordinance, resolution, and action item presented to the City Council, City staff shall provide a brief memorandum providing background information and a summary of the agenda item.



**3.79 Public Presentation.** ~~After any presentation by the City staff, a~~ An applicant or other member of the public who desires to address the City Council regarding an item posted for public discussion may do so, provided that (a) they register to speak; ~~(b) their comments are confined to the item/subject matter before the Council;~~ and ~~(c) their presentation is limited such presentation~~ to three (3) minutes. If feasible, the registered speakers shall be grouped into those in favor of the ~~application item~~ and those opposed. Once a public hearing is closed there shall be no further commentary from the public on that item without the unanimous consent of the City Council members present. The giving or transferring of a person's speaking time to another is prohibited.

Public presentations, handouts, and communications to the Council will not be appended to the meeting minutes, although their presentation during the meeting will be preserved via the archived recording of the meeting. Any Councilmember may read or share written and/or verbal communications from the public during discussion of the related item. Citizens may contact the Councilmembers via the email addresses provided on the City's website.

All electronic and printed materials to be presented at the Council Meeting must be submitted for cybersecurity and legal obscenity screening in accordance with City Policy. Electronic material must be submitted to [PublicPresentations@cedarparktexas.gov](mailto:PublicPresentations@cedarparktexas.gov) by 12:00 p.m., day of meeting, and printed material must be submitted to the City Secretary prior to the Call To Order. Any electronic or printed material not submitted in accordance with the Policy, that poses a cybersecurity risk, or is legally obscene, will not be allowed.

**3.810 Citizen-Public Communications.** Any member of the public who desires to address the City Council on any item not posted for public discussion may do so during ~~Citizen-Public~~ Communications, provided that (a) they register to speak and (b) limit such presentation to three (3) minutes. If more than ten (10) persons register to speak regarding a single agenda item, the Council, by majority vote, may shorten the time available for each registered speaker on the item. The giving or transferring of a person's speaking time to another is prohibited. Councilmembers may respond with either factual information or a statement of existing City policy, or to request clarification of comment/question posed; however, pursuant to state law, Councilmembers may not deliberate regarding matters not posted for discussion.

**3.911 Registration.** The registration referred to in Rules 3.7-9 and 3.8-10 shall include the following information: (a) full name; (b) business or residential address; (c) business or residential telephone number; (d) representation; (e) agenda item or topic; (f) brief statement of position [e.g. for or against an agenda item or summary of communication].

**3.102 Expansion of Time for Public Presentation and ~~Citizen-Public~~ Communications.** The three minute limitation imposed by Rule 3.7-9 and Rule 3.8-10 may be extended by the Chair unless any Councilmember objects and, in the event of such objection, the proposed extension is not approved by a two-thirds (2/3) super-majority vote of the ~~upon the unanimous consent of the City Council members present.~~

3.143 Time Keeper. The City Secretary shall serve as time keeper for any Public ~~Public~~ Presentation and ~~citizen~~ Public ~~e~~Communication made to the City Council.

3.124 Signage, Exhibits and Physical Obstructions. To preserve the public's right to observe and participate in the open proceedings before the City Council, and to allow video recording for public archive, any signage, exhibits, or other materials that might obstruct the view of the Council meeting proceedings shall be placed along the walls on the outside of the seating gallery without blocking the view of the proceedings from other seats or impeding the walkway aisles.

3.15 Repetitive, Disruptive or Disrespectful Public Presentations and ~~Citizen~~Public Communications. The Chair may deny or shorten any Public ~~Public~~ Presentation or ~~citizen~~ Public ~~e~~Communication if it is repetitive of a presentation previously made, disruptive, or disrespectful. The public shall only comment from the podium; any person speaking out from the seating gallery or walkway aisles is out of order and in violation of these Rules.

3.136 Call of Agenda Items. The City Secretary shall call each agenda item by number or short caption only. It is not necessary for the City Secretary to call an agenda item by its complete caption or title.

3.147 No Vote on First Reading of an Ordinance. Unless specifically authorized by law, the City Council shall not vote on any first reading of an Ordinance. The Chair shall allow discussion by the City Council of any item on first reading of an Ordinance in order to provide direction to staff. The City Council may consider motions to amend, modify, or clarify any item on first reading of an Ordinance.

3.158 Conflicts of Interest. In accordance with the City Charter, no Councilmember may act in any way which places or tends to place personal interest in conflict with the interest of the City. Councilmembers shall recuse themselves from any discussion, deliberation, debate, or vote regarding any matter which tends to place their personal interest in conflict with the interest of the City. Any Councilmember so recusing themselves shall briefly state, on the record, the nature of the conflict.

3.19 Council Vote. The City Secretary shall maintain, and the minutes shall reflect, the votes made by the City Council in the open meeting. All votes shall be via the electronic voting system, or, if unavailable, by voice vote or show of hands, as directed by the Chair. Any abstention shall be stated by the abstaining Councilmember at the time of the vote. The Chair shall audibly state the result of each vote before the next agenda item is called.

(a) ~~(a)~~ Consent Agenda. The City Council ~~shall may consider a single motion and vote for all items posted on the Consent Agenda, without deliberation or debate by voice vote or by show of hands as directed by the Chair. Any Councilmember may request removal of item(s) from consideration on the Consent Agenda, and each item so removed shall then be considered as a separate action item at the meeting on which such item appears on the Consent Agenda.~~

(a)(b) ~~(b)~~ Separate Action Items. ~~All votes shall be by voice vote or by show of hands, unless a motion for a division of the assembly is approved by the City Council. In the event of a division of the assembly, the City Secretary shall poll the City Council as directed by the Chair.~~ Separate action items may be called individually, or collectively with other related items, at the Chair's discretion. Any proposed motion shall clearly state the item(s) and/or subject matter to which it relates.

3.4620 ~~Executive Session; Certified Agenda.~~ The Texas Open Meetings Act allows discussion regarding certain limited matters in closed Executive Session. All Executive Sessions shall be recorded by certified agenda in conformity with the Texas Open Meetings Act. Councilmembers may not use or possess personal computing devices, mobile devices, e-messaging, or social media in a closed Executive Session.

All matters discussed in Executive Session are to remain private and confidential. Except as provided by law, no Councilmember, staff member, legal counsel, or agent may discuss or reveal information discussed in an Executive Session to persons that could not have been properly present in the Executive Session, in accordance with the Texas Open Meetings Act.

**Commented [JL2]:** Revised per Council discussion on 01/14/2021  
(allow CM – CM discussions re: ES matters, in accordance with the Texas Open Meetings Act)

3.4721 Attendance at Meetings. If any Councilmember becomes aware that they will be absent from any meeting, work session, or retreat, they shall notify the Mayor and City Manager. If the Mayor becomes aware that they will be absent from any meeting, work session, or retreat, they shall notify the Mayor Pro Tem and City Manager.

3.4822 Participation by Videoconference. Councilmembers shall be allowed to participate in the open portions of City Council meetings by videoconference in accordance with the Texas Open Meetings Act. No more than three (3) Councilmembers shall participate in any single meeting by videoconference, as determined in order of request submitted to the Mayor by email denoting the date and time of the received email. Additionally, no Councilmember shall participate by videoconference for three (3) consecutive meetings. In order to mitigate the risk of cybersecurity breach, Councilmembers shall not be allowed to participate via videoconference in Executive Session.

### 3.23 Reconsideration of Matters.

(a) In order for an action to be reconsidered, a Councilmember must submit a request for reconsideration of the action in writing to the City Manager and City Secretary no later than 5:00 p.m. on the sixth (6<sup>th</sup>) calendar day after the City Council meeting at which the action occurred. An item regarding the initial requested reconsideration shall be placed on the agenda for the next regular City Council meeting following the receipt of the request; provided the Mayor may deny placement of subsequent repetitive or redundant requests for reconsideration of an action. A request to reconsider an item can only be made by a Councilmember who voted with the prevailing side. A motion to reconsider any action of the Council can be made not later than the next regular City Council meeting following the submission of the request for reconsideration, and such motion can only be made by a Councilmember who voted with the prevailing side, but it can be

seconded by any Councilmember. No action shall be reconsidered more than once, except by unanimous consent of the Council.

(b) For matters that have not received four (4) votes of Council either for or against a motion on the matter, any member of Council can request that the matter be placed on the agenda for reconsideration. The request may be made at the meeting at which the motion failed to pass, or the request may be made in writing and submitted to the City Manager and City Secretary by 5:00 pm on the Friday before the next regular City Council meeting following the meeting at which the matter failed to receive four (4) votes.

(c) Reconsideration of matters under this Section will not be limited to the motion or motions made at the prior meeting.

3.24 Temporary Suspension of Rules. Any provision of these Rules may be temporarily suspended by a unanimous vote of the Council, subject to any governing provision of the City Charter, Code of Ordinances, state law, or federal law.

3.25 Adjournment. The Chair shall declare the meeting adjourned if there is no further business to be conducted.

3.26 Review, Amendment of Rules. The Council shall review these Rules regularly. These Rules shall be in effect upon adoption by resolution of the Council and until such time as amended, suspended, or new rules are adopted by subsequent resolution.

#### Chapter~~Article~~ 4: Appointments

4.1 City Council Vacancies. The City Council shall follow the process set forth below when appointing a Councilmember to fill a vacancy on the City Council.

(a) Resignation or Disqualification.

- (i) A resignation of a Councilmember must be in writing, signed by the Councilmember and delivered to the Mayor or City Secretary and shall be effective upon receipt.
- (ii) A disqualification of a Councilmember under the City Charter or state law is effective immediately.

(b) Declaration of Vacancy. No later than the eighth day after resignation or on the date of disqualification or death, a vacancy shall be declared pursuant to state law.

(c) Notice of Vacancy. Once the vacancy is declared, City staff shall post notice of the vacancy on the City website to advertise for applications to fill the vacancy.

(d) Acceptance of Applications. The time period to file applications for appointment shall be at least ten (10) business days from the date the notice is posted.

- (e) **Interviewing Applicants; Appointment.** After the filing period for applications, the City Council shall interview all applicants individually in an open session of a public meeting, deliberate after the interviews in Executive Session, and then make the appointment in open session.

4.2 **Mayor Pro Tem.** The Mayor shall designate the Mayor Pro Tem.

4.3 **City Boards, Commissions, and Committees.** No person shall serve on more than one board or commission appointed by the City Council, and no current Councilmember shall serve on any board or commission appointed by the City Council, except that (a) Councilmembers may serve on the board of the reinvestment zones established by the City, (b) any two (2) or more boards or commissions may be jointly appointed in their entirety, and (c) individual board members or commissioners may be appointed to committees, which include special purpose committees, ad hoc committees, and task forces. Each board and commission appointed by the City Council shall select its officers and conduct its business in accordance with each board or commission's Rules of Procedure. The Mayor shall appoint the Chair for each committee.

