

City of Alvin, Texas

Paul Horn, Mayor

Joel Castro, Mayor Pro-tem, At Large Pos. 2
Brad Richards, At Large Pos. 1
Martin Vela, District A
Adam Arendell, District B



Keith Thompson, District C
Glenn Starkey, District D
Gabe Adame, District E

ALVIN CITY COUNCIL AGENDA

THURSDAY, NOVEMBER 5, 2020

7:00 P.M.

(Council Chambers)

Alvin City Hall, 216 West Sealy, Alvin, Texas 77511

Persons with disabilities who plan to attend this meeting that will require special services please contact the City Secretary's Office at 281-388-4255 or droberts@cityofalvin.com 48 hours prior to the meeting time. City Hall is wheel chair accessible and a sloped curb entry is available at the east, west, and south entrances to City Hall.

NOTICE is hereby given of a Regular Meeting of the City Council of the City of Alvin, Texas, to be held on **THURSDAY, NOVEMBER 5, 2020**, at 7:00 p.m. in the Council Chambers at: City Hall, 216 W. Sealy, Alvin, Texas.

REGULAR MEETING AGENDA

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

4. CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION: An item(s) may be removed from the Consent Agenda for full discussion by the request of a member of Council. Item(s) removed will automatically become the first item up for discussion under Other Business.

- A. Consider approval of the October 15, 2020 City Council Regular meeting minutes.
- B. Consider Resolution 20-R-30, acknowledging and accepting a sidewalk easement located at 101 and 201 Ninth Street, granted to the City of Alvin by Serafin Rodriguez.
- C. Consider a final plat of M.D. Davenport Subdivision (located near the northwest corner of the intersection of County Road 47 and County Road 33), being a subdivision plat of a 148.05 acre tract out of a called 150 acre tract out of the T.H. Lostak 560.776 acre tract out of the Skrabanek 991.07 acre tract in the Day Land and Cattle Company Survey, Abstract 604, Brazoria County, Texas, said 991.07 acre tract being described in a deed recorded in volume 208, page 40 of the deed records of Brazoria County, Texas.
- D. Acknowledge receipt of the Quarterly Financial Report ending September 30, 2020.
- E. Accept resignation from Senior Board member, Nell Shimek.

5. OTHER BUSINESS

- A. Consider Resolution 20-R-29, approving the Utility Conveyance and Security Agreement accepting the water distribution, wastewater collection and storm water facilities to serve Mustang Crossing, Sections 5 and 5B, and authorize the Mayor to sign.
- B. Consider Ordinance 20-BB, amending Appendix A, Flood Damage Prevention, of the Code of Ordinances, City of Alvin, Texas; updating several sections as required by FEMA; and setting forth other provisions related thereto.

- C. Consider authorizing the Stephen F. Austin Community Health Center to add additional parking spaces and associated storm water detention improvements at the 1111 West Adoue Street facility, and authorize the Mayor to sign, subject to legal review.
- D. Discussion of Chapter 34, Public Storage Facilities/Mini-Warehouses, of the Code of Ordinances, City of Alvin, Texas.

6. REPORTS FROM CITY MANAGER

- A. Items of Community Interest and review preliminary list of items for next Council meeting.

7. ITEMS OF COMMUNITY INTEREST

Pursuant to 551.0415 of the Texas Government Code reports or an announcement about items of community interest during a meeting of the governing body. No action will be taken or discussed.

- A. Hear announcements concerning items of community interest from the Mayor, Council members, and City staff, for which no action will be discussed or taken.

8. ADJOURNMENT

I hereby certify that a copy of this notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website: www.alvin-tx.gov, in compliance with Chapter 551, Texas Government Code, on MONDAY, NOVEMBER 2, 2020 at 4:00 P.M.




Dixie Roberts, City Secretary

Removal Date: _____

**** All meetings of the City Council are open to the public, except when there is a necessity to meet in Executive Session (closed to the public) under the provisions of Chapter 551, Texas Government Code. The Council reserves the right to convene into executive session on any of the above posted agenda items that qualify for an executive session by publicly announcing the applicable section of the Open Meetings Act, including but not limited to sections 551.071 (litigation and certain consultation with the attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), or 551.087 (qualifying economic development negotiations).**

**MINUTES
CITY OF ALVIN, TEXAS
CITY PLANNING COMMISSION
September 15, 2020**

BE IT REMEMBERED, that on the above date, the Planning Commission of the City of Alvin conducted a regular meeting on Tuesday, September 15, 2020, at 6:00 P.M. by telephone/video conference with the following members present, Ashley Davis, Chair; Richard Garivey, Vice Chair; Abrin Brooks, Secretary; Jake Starkey; Santos Garza; Chris Hartman; Carrie Parker and Keko Moore. Also present were staff members Michelle Segovia, City Engineer and Shana Church, Executive Secretary. Randy Reed was absent.

Call To Order

Call to order at 6:00 p.m.

Petition and Requests from the Public

There were no petitions or requests from the public.

Approve the Minutes of the Planning Commission meeting of August 18, 2020.

Commission Member Jake Starkey motioned to approve the minutes of the regular Planning Commission meeting of August 18, 2020. Seconded by Carrie Parker, the motion carried on a vote of 8 ayes and 0 nays.