- (a) Except as otherwise provided in these Rules of Procedure, the City Charter, the Cedar Park Code of Ordinances, or by statute, each board and commission shall consist of seven (7) members. Each Councilmember may sponsor a candidate for appointment or reappointment to their corresponding place on each board, commission, and committee; however, for all positions on each board, commission, and committee, each position shall be appointed by majority vote of the City Council as designated by the Councilmember holding the corresponding place on the City Council at the time of the appointment.
- (b) For a committee with more than seven (7) members, a member for the first seven (7) positions shall be appointed in accordance with subsection (Aa), above; a member for every eighth (8<sup>th</sup>) position shall be appointed by the Mayor ~~once such position becomes vacant~~, and positions 9 - 15 shall be appointed by the Councilmembers in order of their place designation, i.e. the Councilmember for Place 3 shall appoint positions 3, 11, and 19 (and so on) for each board, commission, or committee.
- (c) For a committee with fewer than seven (7) members, ~~a member for any Councilmember~~ may propose one (1) or more candidates for appointment, and each position shall be appointed by a majority vote of the City Council.
- (d) **Procedure for Appointment.**
  - (i) All candidates for appointment ~~or reappointment~~ to a board, commission, or committee shall submit to the City Secretary a completed and signed copy of the City's Application for Appointment, inclusive of a resume, letter of interest, and background check authorization. Candidates for reappointment shall submit a completed and signed copy of the City's Application for Appointment, inclusive of a background check authorization.

(ii) No appointment or reappointment shall be placed on a meeting agenda for consideration until a completed and signed Application has been received and the background check has been completed.

(iii) For each proposed appointment and reappointment, the Application will be submitted to the Human Resources Director for a criminal background check. All criminal background check results shall be returned to the City Secretary, and the City Secretary shall distribute a background check result showing any incident of record as follows:

(a) Upon receipt of the background check result, to the Applicant;

(b) Upon the City Secretary's confirmation that the Applicant desires to proceed with the proposed appointment or reappointment, to the sponsoring Councilmember;

(c) Upon the sponsoring Councilmember's request for an agenda item regarding the proposed appointment or reappointment pursuant to the Council Rules of Procedure, to the Mayor, City Manager, and City Attorney; and

(d) Upon posting of the agenda with and item regarding the proposed appointment or reappointment, to the entire Council.

~~(iii)~~(iv) Applications for all candidates being considered for an appointment shall be included in the packet for the meeting at which the appointment is to be considered. The City Secretary shall notify ~~all candidates for an appointment~~ the sponsoring Councilmember when an appointment is to be placed on an agenda, and the sponsoring Councilmember will-to advise the candidate when they should appear before the City Council regarding the proposed appointment.

~~(iii)~~(v) During a regularly scheduled or special meeting of the City Council, the City Council may hold public interviews for each prospective appointment to a board, commission, or committee. Prospective appointments to a board, commission, or committee shall be discussed in open session prior to consideration of the appointment by the City Council.

~~(iv)~~(vi) All applicants shall be notified of the selected appointment to the board, commission, or committee in writing by the City Secretary within five (5) business days of the appointment.

(e) For the Civil Service Commission, each member shall be appointed by the City Manager and then confirmed by the City Council, in accordance with Section 143.006 of the Texas Local Government Code, as amended.

(f) All board, commission or committee members shall serve at the pleasure of the City Council and may be removed at any time by an affirmative vote of a majority of the City Council.

(g) Each board, commission or committee member shall acquaint themselves with the City Council's Strategic Goals and vision for the City. If appointed each board, commission or committee member, by accepting such appointment, shall agree to support the Strategic Goals and the City Council's vision, goals and objectives for the City in their appointed role.

4.4 **Other Appointments.** Unless otherwise provided, all other appointments shall be by a majority of the City Council.

4.5 **Nepotism.** No person related within the second degree by affinity or the third degree by consanguinity to any member of the City Council or the City Manager shall serve on any board, commission, or committee appointed by the City Council. No persons related within the second degree by affinity or the third degree by consanguinity shall be eligible to serve on the same board, commission, or committee.

4.6 **Holdover.** Unless disqualified or otherwise ineligible for service, each appointee shall continue to serve until their successor is appointed.

#### ~~Chapter Article 5: Post Election Transition Meetings~~

~~5.1 — Recognition of Outgoing Councilmembers. Outgoing Councilmembers shall be recognized at the first meeting after candidate elections.~~

~~5.2 — Installation of New Councilmembers. Installation of the new Councilmembers shall take place at the first meeting after the election results have been canvassed.; Enforcement~~

5.1 The following provisions may be used to enforce these Rules and provide for the good order and decorum of the proceedings.

5.2 Enforcement Actions. The following actions may be taken by the Chair, by the Chair's sole discretion and action, or upon a motion to enforce by any Councilmember, seconded and approved by an affirmative vote of at least four (4) Councilmembers, directing the Chair to enforce any provision of these Rules with respect to any Councilmember, staff member, applicant, or other person in attendance:

(a) Warning. A person deemed to be in violation of these Rules may be warned of the violation, advised of the governing provision(s), and directed to follow these Rules.

(b) Reprimand. The Chair may, after first warning, reprove or rebuke a person who continues to violate these Rules.

(c) Removal. The Chair may, after warning and reprimand, order a person who persists in violation of these Rules to vacate the proceedings without further disruption. The Chair's removal of any person, immediately subsequent to their removal, may be overturned by a two-thirds (2/3) super-majority vote of the Council. A Councilmember may only be removed from a Council meeting by a two-thirds (2/3) super-majority vote of the Council. Any person who refuses to vacate or further disrupts the proceedings shall be removed by the Sergeant-at-Arms. No person may be removed from a meeting merely due to their viewpoint or opinion.

5.3 Extension of Time. If a violation of these Rules disrupts or interferes with any commentary or presentation, the Chair may, in their discretion or upon motion of any Councilmember, seconded and approved by 2/3 super-majority vote the Council, extend the speaker's time to compensate for such disruption or interference.

5.4 Temporary Recess. If appropriate in providing for the good order and decorum of the proceedings, the Chair may, in their discretion or upon motion of any Councilmember, seconded and approved by an affirmative vote of at least four (4) Councilmembers, call a temporary recess of the proceedings.

5.5 Notice: Criminal Violation Under State Law. Any violation of these Rules that disrupts, obstructs, and/or interferes with a lawful public meeting may subject the violator to prosecution under state law. See Tex. Penal Code, Sec. 42.05, as amended.

5.6 Discipline of Councilmembers. The Council may discipline a Councilmember who violates these Rules. No Councilmember shall be disciplined under this provision except in accordance with the procedures and authority set forth herein.

(a) A Councilmember may request an agenda item to consider discipline of a Councilmember for conduct in violation of these Rules.

(b) Upon consideration of the item and motion of any Councilmember, seconded and approved by an affirmative majority vote of the Council, requesting an item to consider discipline of a Councilmember for conduct in violation of these Rules, an item will be added to a subsequent Council meeting agenda for discussion in closed Executive Session.

(c) In open session, Council may, by motion of any Councilmember, seconded and approved by an affirmative majority vote of the Council, discipline the offending Councilmember as follows:

i. No action. The Council decides to take no disciplinary action.

ii. Denial of agenda items. The Council decides to deny the offending Councilmember's ability to request agenda items for a certain period not to exceed six (6) months.

**Commented [JL3]:** Revised per Council discussion on 01/14/2021  
(2/3 super-majority → majority)

**Commented [JL4]:** Retained per Council discussion on 01/14/2021

**Commented [JL5]:** Revised per Council discussion on 01/14/2021  
(2/3 super-majority → majority)



- iii. Loss of monthly stipend and/or reimbursement. The Council decides to deny payment of the offending Councilmember's monthly stipend and/or reimbursement for expenses for a certain period not to exceed six (6) months.
- iv. Denial of right to sponsor appointees for Boards, Commissions, and/or Committees. The Council decides to deny the offending Councilmember's ability to sponsor appointees for Boards, Commissions, and/or Committees for a period not to exceed the remainder of the offending Councilmember's current unexpired term of office.
- v. Public censure. The Council decides to publicly censure the offending Councilmember by motion identifying the specific alleged violation(s).

**Commented [JL6]:** Revised per Council discussion on 01/14/2021  
(Private censure deleted)

**File Attachments for Item:**

F.7 A Resolution Authorizing Application To, And Acceptance Of Funds If Awarded From, The Office Of The Governor, Criminal Justice Division's General Victim Assistance - Direct Services Program For Fiscal Year 2022.



## CITY COUNCIL AGENDA

January 28, 2021

---

**Item/Subject:** A Resolution Authorizing Application To, And Acceptance Of Funds If Awarded From, The Office Of The Governor, Criminal Justice Division's General Victim Assistance - Direct Services Program For Fiscal Year 2022.

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### **Commentary**

The Police Department's Criminal Investigation Division (CID) is requesting to apply for a grant from the Office of the Governor's General Victim Assistance – Direct Services Program for funding in FY 2022. If awarded, this grant would provide partial funding for the Victim Services Coordinator personnel and training costs. The grant application will include a 20% grantee match. The grant application total is approximately \$76,144 with the grantor providing \$60,915.20 (80%) and the City matching \$15,228.80 (20%).

**Initiating Dept:** Police Department

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### **Fiscal Impact**

**Fund: 101**

### **Budget**

**Amount: \$15,229**

☐

**Finance Director Review**

### **Legal Certification**

Approved as to form and content:

☐

Yes

☐

No

**City Attorney**

### **Associated Information:**

## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO, AND THE ACCEPTANCE OF FUNDS IF AWARDED FROM, THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION, FY 2022 GENERAL VICTIM ASSISTANCE DIRECT SERVICES GRANT PROGRAM IN AN ESTIMATED AMOUNT OF \$60,915.20 BEGINNING IN OCTOBER 2021 AND ENDING IN SEPTEMBER 2022; AND, IF AWARDED, AUTHORIZING THE EXPENDITURE OF MATCHING FUNDS IN AN AMOUNT NOT TO EXCEED \$15,228.80; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Office of the Governor, Criminal Justice Division's General Victim Assistance – Direct Services Program provides support for local victim services; and

WHEREAS, the Cedar Park City Council finds it in the best interest of the citizens of Cedar Park, that the Cedar Park Police Department Victim Services Division apply for a grant serviced by the Office of the Governor, Criminal Justice Division; and

WHEREAS, the Office of the Governor, Criminal Justice Division's General Victim Assistance – Direct Services Program requires, as a condition to receiving any awarded grant funds, the City to provide 20% in matching funds; and

WHEREAS, the City Council wishes to designate the City Manager as the grantee's authorized official with the power to accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

SECTION 1. The Cedar Park City Council hereby authorizes and directs the City Manager or their designee to submit grant application #2786906 for the Cedar Park Police Department Victim Services Program to the Office of the Governor, Criminal Justice Division, in the anticipated total amount of \$76,144, requesting \$60,915.20 (80%) in grant funding.

SECTION 2. The Cedar Park City Council designates the City Manager as the grantee's authorized official. The authorized official is given the power to accept, reject, alter or terminate the grant on behalf of the applicant agency.

SECTION 3. The Cedar Park City Council hereby further authorizes the expenditure of 20% of matching funds, in an amount not to exceed \$ 15,228.80 from

budgeted funds, for the project as required by the Office of the Governor, Criminal Justice Division's General Victim Assistance – Direct Services Program, grant application.

SECTION 4. The Cedar Park City Council agrees that in the event of loss or misuse of the grant funds, the Cedar Park City Council assures that the funds will be returned to the Office of the Governor, Criminal Justice Division in full.

SECTION 5. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
J.P. LeCompte, City Attorney

**File Attachments for Item:**

F.8 A Resolution Authorizing Application To, And Acceptance Of Funds If Awarded From, The Office Of The Governor, Criminal Justice Division's Violent Crimes Against Women Criminal Justice And Training Projects Program For FY 2022.



## CITY COUNCIL AGENDA

January 28, 2021

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**Item/Subject:** A Resolution Authorizing Application To, And Acceptance Of Funds If Awarded From, The Office Of The Governor, Criminal Justice Division's Violent Crimes Against Women Criminal Justice And Training Projects Program For FY 2022.

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### **Commentary**

The Police Department's Criminal Investigation Division (CID) is requesting to apply for a grant from the Office of the Governor's Violent Crimes Against Women Criminal Justice and Training Projects Program for funding in Fiscal Year 2022. If awarded, this grant would provide funding for training police department staff investigating crimes against women. A minimum grantee match of 30% of the total project cost is required. The total project cost is estimated at \$13,446 with the grantor providing \$9,412.20 (70%) and the City providing a \$4,033.80 (30%) match.

**Initiating Dept:** Police Department

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### **Fiscal Impact**

**Fund: 101**

### **Budget**

**Amount: \$4,034**

☐

**Finance Director Review**

### **Legal Certification**

Approved as to form and content:

☐

Yes

☐

No

**City Attorney**

### **Associated Information:**

## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO, AND THE ACCEPTANCE OF FUNDS IF AWARDED FROM, THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION, FY 2022 VIOLENT CRIMES AGAINST WOMEN CRIMINAL JUSTICE AND TRAINING PROJECTS PROGRAM IN AN ESTIMATED AMOUNT OF \$9,412.20 BEGINNING IN OCTOBER 2021 AND ENDING IN SEPTEMBER 2022; AND, IF AWARDED, AUTHORIZING THE EXPENDITURE OF MATCHING FUNDS IN AN AMOUNT NOT TO EXCEED \$4,033.80; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Office of the Governor, Criminal Justice Division's Violent Crimes Against Women Criminal Justice and Training Projects Program provides funding for training in violent crimes against women to local law enforcement; and

WHEREAS, the Cedar Park City Council finds it in the best interest of the citizens of Cedar Park, that the Cedar Park Police Department operate a Training Program for Violent Crimes Against Women serviced by a grant through the Office of the Governor; and

WHEREAS, the Office of the Governor, Criminal Justice Division's Violent Crimes Against Women Criminal Justice and Training Projects Program requires, as a condition to receiving any awarded grant funds, the City to provide 30% in matching funds; and

WHEREAS, the City Council wishes to designate the City Manager as the grantee's authorized official with the power to accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

SECTION 1. The Cedar Park City Council hereby authorizes and directs the City Manager or their designee to submit grant application #2810608 for the Cedar Park Police Department Training Program to the Office of the Governor, Criminal Justice Division, in the anticipated total amount of \$13,446, requesting \$9,412.20 (70%) in grant funding.

SECTION 2. The Cedar Park City Council designates the City Manager as the grantee's authorized official. The authorized official is given the power to accept, reject, alter or terminate the grant on behalf of the applicant agency.



SECTION 3. The Cedar Park City Council hereby further authorizes the expenditure of 30% of matching funds, in an amount not to exceed \$ 4,033.80 from budgeted funds, for the project as required by the Office of the Governor, Criminal Justice Division's Violent Crimes Against Women Criminal Justice and Training Projects Program, grant application.

SECTION 4. The Cedar Park City Council agrees that in the event of loss or misuse of the grant funds, the Cedar Park City Council assures that the funds will be returned to the Office of the Governor, Criminal Justice Division in full.

SECTION 5. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
J.P. LeCompte, City Attorney

**File Attachments for Item:**

F.9 Approval For Appointment Of Kimberly Bradford-Brown To Place Six On The Planning And Zoning Commission. (Jefts)



**CITY COUNCIL AGENDA**  
January 28, 2021

**Item/Subject:** Approval Of Appointment Of Kimberly Bradford-Brown To Place Six On The Planning And Zoning Commission. (Jefts)

**Commentary**

		Term Length: 2 yr	
		Term: 8/1-7/31	
		Residency Requirement	
	<b>Apptd by:</b>	<b>Current Members/Term Expires</b>	<b>Applicant</b>
Place One	<b>Kelly</b>	VACANT	
		7.31.21	
Place Two	<b>Kirkland</b>	Bob Ingraham	
		7.31.20	
Place Three	<b>Duffy</b>	Sara Groff	
		7.31.21	
Place Four	<b>Boyce</b>	Audrey Wernecke	
		7.31.20	
Place Five	<b>Robinson</b>	Jeff Baker	
		7.31.21	
Place Six	<b>Jefts</b>	Bobbi Hutchinson	Kimberly Bradford-Brown
		7.31.20	Term Expires: 7.31.22
Place Seven	<b>Van Arsdale</b>	Randy Strader	
		7.31.20	

**File Attachments for Item:**

G.1 First Reading And Public Hearing Of An Ordinance Amending The Cedar Park Code Of Ordinances To Revise Chapter 7 Code of Conduct, Article 7.02 Revolving Door Policy.



## **CITY COUNCIL AGENDA**

January 28, 2021

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**Item/Subject:** First Reading And Public Hearing Of An Ordinance Amending The Cedar Park Code Of Ordinances To Revise Chapter 7 Code of Conduct, Article 7.02 Revolving Door Policy.

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### **Commentary**

The City's Revolving Door Policy was adopted as amended on September 27, 2018, and it serves to restrict certain personal and professional activities by former Councilmembers and senior staff after they leave office or employment with the City of Cedar Park.

On January 14, 2021, the City Council discussed several possible revisions to the Revolving Door Policy, including:

- Application to City staff at the Department Director level and higher.
- Restrict the applicability of Section 7.02.002(a)(4), which prohibits compensated office or employment with the City for a period of two (2) years after leaving office or employment, to elected officials only (not staff), allowing for re-employment of former staff (not elected officials).
- Reduce the perpetual prohibition in Section 7.02.002(b) to seven (7) years after leaving office or employment.
- Clarify the applicability of Section 7.02.003 to former City staff, allowing for employment of former staff as a consultant within the two (2) year "cooling-off" period, subject to approval via majority vote of the City Council; also re-number as subsection (a).
- Add exceptions to Section 7.02.003:
  - o Subsection (b) re: no prohibition against former official (Councilmembers and staff) from representation or compensation not for City issues or regarding matters of City business.
  - o Subsection (c) re: no prohibition against former staff (not Councilmembers) from representation or compensation on City issues or regarding matters of

City business if approved by majority vote of Council and finding that representation or compensation would benefit the City or not harm the City's interest.

- - Extend the seven (7) year "cooling-off" period upon conviction for any violation (same as current for two (2) year "cooling-off" period).

A redline of the proposed amendments is attached to the ordinance as Exhibit A.

**Initiating Dept:** Legal

**Fiscal Impact**  
**Fund:**

**Budget**  
**Amount:**

☐ **Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes

☐ No **City Attorney**

**Associated Information:**

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING THE CEDAR PARK CODE OF ORDINANCES TO REVISE CHAPTER 7 CODE OF CONDUCT, ARTICLE 7.02 REVOLVING DOOR POLICY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, Texas Local Government Code, Section 51.001 provides that the City Council may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace or order of the municipality; and

WHEREAS, Cedar Park Code of Ordinances, Chapter 7 Code of Conduct, Article 7.02 Revolving Door Policy, provides certain regulations regarding activities of former City officials and employees, including Mayors, Councilmembers, City Managers, City Attorneys, and Department Directors; and

WHEREAS, the City Council seeks to maintain such regulations to mitigate the opportunity for and appearance of self-interested action by former City officials and employees, while clarifying such regulations and not unduly restricting prospective employment and engagement of former City employees under certain circumstances, as set forth in the attached Exhibit A; and

WHEREAS, the City Council therefore finds the proposed amendments to Chapter 7 Code of Conduct, Article 7.02 Revolving Door Policy, as set forth in the attached Exhibit A, provide for the good government, peace, and order of the City of Cedar Park and therefore appropriate and in the best interest of its citizens.

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

SECTION 1. The Cedar Park Code of Ordinances, Chapter 7 Code of Conduct, Article 7.02 Revolving Door Policy, is hereby amended as stated in the attached Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED, AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
J.P. LeCompte, City Attorney



## **ARTICLE 7.02 REVOLVING DOOR POLICY**

### **Sec. 7.02.001 Definitions**

*Close relative.* A person related to the former official in the first degree by consanguinity or affinity, as determined under chapter 573 of the Government Code.

*Former official.* A former Mayor, Councilmember, ~~City Manager, City Attorney, or City employee at or higher than the level of~~ Department Director, or anyone acting on behalf of such persons, including any entity recognized by law, such as a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust, that the person or the person's close relative owns or controls, directly or indirectly, or for which the person or the person's close relative serves as an officer, director, principal, manager, employee, or agent.

### **Sec. 7.02.002 Prohibitions**

(a) For a period of two (2) years after leaving office or employment, a former official:

(1) Shall not solicit, propose, lobby on, or participate in a contract with the City, or enter into a contract with the City for the sale to the City of any goods or services other than real estate;

(2) Shall not sell or lease any real estate to the City unless the City Council has designated the property for acquisition and would otherwise have to acquire the property through its power of eminent domain;

(3) Shall not appear before or communicate with any City official or employee with intent to influence any decision, determination, or approval on behalf of any person or entity in connection with any matter on which the person or entity seeks official action; and

(4) Shall not hold any compensated office or employment position with the City if the former official is a former Mayor or Councilmember.

(b) For a period of seven (7) years after leaving office or employment, ~~No~~ former official shall ~~ever~~ represent a person or receive compensation for services rendered on behalf of any person regarding any particular matter in which they participated while serving the City, either through personal involvement or because the matter was within their official scope of authority or responsibility.

(c) No former official shall ever use any confidential information to which he has had access by virtue of his official capacity and which has not been made public concerning the property, operations, policies, or affairs of the City, to advance any personal financial interest in violation of [Texas Penal Code, section 39.06](#), and/or City Charter, [section 11.09](#)(a), as amended.

### **Sec. 7.02.003 ~~Exceptions for engagement of staff consultants~~**

(a) This Article shall not prohibit the City's engagement of a former ~~City Manager, City Attorney, or Department Director~~ official who was a City employee as a consultant due to their unique knowledge, experience, skills, and/or familiarity with matters of City business, as continuation of the same or substantially similar service for which they were previously

employed by the City, within the two (2) year period after leaving employment for a term of not more than six (6) months, subject to approval via majority vote of the City Council.

(b) This Article shall not prohibit a former official from representing a person or receiving compensation for services on behalf of any person under Section 7.02.002(b) provided the representation or compensation is not for a City issue or regarding a matter of City business.

(a)(c) This Article shall not prohibit a former official who was a City employee from representing a person or receiving compensation for services on behalf of any person under Section 7.02.002(b) for a City issue or regarding a matter of City business if approved via majority vote of the Council upon a finding by the Council that the representation or compensation would benefit the City or not harm the City's interest.

**Sec. 7.02.004 Violation; penalty**

(a) Any bid, proposal, contract offer, or lease offer submitted in violation of this Article shall be disqualified, and any contract or decision, determination, or approval procured in violation of this Article shall be voidable via majority vote of the City Council.

(b) A violation of this Article shall be enforceable as a class C misdemeanor, and upon conviction shall be subject to a fine not to exceed five hundred dollars (\$500.00) in accordance with the Cedar Park Code of Ordinances, [section 1.01.009](#), general penalty for violations of code, and shall restart the two-year and seven-year periods under [section 7.02.002](#) from the date of the violation.