Consider a final plat of Puryear Subdivision, a 10.99 acre, 2-lot subdivision located in the Day Land and Cattle Co. Survey, Abstract No. 604, Brazoria County, Texas. City Engineer recommends final plat for discussion and approval. Commission Member Garza motioned to recommend for approval to City Council. Seconded by Member Moore, the motion carried on a vote of 8 ayes, 0 nays.

Discuss and consider a development proposal from Binnacle Development for a 28-acre patio home subdivision to be located along the west side of Bypass

35 between House Street and South Street. City Engineer recommends final plat for discussion and consideration. Commission Member Davis motioned to recommend for approval to City Council. Seconded by Member Garivey, the motion carried on a vote of 8 ayes, 0 nays.

Items of Community Interest.

Keko Moore asked when Planning Commission will have in person meetings. Michelle Segovia stated meetings in the future depend upon how many items are on the agenda and what the COVID situation is.

Staff report and update.

There were no staff report or update.

Items for the next meeting.

Michelle Segovia stated the Planning Commission may see Fort Bend County plats at the next meeting.

Adjournment.

Commission Member Garivey motioned to adjourn the meeting, seconded by Member Starkey. The motion carried on a vote of 8 ayes. The meeting ended at 6:50 p.m.

Passed and Approved the 10th day of October 2020.

/s/ Ashley Davis, Chair

/s/ Abrin Brooks, Secretary

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
REGULAR CITY COUNCIL MEETING AND
THURSDAY OCTOBER 15, 2020
7:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in Regular in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn; Mayor Pro-Tem Joel Castro; Councilmembers: Gabe Adame, Adam Arendell, Brad Richards, Glenn Starkey, Keith Thompson and Martin Vela.

Staff members present: Junru Roland, City Manager; Suzanne Hanneman, City Attorney; Dixie Roberts, City Secretary; Michael Higgins, Chief Financial Officer; Dan Kelinske, Parks and Recreation Director; and Robert E. Lee, Police Chief.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council member Adame gave the invocation.

Council member Arendell led the Pledge of Allegiance to the American Flag; and Council member Thompson led the Pledge to the Texas Flag.

PRESENTATIONS

Alvin Municipal Court Departmental Update.

Judge Mo Ghuneim gave a departmental update on Municipal Court and provided information on virtual court. Judge Ghuneim and Court Staff presented awards to Paul Salvo, IT Manager, and Suzanne Hanneman, City Attorney, for their assistance in keeping the Municipal Court operational during the COVID-19 pandemic.

Proclamation – Alvin Municipal Court Week November 2-6, 2020.

Mayor Horn presented a proclamation to Judge Mo Ghuneim and the Municipal Court staff recognizing the week of November 2-6, 2020 as Municipal Court Week.

PUBLIC COMMENT

There were no comments from the public

CONSENT AGENDA

Consider approval of the October 1, 2020 City Council Regular meeting minutes.

Acknowledge receipt of the quarterly Fiscal Year 2020 Capital Improvement Projects Report.

Acknowledge receipt of the Quarterly Investment Report ending September 30, 2020.

The City Charter requires the Chief Financial Officer to report on the financial condition of the City each quarter.

In 2013, the City of Alvin adopted the Public Funds Investment Act pursuant to Chapter 2256 of the Texas Government Code. The Code contains certain requirements for investing public funds and how those funds are to be administered. These requirements include annual reviews of the policy, training, internal controls, prudence, ethics, and reporting.

The City's investment policy states that the investment officer shall generate quarterly (investment) reports to the City Manager, Mayor, and City Council.

In summary, the City of Alvin has an investment portfolio at September 30, 2020, of \$83.2 million, which consists of \$59.5 million invested in the Local Government Investment Pools, \$749,000 in Certificates of Deposits, and \$22.9 million in the City's bank depository accounts (i.e. checking accounts). Interest earned during the quarter was \$48,258. The City's yield for the quarter was .42% and the 90-day T-Bill was .10%.

Council member Arendell moved to approve the consent agenda as presented. Seconded by Council member Castro; motion carried on a vote of 7 Ayes.

OTHER BUSINESS

Consider Ordinance 20-AA, authorizing the issuance of approximately \$17,740,000 City of Alvin, Texas, Water and Sewer System Revenue Bonds, Series 2020; approving related agreements; approving the preparation and distribution of an Official Statement; enacting other provisions relating thereto; and providing for the effective date thereof.

In February 2014, the City engaged the services of Freese and Nichols to draft a Utility Master Plan. The adopted Utility Master Plan was completed in April 2016, and identified approximately \$92 million in utility projects to be completed over the next 20 years. These improvements are necessary to provide for future growth, replace aging infrastructure, improve efficiency, and keep the City in compliance with TCEQ regulations. Projects for the first 5 years are needed to address the existing water and wastewater system problems and are needed to serve anticipated growth within the next 5 years that the existing system does not have the capacity to currently serve. Projects to be funded from the proceeds of the 2020 Water & Sewer System Revenue Bonds are listed below:

Project Name	Project Costs	Description of project
54" East Side Interceptor <i>Projected Construction Cost: \$18,475,450 \$2,076,000 bonds issues in 2018 \$6,251,200 bonds issued in 2019 \$10,148,250 bonds to be issued in 2020</i>	\$10,148,250	This proposed 54" wastewater pipeline serves the entire City and transports sewer to the wastewater treatment plant to be treated and discharged. The current interceptor is nearing its useful life and not large enough to handle the existing peak wastewater flows. Constructing a single 54" line in place of the two undersized lines (27" and 33") will allow for easier system operations and less maintenance.
Lift Station 30 Expansion & Hwy 35 Bypass Gravity Main <i>Projected Construction Cost: \$10,744,765 \$679,865 bonds issued in 2018 \$5,777,300 bonds issued in 2019 \$4,287,600 bonds to be issued in 2020</i>	\$4,287,600	The Utility Master Plan showed that this lift station has reached its useful life and is not large enough to handle the future wastewater flows as the City grows. This project will increase the gravity sewer lines to 36", increase the lift station capacity from 4.1 MGD to 11.7 MGD, and increase the force main capacity to 24" so that the City can serve existing and future development.
Water Improvements Phase III	\$3,303,900	These water improvements consist of replacing water lines that will increase available fire flow capacity, improve water quality and provide better water system connectivity. New 8" and 6" water lines will be installed to connect and replace existing small diameter water lines in the area bounded by House Street, Bayou Drive, South Street, and Gordon Street.
Total:	\$17,739,750	

City staff participated in ratings call with Standard & Poor's on September 15, 2020. Standard & Poor's affirmed the City's Revenue Bond rating of "A+/Stable" on the Series 2020 Water & Sewer System Revenue Bonds.

The Series 2020 Water and Sewer System Revenue Bonds are scheduled to be competitively bid at 10:00 a.m. on October 15, 2020. Thereafter, staff will know the exact dollar amount of bonds that will need to be issued to cover the project costs as well as other bond issuance costs. The City's Financial Advisors will be at the City Council meeting to present the results of the sale and ask City Council to approve Ordinance 20-AA, authorizing the bond sale. Should City Council authorize the issuance of the Series 2020 Water & Sewer System Revenue Bonds, the bonds are expected to close, with funds deposited into the City's accounts on November 17, 2020.

James F. Gilley with U.S. Capital Advisors presented the details of the water and sewer revenue bond sale of \$16,430,000, that took place the morning of October 15, 2020. Jonathan Frels, Bond Counsel also spoke before City Council regarding this bond sale.

Council member Arendell moved to approve Ordinance 20-AA, authorizing the issuance of City of Alvin, Texas, Water and Sewer System Revenue Bonds, Series 2020; approving related agreements; approving the preparation and distribution of an Official Statement; enacting other provisions relating thereto; and providing for the effective date thereof. Seconded by Council member Thompson; motion carried on a vote of 7 Ayes.

Consider an agreement with Wells Fargo Bank to provide banking depository services for the City of Alvin effective January 1, 2021 through December 31, 2023 with (2) two optional one-year extensions, and authorize the City Manager to sign the agreement upon legal review.

The current City depository agreement with Wells Fargo was signed on August 20, 2015, as a three-year agreement through December 31, 2018. There were two (2) one-year optional renewal extensions, each approved by the Alvin City Council allowing the agreement to remain active until December 31, 2020. No more extensions were allowed per the terms of the agreement.

On August 2, 2020, and August 9, 2020, the City of Alvin advertised RFP 20-05, Banking Services and Depository Services RFP. The deadline for proposal submittals was September 22, 2020. The term of this contract is a three-year term with two (2) one-year optional extensions starting January 1, 2021. The only bidder to provide a response to the RFP was the city's current bank depository vendor, Wells Fargo Bank. There were local depositories who were notified of the RFP, of which the concerns for not bidding were market conditions and timing. In addition, the RFP expanded the range of banks from 10 miles to 20 miles outside the city limits.

The current bank depository services are adequate to meet the City's needs. The proposed RFP services are also adequate. There are various new services that were included in the RFP that staff is considering, but these may or may not be implemented as they need to be tested and verified to determine if they can meet our current system requirements and processes. The proposed bank fees are comparable to the current fees that the City is charged, with a few increasing slightly and few decreasing slightly. We expect the fees to meet our budgetary expectations.

Staff anticipates that although we are not recommending a change in depositories, time may be needed for legal review of the contract by both the City and Wells Fargo. The optional services can be implemented at any time during the contract so there is no deadline to implement prior to the start of the agreement. Staff recommends Wells Fargo Bank to provide the City's banking and depository services.

Council member Starkey moved to approve an agreement with Wells Fargo Bank to provide banking depository services for the City of Alvin effective January 1, 2021 through December 31, 2023 with (2) two optional one-year extensions, and authorize the City Manager to sign the agreement upon legal review. Seconded by Council member Arendell; motion carried on a vote of 7 Ayes.

Consider an agreement with USA Shade & Fabric Structures through the BuyBoard Cooperative Purchasing Network in an amount not to exceed \$99,379.00 to provide and install six (6) replacement picnic pavilions and one (1) playground shade structure at Hugh Adams Park, and authorize the City Manager to sign the agreement upon legal review.

Hugh Adams Park is located on property leased from Alvin Community College at 3502 Mustang Road. Currently all wooden picnic pavilions need replacement, along with adding shade over the playground.

On February 3, 2020, the Park Board recommended and approved this project as part of the five (5) year Parks Capital Improvement recommendations. On February 20, 2020, City Council received and acknowledged the five (5) year Parks Capital Improvement recommendations. On September 1, 2020, the Park Board unanimously approved for Council consideration, a proposal from USA Shade & Fabric Structures to provide seven (7) shade structures throughout Hugh Adams Park. Funding for this project is recommended from the Park Dedication Fund balance. This project meets the criteria per Ord. 18-C, Sec. 21-132 (a).