(c) The foregoing provisions are cumulative, and not exclusive, of State law, the City Charter, and any other provision of the Cedar Park Code of Ordinances.

(Ordinance CO53-18-09-27-E3 adopted 9/27/18)

**File Attachments for Item:**

H.1 Third Reading And Consideration For Approval Of An Ordinance Authorizing An Agreement With Pedernales Electric Cooperative, Inc. Granting Its Legal Representatives, Successors, Lessees And Assigns Certain Powers, Licenses, Rights-Of-Way, Privileges And Franchise To Construct, Maintain, Operate And Use A Transmission And Distribution System In The City Of Cedar Park To Provide Electric Utility Service.



## CITY COUNCIL AGENDA

January 28, 2021

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**Item/Subject:** Third Reading And Approval Of An Ordinance Authorizing An Agreement With Pedernales Electric Cooperative, Inc. Granting Its Legal Representatives, Successors, Lessees And Assigns Certain Powers, Licenses, Rights-Of-Way, Privileges And Franchise To Construct, Maintain, Operate And Use A Transmission And Distribution System In The City Of Cedar Park To Provide Electric Utility Service.

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### **Commentary**

The purpose of this Agenda Item is to conduct the third and final reading of the proposed ordinance, which grants Pedernales Electric Cooperative a franchise to operate an electric transmission system in the City of Cedar Park.

As discussed during the first reading on December 3<sup>rd</sup> and second reading on January 14<sup>th</sup>, electricity service is provided by either municipal utilities, investor owned utilities, or co-operatives. In the case of Cedar Park, electricity service is provided to the city by PEC, a cooperative. The Texas Constitution restricts the City from allowing entities from using public property without compensation,<sup>1</sup> and the City of Cedar Park Charter<sup>2</sup> authorizes the assessment of a fee. Additionally, the Texas Utilities Code authorizes assessment of a “reasonable and lawful charge for the use of a city street, alley, or public way” by a cooperative in the course of their business (“Franchise Fee”).<sup>3</sup>

The statute does not limit the types of costs that the City may recoup, but typical costs incurred in the use of public streets, alleys, or rights-of-way include:

- Street surface rehabilitation
- Mowing and landscaping

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<sup>1</sup> Tex. Const. arts. III, § 52(a)

<sup>2</sup> Cedar Park Charter, Section 10.03

<sup>3</sup> Tex. Utilities Code, Ch. 33

- Sidewalks and pedestrian ramps
- Traffic signal systems
- Engineering, administrative, and inspection costs associated with issuing permits
- Streetlights
- Stormwater

In PEC's service area, this fee is most commonly assessed based on a percentage of gross revenues received by PEC from the sale of electricity within the City's corporate boundaries (i.e., city limits).

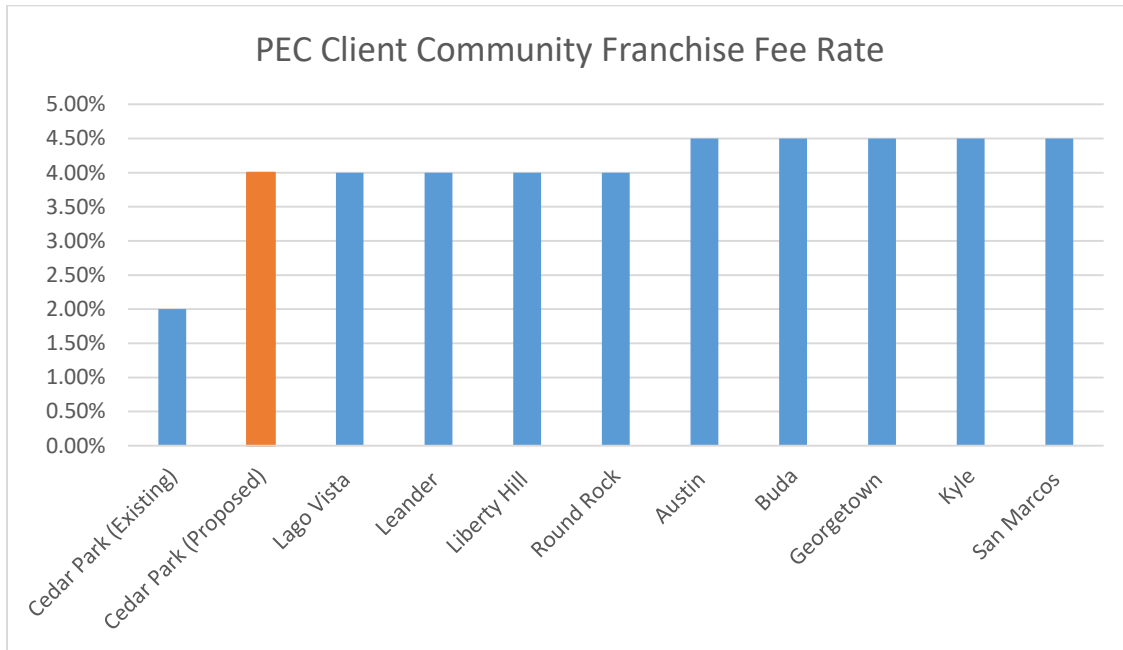
The existing franchise agreement was approved in 2000 with a 20-year term. City staff has had several conversations with PEC staff regarding specific contract provisions since the First Reading in December. As a result, there have been a few mutually agreeable revisions made to the agreement. Notable provisions of the draft Franchise Agreement include:

- Granting of the franchise to PEC, which is the non-exclusive right to utilize the City's rights-of-way
- A term length of 5 years (following Council direction on December 3<sup>rd</sup>)
- Assessing a new franchise fee set at 4% of gross revenues effective July 1, 2021.
- Requirement to obtain permits and comply with all applicable city codes and ordinances for activities conducted within the City's rights-of-way.
- Allow the City to use PEC poles for City owned infrastructure (i.e. fiber-optic cable) under a mutually agreed "pole attachment agreement".

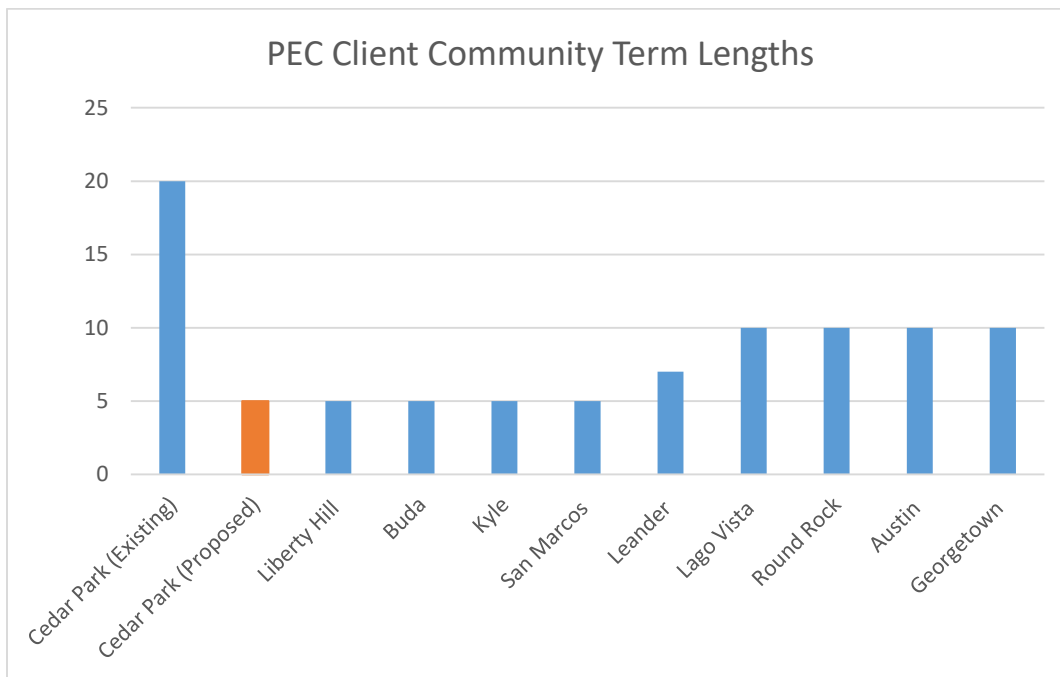
Currently the revenue collected from the City's existing franchise fee is 2% of gross revenues, which generates approximately \$1.2 Million annually. If Council were to approve a new fee of 4%, franchise fee revenue would increase by approximately \$1.2 million annually.

The proposed term length and franchise fee rate are in line with other client communities of PEC similar in size and proximity to Cedar Park, as shown below. Staff has also provided information from additional cities who have portions of their communities in PEC's service area and receive service from PEC. This includes Austin and Georgetown, whose electric services are primarily provided by their municipally owned utility, and Round Rock, whose utilities are primarily deregulated.

## Franchise Fee Rates



## Franchise Agreement Term Length



\*City of Burnet removed from benchmark analysis as 5% fee and 10-year term length is proposed and has not been approved.

Approval of this item requires three (3) readings and a public hearing. The first reading and public hearing for this item was conducted on December 3<sup>rd</sup>, with a second reading conducted on January 14<sup>th</sup>. This is the third and final reading for the proposed agreement.

**Initiating Dept:** CMO

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**Fiscal Impact**  
**Fund:**

**Budget**  
**Amount:**

☐ **Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes

☐ No **City Attorney**

**Associated Information:**

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, GRANTING PEDERNALES ELECTRIC COOPERATIVE, INC., ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, MAINTAIN, OPERATE AND USE A TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF CEDAR PARK TO PROVIDE ELECTRIC UTILITY SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Pedernales Electric Cooperative, Inc. ("Cooperative") is an electric cooperative, owned and operated by the members it serves, that provide power to many residents in Central Texas including Cedar Park residents; and

WHEREAS, the Cooperative wishes to continue using Public Rights-of-Way of the City to distribute power to its members in the City; and

WHEREAS, pursuant to Texas Utilities Code Section 33.008, the City may impose on an electric cooperative that provides distribution service within the City a reasonable charge for the use of a municipal street, alley, or public way to deliver electricity to a retail customer; and

WHEREAS, the Cooperative is an electric cooperative organized under Chapter 161 of the Texas Utilities Code, and pursuant to Texas Utilities Code Section 41.005 is considered an "electric utility" for franchise fee purposes only as to Texas Tax Code 182.025 and Texas Utilities Code Section 33.008; and

WHEREAS, pursuant to Texas Utilities Code Section 41.005 the City may make a lawful charge for the use of public rights-of-way within the municipality for an electric cooperative, provided that the City may not directly or indirectly regulate the rates, operations, and services of an electric cooperative, except, with respect to operations, to the extent necessary to protect the public health, safety, or welfare of its citizens; and

WHEREAS, pursuant to Cedar Park Charter Section 10.02, the Cedar Park City Council may, by ordinance, grant, renew, or extend franchises of public utilities operating in the City; and

WHEREAS, the current franchise was granted by the City on March 2, 2000 by Ordinance Number 02000-16 for a term of twenty (20) years.

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



## SECTION 1. Definitions.

1.1 For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, and whenever the sense of the text requires (1) words used in the present tense include the future, (2) words in the plural number include the singular number, (3) words in the singular number include the plural number, and (4) the use of any gender shall be applicable to all genders. The words “shall” and “will” are mandatory and the word “may” is permissive. Words not defined shall be given their common and ordinary meaning.

1.2 “Agreement” shall mean this Ordinance approved by the City and accepted by the Cooperative.

1.3 “City” shall mean the City of Cedar Park, Texas, a municipal corporation in the State of Texas, as constituted as of the Effective Date of this Ordinance or as may hereafter be constituted.

1.4 “City Manager” shall mean the City Manager of the City or the Manager’s authorized designee.

1.5 “City Utility” shall mean any utility service provided by the City including, but not limited to, water and/or sewer utility service.

1.6 “Consumer” shall mean any person or organization receiving and using Electric Utility Service from the Cooperative for his or her own appliances or equipment whether or not the electricity is billed directly to him or her, or to a second party. For example, in the case of a rental unit where the cost of utilities is part of the rent, the landlord is a Customer, as defined herein, and the tenant is the Consumer.

1.7 “Cooperative” shall mean the Pedernales Electric Cooperative, Inc., a Texas electric cooperative corporation organized and existing under and by virtue of the laws of the State of Texas, and authorized to transact and actually transacting business in the State of Texas, together with its legal representatives, successors, lessees, and assigns.

1.8 “Council” shall mean the governing body of the City of Cedar Park.

1.9 “Customer” shall mean any person or organization being billed for Electric Utility Service whether used by that person or organization, or by others.

1.10 “Devices” shall have the meaning given to such term in Section 7.2.

1.11 “Director of Finance” shall mean the Director of the Finance Department of the City of Cedar Park, or its successor Department. The term shall also mean the Director’s successor in function.

1.12 “Director of Public Works” shall mean the Director of the Public Works Department of the City of Cedar Park, or its successor Department. The term shall also mean the Director’s successor in function.

1.13 “Effective Date” shall have the meaning given to such term in Section 3.

1.14 “Electricity” or “Electric Utility Service” shall mean electricity, energy, power, light, heat, energy services, sold, distributed, conveyed, served, supplied and furnished to Customers within the corporate limits of the City and outside the City, and to the City, where applicable, by the Cooperative.

1.15 “Franchise” or “Ordinance” shall mean this Agreement, and all rights and obligations established herein or as amended.

1.16 “Gross Revenues” shall mean the gross operating revenue received by the Cooperative for all services provided by the Cooperative to its Customers within the City, as accrued on the Cooperative’s books, except as otherwise provided pursuant to this Agreement. Gross Revenues shall not include (1) local, state, or federal taxes or City franchise fees collected by Cooperative that have been billed to its Customers and separately stated on Customers’ bills; (2) the franchise fees paid under this Ordinance, (3) revenue uncollectible from Customers (i.e., bad debts) with billing addresses in the City that was previously included in Gross Revenues, or (4) revenue from the Cooperative’s pole attachment fees.

1.17 “Public Utility Easement” shall mean those easements held, owned or controlled by the City that allow the construction, operation or maintenance of an electric utility transmission and distribution system (or any part thereof).

1.18 “Public Rights-of-Way” shall mean Streets, Avenues, Alleys, Sidewalks, Public Utility Easements, rights-of-way, bridges, and highways, and beneath the surface of the same as they now or hereafter may exist. A reference in this Franchise to “Public Rights-of-Way” shall not be a representation or guarantee by the City that its interests or other rights in the property are sufficient to permit its use of the installation and maintenance of a System and the Cooperative shall receive only those rights which the City has the right and power to give.

1.19 “Sidewalk(s)” shall mean a paved area, within the Public Right-of-Way or sidewalk easement, specifically designed for pedestrians or bicyclists.

1.20 “Street(s)”, “Avenue(s)”, or “Alley(s)” shall mean a publicly dedicated or maintained Public Right-of-Way, a portion of which is open to use by the public for vehicular travel.

1.21 “Term” shall have the meaning given to such term in Section 2.4, and shall include the initial Term and any extension(s) of such initial Term pursuant to this Ordinance.

1.22 “Transmission and Distribution System” or “System” shall mean a system of poles, pole lines, transmission and distribution lines, substations, wires, guys, conduits, conductor, transformers, pad-mounted equipment, enclosures, concrete pads, ground rods, cable risers, and

fiber optic cables and other desirable instrumentalities and appurtenances necessary or proper for the purpose of transmitting, distributing, carrying, conducting, conveying, supplying, furnishing and selling to the City and the inhabitants of the City or other person or persons, firms or corporations, whether within or without the City, Electric Utility Service, and for any other purpose for which electricity or energy services may be now or hereafter used and for communication signals or the capability and capacity for transport of communication signals of whatever kind and character for such Electric Utility Service, as the same now exists or as may, from time to time, be further placed, removed, constructed, reconstructed, extended, and maintained or operated.

## SECTION 2. Granting of Franchise

2.1 There is hereby granted to the Cooperative the non-exclusive right, privilege, permission and franchise to erect, maintain, construct, operate, equip, use, remove, extend, replace, alter, repair and otherwise establish in the City a Transmission and Distribution System for the provision of Electric Utility Service.

2.1.1 In accordance with and during the Term of this Franchise, the Cooperative is hereby granted passage and right-of-way in, under, upon, over, along and across, any and all Public Rights-of-Way. The Cooperative is further granted the right to occupy and use in any lawful way, said Public Rights-of-Way in accordance with and during the term of this Franchise. This occupancy and use is granted solely for the services, uses, effects, and lawful purposes described herein.

2.1.2 Nothing herein shall be construed to require or authorize the Cooperative to exceed its certificate of convenience and necessity granted by the Public Utility Commission of Texas.

2.2 Public parkland is not a Public Right-of-Way under this Franchise. If the Cooperative desires to install facilities on or under public parkland, it shall seek specific permission for such installation from City, and shall comply with all applicable State laws, including Chapter 26 of the Texas Parks and Wildlife Code, and with all applicable City rules and regulations.

2.3 The operation, construction, and maintenance of the Cooperative's Transmission and Distribution System and other property subject to this Franchise shall be in accordance with Cooperative standards. Structures, lines, guys and other installations shall be erected consistent with the National Electrical Safety Code (NESC) and any other applicable State of Texas and national standards. Subject to Chapter 41 of the Texas Utilities Code and Chapter 311, Texas Transportation Code, the Cooperative's activities and presence in the Public Rights-of-Way shall also be subject to all applicable City ordinances, rules, and regulations, and all applicable provisions of the City Charter. To the extent that there is a conflict between any Cooperative standards or other applicable State or national standards, including the NESC, and this Franchise or any other City ordinance, the parties agree to confer to resolve such conflict. This Franchise does not relieve Cooperative of the obligation to comply with applicable City ordinances and ordinances and to obtain permits, licenses, and other approvals from City or other units of government that are required for the construction, repair, or maintenance of the System, subject to

Chapter 41 of the Texas Utilities Code and Chapter 311, Texas Transportation Code, except in no instance shall Cooperative be required to pay permitting fees or bonds related to these City permits, licenses, or other approval processes and except as otherwise described herein.

2.4 The Franchise shall commence on the Effective Date and shall expire five (5) years from the Effective Date of this Ordinance (the “Term”).

2.5 The Cooperative shall not transfer this Franchise or any rights and privileges granted herein without written approval of the Council expressed by ordinance. Such approval shall not be unreasonably withheld.

### SECTION 3. Acceptance by the Cooperative

This Franchise shall not become effective until accepted by the Cooperative in writing (the “Effective Date”). The acceptance shall be filed with the City within sixty (60) days following the final adoption of this Ordinance by the Council. Upon acceptance by the Cooperative, this Ordinance shall be a contract duly executed by and between the City and the Cooperative; provided, however, payments shall be as provided for in Section 9.

### SECTION 4. Service

4.1 Electric Utility Service shall be provided by means of the Cooperative’s Transmission and Distribution System, which may be located within the Public Rights-of-Way or on private property. The Cooperative shall use reasonable efforts to assure that all future locations of the Transmission and Distribution System shall not unreasonably interfere with the flow of water in any gutter or drain; the operations or facilities of any City Utility, any television cable, telephone facilities, traffic control signals, street lights, fire lines or other communication lines, or ordinary travel on the streets or sidewalks.

4.2 The location and route of all Cooperative Transmission and Distribution System facilities in the Public Rights-of-Way shall be subject to:

4.2.1 the lawful, reasonable and proper control of the City as expressed in applicable City ordinances and subject to Chapter 41 of the Texas Utilities Code and Chapter 311, Texas Transportation Code; and

4.2.2 all applicable ordinances, laws, rules, regulations, and Charter provisions of the City now in force or that may hereafter be passed and adopted that are not inconsistent with this Ordinance, subject to Chapter 41 of the Texas Utilities Code and Chapter 311, Texas Transportation Code.

4.3 The surface of any Public Right-of-Way disturbed by the Cooperative in the construction or maintenance of its Transmission and Distribution System shall be restored within a reasonable time after the completion of the work to a substantially similar condition as before the commencement of the work. The Cooperative shall not encumber any Public Right-of-Way for a period longer than reasonably necessary to complete all work.

4.4. The Cooperative, to the extent that the Cooperative, initiates any cutting, excavation, boring or installation of facilities in the Public Rights-of-Way shall, except in the case of a bona fide emergency, obtain a permit from the City, as provided in generally-applicable City ordinances, before commencing any cutting, excavation, boring or other methods that affect the Public Rights-of-Way. In the case of a bona fide emergency the Cooperative shall provide notice to the Director of Public Works of any such excavation as soon as reasonably practicable thereafter. Excavations shall be performed in accordance with applicable City ordinances and rules. Except as otherwise provided in this Ordinance, City ordinances and rules shall apply to the method and time required for advance notices, and to time periods, including but not limited to time periods for completion of any work, or expiration of any permit.

4.5. Pursuant to its Tariff and Business Rules, the Cooperative shall not discriminate against applicants for service or Customers, on the basis of race color, religion, sex, marital status, disability, income level, or source of income. Electric utility service shall be provided to all areas of the City for which the Cooperative holds a valid Certificate of Convenience and Necessity issued by the Public Utility Commission of Texas.

4.6 The Cooperative shall maintain its property and Transmission and Distribution System located in the Public Rights-of-Way in accordance with reasonable industry standards and consistent with the Cooperative's maintenance of its Transmission and Distribution System throughout its service territory. The City recognizes and agrees that the Cooperative shall retain full title in, and right to, its System and other personal property, whether or not the same is incorporated in real estate.

4.7 The City, at any time, may make reasonable inquiries pertaining to this Ordinance and the Cooperative shall respond to such inquiries on a timely basis. The parties shall cooperate in good faith to mutually exchange information to further the purposes of this Ordinance.

4.8 The Cooperative shall have the authority to trim or remove trees and vegetation upon or overhanging its System that may endanger or interfere with the System and its operation, and to prevent the vegetation and the branches of such trees from coming in contact with the System. The Cooperative's vegetation management practices shall be consistent with the safety requirements for pruning, repairing, maintaining, and removing trees endorsed by the American National Standards Institute; NESC; state law or Public Utility Commission rules or requirements. Except in an emergency or the recovery after an emergency, the Cooperative shall endeavor to notify the resident(s) and owner(s) of the property subject to a public utility easement on which tree trimming activities are to be performed at least one (1) day prior to entering such property to perform any tree trimming activities.