Alvin Community College Board of Regents approved this project at the September 17, 2020 meeting.

Advantages of using BuyBoard cooperative purchasing network:

1. Competitive Bid Pricing
2. Streamlined Purchasing Process compliant with procurement laws
3. Lower procurement and administrative costs
4. Oversight thru BuyBoard which audits the accuracy of proposals
5. Member rebates

Staff recommends USA Shade & Fabric Structures to replace existing wooden picnic pavilions and include shade structure over the existing playground. Jared Angelica with USA Shade & Fabric Structures will be in attendance.

Mr. Kelinske presented this information before City Council and stated that funding for this project is through the Parkland Dedication Fund.

Council member Arendell moved to approve an agreement with USA Shade & Fabric Structures through the BuyBoard Cooperative Purchasing Network in an amount not to exceed \$99,379.00 to provide and install six (6) replacement picnic pavilions and one (1) playground shade structure at Hugh Adams Park, and authorize the City Manager to sign the agreement upon legal review. Seconded by Council member Thompson motion carried on a vote of 7 Ayes.

Consider Resolution 20-R-28, designating one representative and one alternate representative to the Houston-Galveston Area Council (H-GAC) General Assembly for 2021.

HGAC's bylaws provide that each Home Rule City member with a population under 99,999 as of the latest (2010) Federal Census, is entitled to designate one representative and one alternate to serve on the H-GAC General Assembly. The two designees must be elected officials of Alvin's governing body.

Each year City Council is asked to appoint elected officials to serve as members to this assembly. Appointments must be made by October 30, 2020. Appointees are asked to represent the city and county of whom they represent at monthly meetings held typically at the HGAC offices in Houston.

Prior year appointments:

2020: Council member Arendell (representative); Council member Castro (alternate).

2019: Council member Arendell (representative); Council member Castro (alternate).

2018: Council member Arendell (representative); Council member Richards (alternate).

Council member Starkey moved to approve Resolution 20-R-28, designating Council member Castro to serve as the representative and Council member Vela to serve as the alternate representative on the H-GAC General Assembly for 2021. Seconded by Council member Adame; motion carried on a vote of 7 Ayes.

REPORTS FROM CITY MANAGER

Items of Community Interest and review preliminary list of items for next Council meeting.

Mr. Junru Roland announced items of community interest; and he reviewed the preliminary list for the November 5th City Council meeting.

ITEMS OF COMMUNITY INTEREST

Hear announcements concerning items of community interest from the Mayor, Council members, and City staff, for which no action will be discussed or taken.

Council member Thompson thanked Judge Mo Ghuneim and Municipal Court staff for their work. He also thanked Mr. Junru Roland, City Manager, and Mr. Michael Higgins, Chief Financial Officer, for saving the City money, maintaining the financial records which helps to keep the bond ratings up. Council member Thompson thanked Joel Castro for stepping in at a short notice to speak at the State of the City Luncheon. He also announced the Alvin Fall Clean Up scheduled for October 17th.

Council member Vela thanked the staff that worked on the State of City luncheon, he stated that it was a great presentation. He also expressed how proud he is of the staff for the work they do for the City.

Council member Arendell thanked the staff for the work they do, which makes the Council meetings run smoothly.

Council member Richards also thanked staff for everything they do.

Council member Castro thanked the staff for all their hard work.

Council member Adame thanked staff for their hard work. He congratulated Municipal Court Judge, Mo Ghuneim, and court staff for the awards and the well-deserved recognitions. Council member Adame publicly thanked Mr. Roland, City Manager, for responding quickly to issues relating to the new solid waste contractor, and he thanked him for working so hard to make our citizens at ease with the transition of the new solid waste company.

Council member Starkey thanked Council member Castro for speaking at the State of the City luncheon on such a short notice and for doing a wonderful job representing the City. He congratulated the Municipal Court staff and those associated with the Court for the virtual court project and for awards it has received throughout the years. He expressed his appreciation for being on Council during this time with so many positive things happening throughout the city. Additionally, Council member Starkey thanked the City Manager for responding to issues in such a quick manner. He also thanked the city departments for their work.

Mayor Horn announced that his wife had surgery and is at home doing well. He mentioned that Council member Castro did an excellent job at the State of the City luncheon and expressed his appreciation. Mayor Horn thanked Mr. Junru Roland and Larry Buehler for preparing the State of City presentation.

ADJOURNMENT

Mayor Horn adjourned the meeting at 8:11 p.m.

PASSED and APPROVED the 15th day of November 2020.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Secretary



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: City Attorney

Contact: Suzanne L. Hanneman, City Attorney

Agenda Item: Consider Resolution 20-R-30, acknowledging and accepting a sidewalk easement located at 101 and 201 Ninth Street, granted to the City of Alvin by Serafin Rodriguez.

Type of Item: ☐ Ordinance ☒ Resolution ☐ Contract/Agreement ☐ Public Hearing ☐ Plat ☐ Discussion & Direction ☐ Other

Summary: Pursuant to Sec. 21-42 - Sidewalks, ADA ramps, driveways and driveway approaches of the City's Code of Ordinances states that sidewalks, Americans with Disabilities Act (ADA) ramps, driveways and driveway approaches shall be required and shall be constructed in accordance with the city's design criteria. This means the builder/owner is required to install a sidewalk as part of the process. Once constructed, the City is responsible for the maintenance and repair of the sidewalk.