## SECTION 5. Use of Public Rights-of-Way

5.1. The Cooperative is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and using the privileges granted and described by this Franchise, and subject to the terms and conditions of this Franchise. Provided, however, that such activities shall not conflict with existing water pipes,

sewer, electric power lines, telephone lines, cable television lines, other authorized installations, and street operations. Provided also, that all work done in the Public Rights-of-Way by the Cooperative shall be done with reasonable diligence and without unreasonable inconvenience to the public or individuals.

5.2. By the grant of authority described in Section 2.1., it is not the intention of either the City or the Cooperative to create any liability, right or claim for the benefit of third parties and this Franchise is intended and shall be construed for the sole benefit of the City and the Cooperative.

5.3. Nothing contained in this Franchise shall be construed to require or permit any attachments to City-owned facilities, structures, or physical plant by the Cooperative for any purpose, except that the Director of Public Works may authorize attachments if such attachment is determined to be in the best interest of the City, and such attachment is in accordance with the National Electric Safety Code.

#### SECTION 6. Construction, Maintenance, Expansion, Reconstruction, and Excavation

6.1. In furtherance of the public interest in safety, health and public welfare and to facilitate the safe management of Public Rights-of-Way, the construction, expansion, reconstruction, excavation, use, maintenance and operation of the Cooperative's System in the Public Rights-of-Way is subject to all generally applicable City requirements, this Ordinance, Chapter 41 of the Texas Utilities Code, and Chapter 311, Texas Transportation Code. The Cooperative shall not begin construction until the plans and drawings have been approved in writing, or a permit has been issued by the City; this approval shall not be unreasonably delayed, conditioned, or withheld.

6.2. The Cooperative and City shall take all reasonable efforts to coordinate their planning and construction activities. Upon request, the Cooperative will provide City with information regarding its plans to upgrade and expand its facilities, either existing or proposed, in or impacting Public Rights-of-Way on a regular basis, and as may be updated. Upon request, City will provide to Cooperative its capital improvements plans and schedules on a regular basis, and as updated.

6.3. Cooperative's installation of facilities in the Public Rights-of-Way shall be in conformance with all applicable City requirements, including placing all new distribution facilities underground; provided, however, the City acknowledges that certain new distribution facilities relating to substations, reliability and redundancy improvements, and riser poles that transition overhead lines into underground facilities, may be placed overhead, and system upgrades for existing facilities may remain overhead, and to the extent that safety standards required by the NESC or Cooperative standards require facilities to be placed overhead or remain overhead, such lines may be placed overhead. The Cooperative shall, when planning improvements in the Public Rights-of-Way to existing distribution facilities to increase capacity or for system improvement, give reasonable consideration to installing upgraded facilities underground; provided that the City may require undergrounding facilities upon the City's payment in advance of associated engineering costs to determine the cost differential between overhead and underground

construction and if determined to proceed with underground construction, the payment in advance of the differential cost between overhead and underground construction and facilities.

6.4. Within 120 days of completing construction of each segment of the Cooperative's facilities, the Cooperative shall supply the City with drawings for the segment in the format the Cooperative has available to the extent such plans were not provided to the City during the permitting process.

#### SECTION 7. Work by the City and Others; Use of Cooperative's Facilities; Record-keeping for Street Lights

7.1. The City reserves the right to lay, and to permit to be laid, sewer, cable television, water, telephone, electric and other lines, cables and conduits, and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, or under any Public Rights-of-Way occupied by the Cooperative. Without waiving any Constitutional or statutory prohibitions to the contrary, the City shall only be liable to the extent permitted by law to the Cooperative for the damage, if any, to the Cooperative's System that is the result of the negligence or willful misconduct of the City or its employees. The City shall not be liable, under any circumstances, for damages caused to the Cooperative as a result of work done by persons other than the City's employees, or the City's agents or contractors, unless the specific actions taken or specific work done that is the subject of the claim for damages was performed under the direction, supervision or control of the City. By this Ordinance it is not the intention of either the City or the Cooperative that the City assumes liability in general for the negligence or willful misconduct of the City's agents or contractors for any and all work performed by them, but only in the limited circumstances described above. Removal and relocation expenses incurred by the Cooperative in connection with any improvements by the City shall be reimbursed by the person for whom the removal or relocation is made, except as provided in Section 8.

7.2. In addition to the consideration set forth herein, the Cooperative shall permit the City to use the Cooperative's existing poles located in the Public Rights-of-Way where the existing poles are adequate for the City's purposes, said purposes being traffic, signal, police and fire alarm systems, and gatherers and collectors referred to for purposes of this Section 7.2. as "Devices." Devices shall not include revenue-producing or commercial access telecommunications systems, including, but not limited to, fiber optics and cable television systems. City acknowledges that such use shall be subject to execution of a separate, non-contingent pole attachment agreement. If existing Cooperative facilities are unable to allow the placement of a Device, and the City requests space on Cooperative facilities to accommodate Devices, the Cooperative shall upgrade its facilities at the City's expense.

7.3. Cooperative shall allow City to attach City-owned fiber optic strands on Cooperative's poles for City's use only, provided that such attachment and use does not interfere with the Cooperative's ability to utilize its facilities for its purposes, and is not in conflict with the National Electric Safety Code or other safety procedures of the Cooperative, and if not in a Public Right-of-Way, the City obtains any necessary right-of-way or easement or permits or licenses for its use. Such use shall be subject to execution of a separate, non-contingent pole attachment agreement.

## SECTION 8. Changes for Governmental Purposes and Other Uses

8.1. If the City determines that the removal, relocation, change or alteration of the Cooperative's facilities is reasonably necessary for:

8.1.1 the construction, repair, maintenance or installation of any City or other public improvement approved by the City in or upon the Public Rights-of-Way, or

8.1.2. the operations of the City or other governmental entity in or upon the Public Rights-of-Way,

then such facilities of the Cooperative shall be so shifted or relocated by the Cooperative at the Cooperative's expense; provided, however, the City shall work with Cooperative to determine the most cost effective method of relocation or shifting of Cooperative's facilities and the most expedient timeframe for completion, and provided that the City may utilize eminent domain and condemnation proceedings to acquire easements, which may be required for a public purpose to provide an alternate easement for relocation, at the Cooperative's expense.

8.2. Schedules for the work contemplated by Section 8.1. shall be developed by designated representatives of the Cooperative and the City.

8.3. City may request that Cooperative place facilities which are to be relocated underground. However, the City shall bear the cost differential between overhead and underground construction and facilities. City shall work with Cooperative in good faith to determine the most cost effective method for relocation of Cooperative's facilities under this Section 8.

8.4. The City shall give the Cooperative reasonable prior written notice of its projects (or that of private third-parties) requiring relocation of the Cooperative's facilities pursuant to Section 8. In the event that Cooperative is required by City to remove or relocate its facilities under this Section and City is eligible under federal, state county, local or other programs for reimbursement of costs and expense incurred by Cooperative as a result of such removal or relocation, and such reimbursement is required to be handled through City, Cooperative costs and expenses shall be included in any application by City for reimbursement. City shall provide reasonable notice to Cooperative of the deadline for Cooperative to submit documentation of the costs and expense of such relocation to City. If a third-party desires or the City requires Cooperative to adapt or conform any of Cooperative's facilities, or in any way alter, relocate or change Cooperative's property to enable any third party (whether public or private), other than the City and Texas Department of Transportation, to use the Public Rights-of-Way, Cooperative shall have the right, as a condition of any such alteration, change or relocation, to require payment to Cooperative for any and all costs or expenses occasioned thereby to be paid by the third party.



## SECTION 9. Franchise Fee

9.1. The City and the Cooperative agree that the Public Rights-of-Way to be used by the Cooperative in the operation of its Transmission and Distribution System is valuable public property acquired and maintained by the City at the expense of its taxpayers. In consideration of the use of the Public Rights-of-Way, the Cooperative shall collect and pay to the City two percent (2%) of its Gross Revenues per calendar quarter and in the same manner as stipulated in Cedar Park Ordinance Number 02000-16 until July 1, 2021. Subject to Section 9.3, beginning July 1, 2021 the Cooperative shall collect and pay to the City four percent (4%) of its Gross Revenues per calendar quarter during the Term as specified in Section 9.3. Cooperative shall be entitled to list the franchise fee as a separate line item on monthly bills.

9.2. Reserved.

9.3. The franchise fee specified in Section 9.1. shall be payable quarterly to the City and shall be delivered to the City at the attention of the Director of Finance, together with a statement indicating the derivation and calculation of the payment. Each quarterly payment shall be due within forty-five days following the end of a quarterly period for which the payment is due (as further described below). The quarterly payment shall be based upon the Cooperative's Gross Revenues during that same quarterly period and shall represent payment for the rights and privileges granted to the Cooperative by this Franchise for said calendar quarter.

Further, any payment provided for in Part 9 of this Ordinance shall be effective for the Cooperative's Gross Revenues after the Effective Date commencing on the first day of the month following the thirty (30) day notice period that the Cooperative is required to provide to the Cooperative's Customers ("Notice Date") prior to implementation of the franchise fee. Such Notice Date shall occur on or after May 15, 2021. If the Notice Date is not the first day of a quarter, the first payment of the franchise fee required under this Ordinance shall be prorated based on the number of days remaining in the quarter following the Notice Date.

9.3.1. The City's fiscal year runs from October 1 through September 30. The quarterly payments shall be due on February 15, May 15, August 15, and November 15 of each year during the Term of this Franchise.

9.3.2. The February 15 payment shall be based upon the Cooperative's Gross Revenues during the calendar quarter ending the prior December 31. The May 15 payment shall be based upon the Cooperative's Gross Revenues during the calendar quarter ending the prior March 31. The August 15 payment shall be based upon the Cooperative's Gross Revenues during the calendar quarter ending the prior June 30. The November 15 payment shall be based upon the Cooperative's Gross Revenues during the calendar quarter ending the prior September 30.

9.4. Cooperative shall keep accurate books regarding its energy and power sold by reason of the operation of the Cooperative within the City at its principal office for the purpose of determining the amount due the City under this Franchise. The City may conduct an audit (limited to a period no earlier than two years prior to the period for which the audit is initiated) or other

inquiry in relation to a payment made by Cooperative, and may, if it sees fit, have the books and records of the Cooperative relating to such payment examined by representatives of the City to ascertain the correctness of the reports filed and payments made herein.

9.4.1. The Cooperative shall make available to the auditor during the Cooperative's regular business hours and upon reasonable notice, applicable personnel and records relating to the Cooperative's operations in the City and/or any franchise fee payments made by Cooperative under this Ordinance, in order to complete such audit, and shall make no charge to the City therefore.

9.4.2. If, as the result of any City audit, Cooperative is found to have failed to pay the entire or correct amount of compensation due, the correct amount shall be paid by Cooperative within thirty (30) calendar days of notification of such audit finding to Cooperative.

9.4.3. If the audit results in a finding that Cooperative has overpaid the City, the overpayment amount will be refunded to Cooperative by City within thirty (30) calendar days of the determination.

9.5. The Cooperative may provide a webpage by which the Director of Finance, no later than five (5) months after the end of the Cooperative's fiscal year, may obtain annual audited statements of the Cooperative.

9.6. Except as provided in Section 9.7, the franchise fee shall be in lieu of:

9.6.1 any and all other rentals or compensation or franchise, license, privileges, instrument, occupation, excise, or revenue taxes or fees.