This property is located at 101 and 201 Ninth Street, Alvin, Texas. This resolution formally acknowledges the City's acceptance of this sidewalk easement being granted to the City by Serafin Rodriguez.

Staff recommends approval of Resolution 20-R-30 accepting said sidewalk easement.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☐ Required ☒ **Date Completed:** 10/27/2020 SLH

Supporting documents attached:

- Resolution 20-R-30
- Sidewalk Easement with exhibits

Recommendation: Move to approve Resolution 20-R-30, acknowledging and accepting the sidewalk easement located at 101 and 201 Ninth Street, granted to the City of Alvin by Serafin Rodriguez.

Reviewed by Department Head, if applicable ☐
Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☐
Reviewed by City Manager ☒

RESOLUTION 20-R-30

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ALVIN,
TEXAS, ACKNOWLEDGING AND ACCEPTING A SIDEWALK
EASEMENT GRANTED TO THE CITY OF ALVIN FROM SERAFIN O.
RODRIGUEZ.**

WHEREAS, the City of Alvin, Texas, desires to acknowledge and accept said SIDEWALK EASEMENT, attached hereto as Exhibit 1, granted to the City by Serafin O. Rodriguez more formally described as follows:

Exhibit A:

SURFACE ONLY OF: 0.03 acres of land, being a five (5) foot strip out of Lot "A", Replat of a portion of Easton's Addition, as recorded in Volume 19, Pages 451-452, Plat Records, Brazoria County, Texas.

Exhibit B:

SURFACE ONLY OF: 0.01 acres of land, being a five (5) foot strip out of Lot "B", Replat of a portion of Easton's Addition, as recorded in Volume 19, Pages 451-452, Plat Records, Brazoria County, Texas.

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

Section 1. That the City Council hereby accepts the Sidewalk Easement granted to the City of Alvin by Serafin O. Rodriguez.

Section 2. That said Sidewalk Easement shall be recorded in the Deed Records of Brazoria County, Texas.

Section 3. That this Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED on this the 5th day of November 2020.

CITY OF ALVIN, TEXAS

ATTEST

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary

SIDEWALK EASEMENT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THIS EASEMENT is made and executed by Serafin O. Rodriguez, whose mailing address is PO Box 5606, Alvin, Brazoria County, Texas 77512, (hereinafter referred to as the "Grantor") and the CITY OF ALVIN, a Texas municipal corporation, whose mailing address is 216 W. Sealy, Alvin, Texas 77511, (hereinafter referred to as the "Grantee").

(Wherever used herein, the terms, "Grantor" and "Grantee" shall include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations, partnerships (including joint ventures), public bodies and quasi-public bodies.)

WITNESSETH:

WHEREAS, the Grantor is the owner of property situate, lying and being in Brazoria County, Texas, and described as follows:

See Exhibit "A" and "B" ("Grantor's Land") with accompanying sketch of description attached hereto and made a part hereof; and,

WHEREAS, the Grantee desires a perpetual, non-exclusive easement for public use and other appropriate purposes incidental thereto, in, on, over, under, and across that portion of Grantor's Land; and

WHEREAS, the Grantor is willing to grant a sidewalk easement on a portion of Grantor's Land to the Grantee.

WHEREAS, the Grantor, at its expense, shall cause a sidewalk to be constructed on a portion of Grantor's Land, which portion is more particularly described in the attached Exhibit "A" and "B" ("Easement Land") with accompanying sketch of description attached hereto and made a part hereof; and

WHEREAS, Grantee, at its expense, shall be responsible for maintaining, replacing, and repairing the sidewalk.

NOW, THEREFORE, for and in consideration of mutual covenants each to the other running and Ten Dollars (\$10.00) and other good and valuable considerations, the Grantor does hereby grant unto the Grantee, its successors and assigns, subject to the terms hereof, a sidewalk easement for the public use, in perpetuity, in, on, over, under, and across the Easement Land.

1. Recitals Incorporated. The foregoing recitals are incorporated by reference and made a part of this grant of easement.

2. Grant of Easement. The Grantor hereby grants Grantee a perpetual, non-exclusive easement in, on, over, under, and across the Easement Land described in Exhibit "A" and "B" for a public sidewalk, in perpetuity. This grant of easement shall not be construed as a dedication to the public of the underlying fee simple ownership of the Easement Land.

3. Construction of Sidewalk Improvements. At Grantor's sole cost and expense, Grantor shall construct a sidewalk within the Easement Land pursuant to a site plan approved for Grantor's Land.

4. Maintenance of Sidewalk Improvements. At Grantee's sole cost and expense, Grantee shall maintain, replace, and repair the sidewalk as necessary.

5. Title Warranties. Grantor warrants that Grantor has good and indefeasible fee simple title to and possession of the Easement Land and that it has good and lawful right to grant this Easement.

6. Benefits and Burdens Runs with Land. All provisions of this Sidewalk Easement, including the benefits and burdens, run with the Easement Land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

7. Termination/Relocation. Should the Grantee cease using the Easement Land for a public sidewalk for a period of more than twelve (12) months, this easement shall automatically terminate. The Grantee, through its Planning and Development Department, in its reasonable discretion, may approve a request by Grantor to relocate this easement as described in Exhibit "A" and "B," to other lands owned by the Grantor.

8. Indemnification. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD GRANTOR HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITY, DAMAGE, LOSS, COST AND EXPENSE OF ANY KIND WHATSOEVER WHICH MAY ACCRUE TO OR BE SUSTAINED BY GRANTOR ARISING OUT OF THIS EASEMENT INCLUDING, WITHOUT LIMITATION, FOR THE DEATH OF OR INJURY TO PERSONS OR DESTRUCTION OF PROPERTY ARISING FROM ANY CAUSE WHATSOEVER, EXCEPT FOR SUCH INJURY, LOSS OR DAMAGE AS SHALL HAVE BEEN CAUSED BY THE WILLFUL OR INTENTIONAL ACT OF THE GRANTOR, ITS AGENTS, GUESTS, INVITEES, FAMILY MEMBERS OR EMPLOYEES. GRANTEE EXPRESSLY AGREES TO INDEMNIFY AND REIMBURSE GRANTOR FOR ANY LEGAL FEES AND EXPENSES INCURRED IN RESISTING OR DEFENDING AGAINST ANY CLAIMS, DEMANDS, ACTIONS OR PROCEEDINGS AND IN SEEKING TO ENFORCE, THROUGH LITIGATION, ARBITRATION, MEDIATION, OR OTHERWISE, GRANTOR'S INDEMNITY AND DEFENSE RIGHTS EXCEPT FOR SUCH INJURY, LOSS OR DAMAGE AS SHALL HAVE BEEN CAUSED BY THE WILLFUL OR INTENTIONAL ACT OF THE GRANTOR, ITS AGENTS, GUESTS, INVITEES, FAMILY MEMBERS OR EMPLOYEES.

Grantor: 
Serafin O. Rodriguez

Accepted by the City of Alvin

By: _____

Printed Name: _____

Title: _____

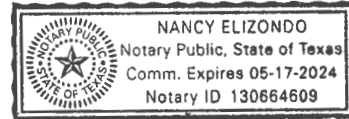
STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me on 10-20-2020, by Serafin O. Rodriguez.

Nancy Elizondo
Notary Public, State of Texas

My commission expires: 05-17-2024



STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me on _____, by
_____ as the _____ for the City of Alvin.

Notary Public, State of Texas

My commission expires: _____

AFTER RECORDING RETURN TO:

GORMLY SURVEYING, INC.
REGISTERED PROFESSIONAL LAND SURVEYORS
P. O. BOX 862, ALVIN, TEXAS, 77512-0862
PHONE 281-331-0883
FIRM# 10095700

METES AND BOUNDS

0.03 acres of land, being a 5 foot strip out of Lot "A", Replat of a portion of Easton's Addition, as recorded in Volume 19, Pages 451-452, Plat Records, Brazoria County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for the southwest corner of the herein described tract, in the northern right-of-way line of Sealy Street, also being the southeast corner of a 105' by 105' tract as described in File Number 94-023416, Official Records of Real Property, Brazoria County, Texas, and the southwest corner of said Lot A;

THENCE North 3 deg. 07 min. 09 sec. West, a distance of 5.00 feet to a point for corner, in the west line of Lot A;

THENCE North 86 deg. 43 min. 08 sec. East, a distance of 138.57 to a point for corner;

THENCE North 3 deg. 10 min. 27 sec. West, a distance of 104.90 feet to a point for corner, also being in the common line of Lot A and Lot B, Replat of a portion of Eastons Addition;

THENCE North 86 deg. 14 min. 43 sec. East, along the common line of Lots A and B, a distance of 5.00 feet to a 5/8 inch iron rod found for the northeast corner of the herein described tract, also being the southeast corner of Lot B, and the northeast corner of Lot A, in the west right-of-way line of Ninth Street;

THENCE South 3 deg. 10 min. 27 sec. East, along the west right-of-way of Ninth Street, a distance of 109.94 feet to a point for the intersection of Ninth Street and the north right-of-way of Sealy Street, being the southeast corner of the herein described tract;

THENCE South 86 deg. 43 min. 08 sec. West, along the north right-of-way line of Sealy street, a distance of 143.57 feet to the PLACE OF BEGINNING and containing 0.03 acres of land.

METES AND BOUNDS WRITTEN OCTOBER 14, 2020

By 
Chad A. Gormly
Registered Professional Land Surveyor No. 5796

EXHIBIT "A"

GORMLY SURVEYING, INC.
REGISTERED PROFESSIONAL LAND SURVEYORS
P. O. BOX 862, ALVIN, TEXAS, 77512-0862
PHONE 281-331-0883
FIRM# 10095700

METES AND BOUNDS

0.01 acres of land, being a 5 foot strip out of Lot "B", Replat of a portion of Easton's Addition, as recorded in Volume 19, Pages 451-452, Plat Records, Brazoria County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for the southeast corner of the herein described tract, in the west right-of-way line of Ninth Street, also being the northeast corner of Lot A, Replat of a portion of Easton's Addition;

THENCE South 86 deg. 14 min. 43 sec. West, along the common line of Lots B and A, a distance of 5.00 feet to a point for corner;

THENCE North 3 deg. 10 min. 27 sec. West, a distance of 27.34 feet to a point for angle;

THENCE North 6 deg. 22 min. 47 sec. West, a distance of 6.69 feet to a point for angle;

THENCE In a curve to the left having the following data: Length-25.95 feet, Radius-69.85 feet, Delta-21 deg. 17 min. 16 sec., Chord-North 4 deg. 27 min. 15 sec. West, 25.81 feet, to a point for angle;