9.6.2 all other exactions or charges or permits upon or relating to the business, revenue, franchise, Transmission and Distribution System, and other facilities or property of the Cooperative including any substation facilities and its activities in the City that relate to the operations of the Cooperative's System.

9.6.3 permit fees charged by the City for the Cooperative to obtain a right-of-way permit.

9.7. The franchise fee shall not be in lieu of ad valorem property taxes, special assessments for local improvements, City sales tax, development fees, including impact or water or wastewater tap fees or permit application fees, including for habitable structures, maintenance facilities or storage facilities, and MS4 stormwater permit applications or, other charges imposed uniformly upon persons, firms, or corporations then engaged in business within the City (except such permit fees as otherwise excluded by Section 9.6).

9.8. Should the City not have the legal power to agree that the payment of the franchise fee shall be in lieu of the fees and charges described in Section 9.6, the City agrees that it will apply as much of the franchise fee paid by the Cooperative necessary to satisfy the Cooperative's obligations, if any, to pay the fees and charges described in Section 9.6.

9.9. Acceptance by either party of any payment due under this Franchise shall not be deemed to be a waiver by the other party of any claim of default or breach of this Franchise, nor shall the acceptance by either party of any such payments preclude the other party from later establishing that a larger amount was actually due or from collecting any balance due. Nothing in this Section shall be deemed a waiver by either party of its rights under law or equity.

9.10. The City shall notify Cooperative in writing of the effective date of any annexation of property into the City limits that would require Cooperative to include such properties for purposes of calculations of any amounts due under this Ordinance. Cooperative shall not be liable for any late payments, penalties or interest on the portion of a quarterly payment that does not include gross revenues for Cooperative Customers within a newly annexed area until ninety (90) days after written notice from the City to the Cooperative of any such annexation. Thereafter the Cooperative shall assure that any and all Customers located within such annexed territory be included and shown on its accounting system as being within the City. After such ninety (90) day written notice from the City to the Cooperative, all Customers' accounts located within such annexed territory shall begin accrual for purposes of the payment provisions specified in this Ordinance.

#### SECTION 10. Indemnity; Liability

10.1. THE COOPERATIVE AGREES TO INDEMNIFY, DEFEND, AND SAVE HARMLESS THE CITY, ITS AGENTS, OFFICERS AND EMPLOYEES, AGAINST AND FROM ANY AND ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, FIRM, CORPORATION OR OTHER ENTITY, TO THE EXTENT THEY ARISE FROM THE COOPERATIVE'S NEGLIGENCE OR WILLFUL MISCONDUCT, AND THAT OF ITS AGENTS AND CONTRACTORS, IN CONNECTION WITH CONSTRUCTION, OPERATION, OR MANAGEMENT OF ITS TRANSMISSION AND DISTRIBUTION SYSTEM PURSUANT TO THIS ORDINANCE, AND FROM AND AGAINST ALL COSTS, ATTORNEYS' FEES, EXPENSES AND LIABILITIES INCURRED IN OR ABOUT ANY SUCH CLAIM OR PROCEEDING BROUGHT THEREON, AND FROM ANY AND ALL CLAIMS ARISING FROM ANY BREACH OR DEFAULT ON THE PART OF THE COOPERATIVE IN THE PERFORMANCE OF ANY COVENANT OR AGREEMENT ON THE PART OF THE COOPERATIVE TO BE PERFORMED PURSUANT TO THE TERMS OF THIS ORDINANCE.

10.1.1 The City shall promptly notify the Cooperative of any claim or cause of action against the City relating to or covering any matter against which the Cooperative has agreed, as set forth above, to indemnify, defend or save harmless the City.

10.1.2 The Cooperative reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action.

10.1.3 If the Cooperative and the City are found to be jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of

Texas without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state law.

10.2. It is not the intention of either the City or the Cooperative to create any liability, right, or claim for the benefit of third parties. This indemnification provision is intended and shall be construed for the sole benefit of the City and the Cooperative.

#### SECTION 11. Reserved.

#### SECTION 12. Violations

12.1. If the Cooperative is in violation of any provision of this Franchise, the City shall notify the Cooperative in writing of the violation setting forth the nature of such violation. Within twenty-one (21) days of receipt of such notice, or such longer period specified by the City, the Cooperative shall respond in writing that the violation has been cured or provide a cure plan or schedule that satisfies the City, or provide an explanation with documentation to support that an alleged violation did not occur.

12.2 Notwithstanding Subsection 12.1, the Cooperative shall be allowed thirty (30) days to cure violations after written notice is received from the City, by taking appropriate steps to comply with the terms of this Franchise and any lawful regulations. If the nature of the violation is such that it cannot be fully cured within thirty (30) days due to circumstances not under the Cooperative's control, the period of time in which the Cooperative must cure the violation may be extended by the City in writing for such additional time reasonably necessary to complete the cure, provided that (i) the Cooperative has promptly began to cure, and (ii) the Cooperative is diligently pursuing its efforts to cure in the City's reasonable judgment.

12.3 Upon information being received by the City that violations of this Franchise, City Charter provisions, or the ordinances regulating the Cooperative in the construction and operation of its system subject to Chapter 41 of the Texas Utilities Code and Chapter 311, Texas Transportation Code, have occurred, or continue to occur after the thirty (30)-day cure period, and any additional time necessary to cure, as allowed under Section 12.2, the City may make an investigation. If the City finds that such a violation continues to exist or has occurred, then the City or the Cooperative may take an action authorized by law, including cancellation of this Franchise and a suit in court to compel compliance. In any such proceeding each party shall pay its own expenses, including attorneys' fees, but the Cooperative may be allowed, either by the court in the judgment compelling compliance or by order of the City Council, a reasonable time thereafter, as fixed by such judgment or order, to correct the default and pay such expenses, damages, and costs as it may be adjudged to pay, and if the Cooperative does so correct and so pay within a reasonable time, cancellation shall not become effective nor be enforced.

12.4 Failure by the City or the Cooperative to enforce rights under this Franchise does not constitute a waiver of the rights.

12.5 The venue for all causes of action arising under this Ordinance shall be in the District Courts of Williamson County, Texas.

## SECTION 13. Notice

13.1. All notices required by this Franchise shall be in writing and delivered personally or sent by certified mail, postage prepaid, addressed to such party or by express overnight mail at the following addresses. Courtesy notice may additionally be sent by regular mail or emailed as may be indicated below, however, such service shall not excuse proper notice as set forth above:

If to the City:

City Manager's Office  
City of Cedar Park  
Attn: Sam Roberts  
450 Cypress Creek Boulevard Bldg. 1  
Cedar Park, Texas 78613  
[sam.roberts@cedarparktexas.gov](mailto:sam.roberts@cedarparktexas.gov)

With a copy to:

City Attorney  
City of Cedar Park  
Attn: J.P. LeCompte  
450 Cypress Creek Boulevard Bldg. 1  
Cedar Park, Texas 78613  
[jp.lecompte@cedarparktexas.gov](mailto:jp.lecompte@cedarparktexas.gov)

If to the Cooperative:

Pedernales Electric Cooperative, Inc.  
P.O. Box 1  
Johnson City, Texas 78636-0001  
Attn: Public Affairs Department  
RE: City of Cedar Park Franchise  
Email: [mike.viesca@peci.com](mailto:mike.viesca@peci.com)

With a copy to:

Pedernales Electric Cooperative, Inc.  
P.O. Box 1  
Johnson City, Texas 78636-0001  
Attn: Legal Services Department  
RE: City of Cedar Park Franchise

13.2 All notices and requests shall be deemed given on the date so delivered or so deposited in the mail and emailed, unless otherwise provided herein. Either party hereto may change its address for notice by sending written notice of such change to the other in the manner provided herein.

## SECTION 14. Forfeiture and Termination

14.1. In addition to all other rights and powers retained by the City under this Franchise or otherwise, the City reserves the right to declare this Franchise forfeited and by ordinance to terminate the Franchise and all rights and privileges of the Cooperative hereunder in the event of a violation as described in Section 12 that remains uncured.

14.2. A violation shall not be deemed to cause a termination or forfeiture of the Franchise if such violation occurs without the fault of the Cooperative or of its employees or occurs as a result of circumstances beyond the Cooperative's control. The Cooperative shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers, or employees.

14.3. To declare a forfeiture of this Franchise, the City shall make written demand that the Cooperative address any violation of this Franchise or applicable law. If the Cooperative fails to take expeditious corrective action as described in Section 12, the City shall cause to be served upon the Cooperative, at least thirty (30) days prior to the date of consideration of termination of the Franchise by the Council in open meeting, a written notice of Council's intent to consider such termination and the time and place of the meeting.

14.3.1 Upon meeting pursuant to notice, the Council shall (1) hear and consider the issue, (2) hear any interested person, and (3) determine whether any violation by the Cooperative has occurred.

14.3.2 If the Council determines that a violation occurred and that the violation was the fault of the Cooperative and within its control, the Council may declare the Franchise of the Cooperative forfeited and terminated. The Council may also take such other appropriate action including, but not limited to, granting a period of time to cure the violation.

14.3.3 The final decision of the City Council may be appealed to any court or regulatory authority having jurisdiction. Upon appeal by the Cooperative of the City Council's decision terminating the Franchise granted herein, the effective date of such termination shall be either when such appeal is withdrawn or a court order upholding the termination becomes final and unappealable. If no appeal is filed, the effective date of such termination shall be the ninetieth (90) day following the date of the final termination decision of the City Council. Until the termination becomes effective, the provisions of the Franchise granted herein shall remain in effect for all purposes.

## SECTION 15. Foreclosure, Receivership and Bankruptcy

The Cooperative shall notify the City within thirty (30) days after the appointment of a receiver or trustee to take over and conduct the business of the Cooperative, whether in receivership, reorganization, bankruptcy, or other action or proceeding, whether voluntary or involuntary, such notice to include where applicable the cause number and court involved.

## SECTION 16. Captions and Severability

16.1. The use of captions or headings for the various sections of this Ordinance are for the convenience of the parties only and do not reflect the intent of the parties. This Ordinance shall be construed and deemed to have been drafted by the combined efforts of the City and the Cooperative.

16.2. Notwithstanding anything contained herein to the contrary, in the event that any part of this Ordinance is declared by any court of law to be unenforceable, void, unlawful, or otherwise inapplicable, the remainder of the provisions of this Ordinance shall remain in full force and effect and shall in no way be affected, impaired or invalidated. In such event, the level of compensation to be provided to the City shall continue to be comparable to that set forth in this Ordinance.

## SECTION 17. Sovereign Immunity

The City believes that its performance of this Ordinance constitutes the performance of a governmental function, and believes that nothing in this Ordinance shall be determined to waive the City's sovereign immunity.

## SECTION 18. Superseding Effect

This Ordinance supersedes for all purposes any other written agreements with respect to the Franchise prior to the acceptance of this Ordinance. This Ordinance shall supersede and take precedence over inconsistent ordinances, resolutions, or regulations hereafter or previously passed by the City.

## SECTION 19. Confidential Information

To the extent allowed by law, including the Texas Public Information Act (the "TPIA"), the City agrees to hold in strict confidence any non-public information, information marked proprietary or confidential that it receives from the Cooperative. The City will make reasonable efforts to (a) give the Cooperative prior written notice of a request for public information in a reasonably practicable time period to allow the Cooperative to seek a protective order, Texas Attorney General ruling, or other appropriate remedy, and (b) disclose only such information as is required under the applicable law. Notwithstanding anything contained within this Franchise to the contrary, if the release of information received from the Cooperative is required by the TPIA and applicable Texas Attorney General rulings and case law, then such release shall not be considered to be a violation of this Franchise.