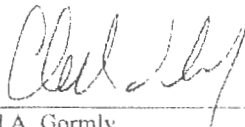
THENCE In a curve to the right having the following data: Length-4.01 feet, Radius-80.57 feet, Delta-2 deg. 50 min. 59 sec., Chord-North 10 deg. 33 min. 02 sec. East, 4.01 feet, to a point for angle;

THENCE North 3 deg. 10 min. 27 sec. West a distance of 26.33 feet to a point for corner, also being the northwest corner of the herein described tract, also in the southwest line of Lot C, as described in Document Number 2005050217, Official Records of Real Property, Brazoria County, Texas;

THENCE North 86 deg. 13 min. 22 sec. East, a distance of 5.00 feet to a 3/4 inch iron rod found for the northeast corner of the herein described tract, also being in the west right-of-way line of Ninth Street;

THENCE South 3 deg. 10 min. 27 sec. East, along the west right-of-way line of Ninth street, a distance of 90.04 feet to the PLACE OF BEGINNING and containing 0.01 acres of land.

METES AND BOUNDS WRITTEN OCTOBER 14, 2020

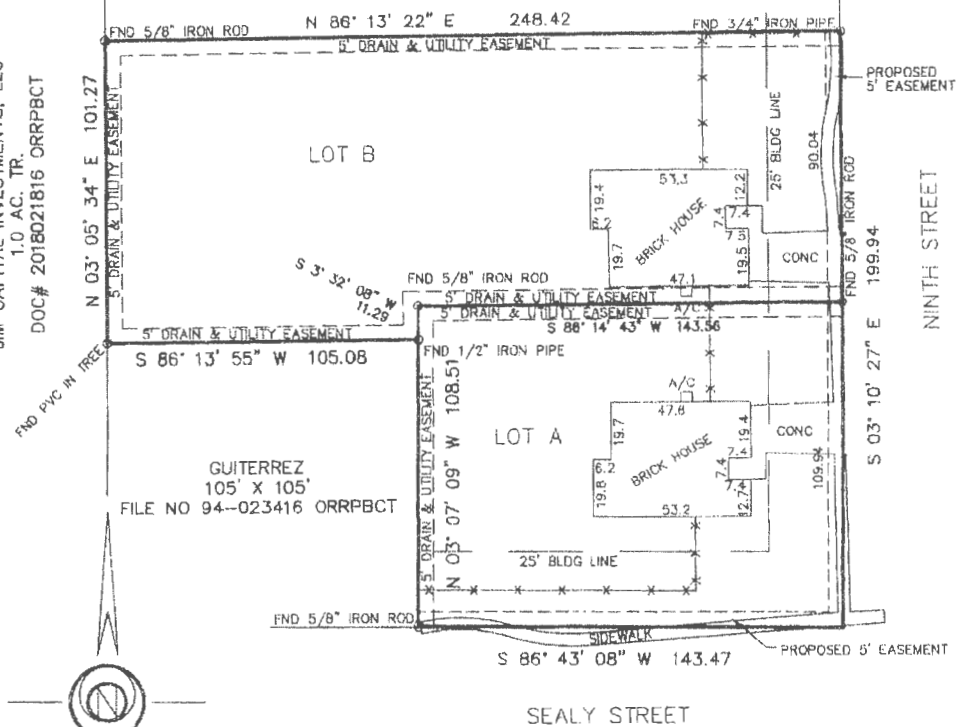
By: 
Chad A. Gormly
Registered Professional Land Surveyor No. 5796

*THIS DOCUMENT IS PART OF A PROFESSIONAL LAND SURVEYING REPORT
CONSISTING OF THIS METES AND BOUNDS DESCRIPTION AND A MAP.*

EXHIBIT "B"

JIM CAPITAL INVESTMENTS, LLC
1.0 AC. TR.
DOC# 2018021816 ORRPBCT

RAUL PEREZ
LOT C
DOC# 2005050217 ORRPBCT



SURVEY MAP SHOWING BOUNDARIES AND IMPROVEMENTS ON LOTS A AND B, REPLAT OF A PORTION OF EASTONS ADDITION, AS RECORDED IN VOLUME 19, PAGES 451-452, PLAT RECORDS, BRAZORIA COUNTY, TEXAS.

This survey was made on the ground on October 13, 2020, under my supervision and conforms to the Texas Professional Land Surveying Practices Act and the General Rules of Procedures and Practices of the Texas Board of Professional Engineers and Land Surveyors.

[Signature]

Chad A. Gormly, Registered Professional Land Surveyor No. 5796
Gormly Surveying, Inc. - FIRM#10095700
P. O. Box 862, Alvin, Texas 77512-0862 Phone (281) 331-0883

Source of bearing based upon the Texas Coordinate System of 1983 (South Central Zone) as computed from GPS Observations.

Chad A. Gormly has not performed an abstract of title on the above surveyed property.

This survey was performed without the benefit of a current title report or commitment, under the request and direction of Serafin Orduna.

Proposed sidewalk easement as shown to be dedicated by separate document.

SIDEWALK EASEMENT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THIS EASEMENT is made and executed by Serafin O. Rodriguez, whose mailing address is PO Box 5606, Alvin, Brazoria County, Texas 77512, (hereinafter referred to as the "Grantor") and the CITY OF ALVIN, a Texas municipal corporation, whose mailing address is 216 W. Sealy, Alvin, Texas 77511, (hereinafter referred to as the "Grantee").

(Wherever used herein, the terms, "Grantor" and "Grantee" shall include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations, partnerships (including joint ventures), public bodies and quasi-public bodies.)