[SIGNATURES TO FOLLOW ON THE NEXT PAGE]



PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 202\_.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
J.P. LeCompte, City Attorney

ACKNOWLEDGED, ACCEPTED, AND AGREED TO:

PEDERNALES ELECTRIC COOPERATIVE, INC.

BY: \_\_\_\_\_  
\_\_\_\_\_  
Julie C. Parsley, Chief Executive Officer

DATE: \_\_\_\_\_



**File Attachments for Item:**

H.2 Consideration For Appointment To The Capital Area Council Of Governments Central Texas Clean Air Coalition. (Kirkland)



## **CITY COUNCIL AGENDA**

January 28, 2020

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**Item/Subject:** Consideration For Appointment To The Capital Area Council Of Governments Central Texas Clean Air Coalition. (Kirkland)

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### **Commentary**

The Central Texas Clean Air Coalition is a group of elected officials from certain cities and counties in the Austin-Round Rock Metropolitan Statistical Area (MSA). The purpose of the Clean Air Coalition (CAC) is to develop, adopt, and implement a clean air plan to achieve and maintain compliance with federal ground-level ozone standards for the counties contained in the MSA. The CAC develops policies and strategies that provide guidance for each of its independent governing bodies about actions that will achieve clean air in central Texas and to work cooperatively to achieve clean air standards that will protect the public health while allowing governments the flexibility to select measures best suited to each community's needs and resources. The City of Cedar Park has been a regular voting member since 2012.

Councilmember Kirkland has served as Cedar Park's voting member since August 8, 2019, and the current term expires December 31, 2021.

According to the by-laws of the Clean Air Coalition, member's terms run from the beginning of each even-numbered year to the end of each odd-numbered year. The proposed appointment would be for the unexpired remainder of the current term, or until December 31, 2021. The appointment must be completed by resolution.

**Initiating Dept:**

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**Fiscal Impact**

**Fund:**

**Budget**

**Amount:**

☐ **Finance Director Review**

**Legal Certification**

Approved as to form and content:

☐ Yes ☐ No **City Attorney**

**Associated Information:**

## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, APPROVING THE APPOINTMENT OF \_\_\_\_\_ AS VOTING MEMBER TO THE CAPITAL AREA COUNCIL OF GOVERNMENTS CENTRAL TEXAS CLEAN AIR COALITION; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Central Texas Clean Air Coalition is a group of elected officials from certain cities and counties in the Austin-Round Rock Metropolitan Statistical Area (MSA); and

WHEREAS, the purpose of the Clean Air Coalition (CAC) is to develop, adopt, and implement a clean air plan to achieve and maintain compliance with federal ground-level ozone standards for the counties contained in the MSA; and

WHEREAS, the City of Cedar Park has been a voting member on the CAC since 2012; and

WHEREAS, Councilmember Mel Kirkland is currently serving as Cedar Park's voting member on the CAC and that term will expire on December 31, 2021.

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

SECTION 1. The Council hereby approves the appointment of \_\_\_\_\_ to replace Councilmember Kirkland as a voting member to the Capital Area Council of Governments Central Texas Clean Air Coalition for the unexpired remainder of the term ending December 31, 2021, as depicted in the Clean Air Coalition By-Laws.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this 28<sup>th</sup> day of January, 2021.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Corbin Van Arsdale, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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J.P. LeCompte, City Attorney

## **Central Texas Clean Air Coalition of the Capital Area Council of Governments**

### **Article I – Name, Purpose, Responsibilities**

The Central Texas Clean Air Coalition, herein after known as the “CLEAN AIR COALITION”, is a voluntary, unincorporated association which became linked with the Capital Area Council of Governments (CAPCOG) by a resolution that was adopted November 13, 2002.

The purpose of the CLEAN AIR COALITION is:

- To develop, adopt and implement a clean air plan to achieve and maintain compliance with federal ground-level ozone standards for the counties of Bastrop, Caldwell, Hays, Travis and Williamson;
- To establish and monitor a regional effort toward the improvement of air quality;
- To develop policies and strategies that will provide guidance for each of its independent governing bodies about actions that will achieve clean air in Central Texas;
- To work cooperatively to achieve clean air standards that will protect public health and yet allow local governments the flexibility to select measures best-suited to each community’s needs and resources; and
- To provide CAPCOG executive committee with recommendations for administering funding provided by local sources for the purpose of supporting the regional air quality plan or program implementation, assessment , and improvement activities in Central Texas.

### **Article II – Membership**

#### **Members**

CLEAN AIR COALITION members are organizations that support the regional effort toward improvement of air quality in the Austin-Round Rock MSA.

#### **Membership Categories**

There are two categories of membership for the CLEAN AIR COALITION: general members and supporting members.

General members shall be local governments or Independent School Districts within the Austin-Round Rock Metropolitan Statistical Area (MSA). The governing boards of general members must ratify the current clean air plan, commit to implementing selected emission reduction measures.

Supporting members shall act within their individual organizations to support the purpose of the CLEAN AIR COALITION and report their actions to the CLEAN AIR COALITION or CAPCOG liaison upon request.



Supporting members are not required to appoint a representative to the CLEAN AIR COALITION meetings and are not allowed to vote.

While organizations other than local governments or school districts in the Austin-Round Rock MSA may be supporting members, only local governments or independent school districts in the Austin-Round Rock MSA may participate in the CLEAN AIR COALITION as general members.

#### Changes in Membership Categories

Members may change their membership category if they meet eligibility requirements and are endorsed by a majority vote of the CLEAN AIR COALITION.

#### Representatives

Representatives to the CLEAN AIR COALITION will include elected officials appointed by governing bodies for the general members of the CLEAN AIR COALITION. Each general member's governing body appoints by resolution one elected official to serve on the Coalition and shall provide written notification to the CAPCOG staff liaison.

#### Terms

1. The term of appointment for a representative shall begin on the date of appointment by the representative's governing body, and will terminate December 31st in odd numbered years.
2. There is no limit to the number of times that a representative may be re-appointed. In the case of a vacancy, the CAPCOG staff liaison shall notify the representative's governing body and that body shall appoint a replacement

#### Vacancy

A vacancy occurs when:

1. A representative dies;
2. A representative's term expires and the representative is not reappointed;
3. A representative is no longer an elected official;
4. A representative resigns; or
5. A representative is removed.

#### Attendance

1. Representatives are expected to attend all meetings; attendance records will be maintained.
2. If within one calendar year a representative misses (and does not send a proxy) two (2) consecutive meetings the member's governing body will be notified in writing. The representative's governing body will have the option of replacing the member, if appropriate.
3. A representative may designate a proxy to attend regular and special meetings in that representative's place. The proxy's attendance will be credited for the representative's annual attendance but will not be counted toward the quorum. The designated proxy will not be

eligible to vote, but may participate in discussion as needed to communicate the support, concerns, or questions of the organization being represented.

#### New Members

Membership may be expanded by majority vote of the CLEAN AIR COALITION. If new members are eligible for more than one membership category, new members may choose the membership category they wish to participate under.

### **Article III - Officers**

#### Election

Election of a Chair and up to two (2) Vice-Chairs will occur at the first meeting of each odd-numbered calendar year, with the following representation:

- At least one (1) officer from a local governing bodies in Travis County;
- At least one (1) officer from a local governing body in either Williamson or Hays Counties; and
- Up to one (1) additional officer from a local governing body in any of the MSA counties.

#### Terms

1. Officers serve two-year terms.
2. Officers may serve a maximum of two (2) consecutive terms.

#### Vacancy

In the event an Officer is unable to fulfill his/her term, the remaining Officers move up to fill open positions. The CLEAN AIR COALITION may elect a replacement, at a regular or specially called meeting, to ensure a full complement of Officers for the remainder of the unexpired term.

#### Duties

1. The Chair shall preside at all meetings of the CLEAN AIR COALITION.
2. Vice-Chairs shall perform all the duties of the Chair in the case of absence or disability and such other duties as may arise, from time to time, when required or requested by the CLEAN AIR COALITION.
3. In case the Chair and Vice-Chairs are absent or unable to perform their duties, the CLEAN AIR COALITION may appoint a Chair pro tem.

Other Officers

The CLEAN AIR COALITION may elect other Officers from time to time to carry out its responsibilities. This may be done by a simple majority vote of the CLEAN AIR COALITION members at any regularly scheduled meeting where a quorum is present.

**Article IV - Meetings**Regular Meetings

1. The CLEAN AIR COALITION shall meet on a day, time and place specified by the Chair of the CLEAN AIR COALITION.
2. Written notice, including an agenda, of each regular meeting shall be prepared by the CLEAN AIR COALITION liaison and mailed, or electronically transmitted, or hand-delivered to each CLEAN AIR COALITION representative at least five (5) business days before the meeting date.
3. The Chair has the discretion to allow meetings to be conducted via teleconference or video conference.

Special Meetings

1. The CLEAN AIR COALITION shall meet specially, if called by the CLEAN AIR COALITION Chair or requested in writing by at least one-third of the representatives, excluding vacancies.
2. A request by the membership for a special meeting must be in writing, addressed to the Chair, and describing the purpose or purposes of the meeting. Only that business reasonably related to the purpose or purposes described in the request may be conducted at a special meeting.
3. Notice of any special meeting shall be given at least 72 hours prior to the special meeting.

Quorum and Action

1. Appointed representatives from a majority of the Counties in the Austin-Round Rock MSA constitute a quorum for conducting CLEAN AIR COALITION business.
2. A majority vote of the appointed representatives present at an established quorum meeting is necessary for action by the CLEAN AIR COALITION for the entire meeting.

Open Meetings and Records

1. All meetings of the CLEAN AIR COALITION shall be open to the public. It is the intention of the CLEAN AIR COALITION that meetings be open to the public.
2. Minutes or meeting notes of the CLEAN AIR COALITION meetings, documents distributed and other records will be kept at CAPCOG. The CAPCOG liaison shall be the recording clerk. The recording clerk shall keep recordings of all CLEAN AIR COALITION meetings for a period of one (1) year after each meeting; print copies of summary minutes for each meeting shall be permanently maintained on file. These materials are available for public view, at the CAPCOG offices, upon receipt of a written request by the interested party.

3. Except where these bylaws require otherwise, *Robert's Rules of Order* shall govern the conduct of CLEAN AIR COALITION meetings.

#### Professional Conduct

CLEAN AIR COALITION representatives should maintain objectivity and professionalism when carrying out business of the CLEAN AIR COALITION.

#### Sub-Committees:

The CLEAN AIR COALITION may create ad hoc committees or technical sub-committees as deemed appropriate.

### **Article V – Amendments by the Clean Air Coalition**

#### Authority of the CLEAN AIR COALITION

CLEAN AIR COALITION may amend these bylaws at a regular or specially called meeting. The written text of a proposed amendment must be included with the notice of the meeting at which the amendment will be considered.

#### Effective Date

An Amendment to the bylaws takes effect when approved by the CLEAN AIR COALITION unless the amendment specifies a later effective date. Copies of amended bylaws will be distributed to CLEAN AIR COALITION representatives by the CAPCOG liaison.

#### Bylaws History

Adopted January 9, 2002

Amended October 15, 2003

Amended June 26, 2009

Amended May 8, 2013

Amended February 10, 2016