WITNESSETH:

WHEREAS, the Grantor is the owner of property situate, lying and being in Brazoria County, Texas, and described as follows:

See Exhibit "A" and "B" ("Grantor's Land") with accompanying sketch of description attached hereto and made a part hereof; and,

WHEREAS, the Grantee desires a perpetual, non-exclusive easement for public use and other appropriate purposes incidental thereto, in, on, over, under, and across that portion of Grantor's Land; and

WHEREAS, the Grantor is willing to grant a sidewalk easement on a portion of Grantor's Land to the Grantee.

WHEREAS, the Grantor, at its expense, shall cause a sidewalk to be constructed on a portion of Grantor's Land, which portion is more particularly described in the attached Exhibit "A" and "B" ("Easement Land") with accompanying sketch of description attached hereto and made a part hereof; and

WHEREAS, Grantee, at its expense, shall be responsible for maintaining, replacing, and repairing the sidewalk.

NOW, THEREFORE, for and in consideration of mutual covenants each to the other running and Ten Dollars (\$10.00) and other good and valuable considerations, the Grantor does hereby grant unto the Grantee, its successors and assigns, subject to the terms hereof, a sidewalk easement for the public use, in perpetuity, in, on, over, under, and across the Easement Land.

1. Recitals Incorporated. The foregoing recitals are incorporated by reference and made a part of this grant of easement.

2. Grant of Easement. The Grantor hereby grants Grantee a perpetual, non-exclusive easement in, on, over, under, and across the Easement Land described in Exhibit "A" and "B" for a public sidewalk, in perpetuity. This grant of easement shall not be construed as a dedication to the public of the underlying fee simple ownership of the Easement Land.

3. Construction of Sidewalk Improvements. At Grantor's sole cost and expense, Grantor shall construct a sidewalk within the Easement Land pursuant to a site plan approved for Grantor's Land.

4. Maintenance of Sidewalk Improvements. At Grantee's sole cost and expense, Grantee shall maintain, replace, and repair the sidewalk as necessary.

5. Title Warranties. Grantor warrants that Grantor has good and indefeasible fee simple title to and possession of the Easement Land and that it has good and lawful right to grant this Easement.

6. Benefits and Burdens Runs with Land. All provisions of this Sidewalk Easement, including the benefits and burdens, run with the Easement Land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

7. Termination/Relocation. Should the Grantee cease using the Easement Land for a public sidewalk for a period of more than twelve (12) months, this easement shall automatically terminate. The Grantee, through its Planning and Development Department, in its reasonable discretion, may approve a request by Grantor to relocate this easement as described in Exhibit "A" and "B," to other lands owned by the Grantor.

8. Indemnification. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD GRANTOR HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITY, DAMAGE, LOSS, COST AND EXPENSE OF ANY KIND WHATSOEVER WHICH MAY ACCRUE TO OR BE SUSTAINED BY GRANTOR ARISING OUT OF THIS EASEMENT INCLUDING, WITHOUT LIMITATION, FOR THE DEATH OF OR INJURY TO PERSONS OR DESTRUCTION OF PROPERTY ARISING FROM ANY CAUSE WHATSOEVER, EXCEPT FOR SUCH INJURY, LOSS OR DAMAGE AS SHALL HAVE BEEN CAUSED BY THE WILLFUL OR INTENTIONAL ACT OF THE GRANTOR, ITS AGENTS, GUESTS, INVITEES, FAMILY MEMBERS OR EMPLOYEES. GRANTEE EXPRESSLY AGREES TO INDEMNIFY AND REIMBURSE GRANTOR FOR ANY LEGAL FEES AND EXPENSES INCURRED IN RESISTING OR DEFENDING AGAINST ANY CLAIMS, DEMANDS, ACTIONS OR PROCEEDINGS AND IN SEEKING TO ENFORCE, THROUGH LITIGATION, ARBITRATION, MEDIATION, OR OTHERWISE, GRANTOR'S INDEMNITY AND DEFENSE RIGHTS EXCEPT FOR SUCH INJURY, LOSS OR DAMAGE AS SHALL HAVE BEEN CAUSED BY THE WILLFUL OR INTENTIONAL ACT OF THE GRANTOR, ITS AGENTS, GUESTS, INVITEES, FAMILY MEMBERS OR EMPLOYEES.

Grantor: 
Serafin O. Rodriguez

Accepted by the City of Alvin

By: _____

Printed Name: _____

Title: _____

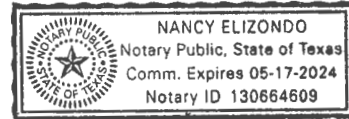
STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me on 10-20-2020, by Serafin O. Rodriguez.

Nancy Elizondo
Notary Public, State of Texas

My commission expires: 05-17-2024



STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me on _____, by
_____ as the _____ for the City of Alvin.

Notary Public, State of Texas

My commission expires: _____

AFTER RECORDING RETURN TO:

GORMLY SURVEYING, INC.
REGISTERED PROFESSIONAL LAND SURVEYORS
P. O. BOX 862, ALVIN, TEXAS, 77512-0862
PHONE 281-331-0883
FIRM# 10095700

METES AND BOUNDS

0.03 acres of land, being a 5 foot strip out of Lot "A", Replat of a portion of Easton's Addition, as recorded in Volume 19, Pages 451-452, Plat Records, Brazoria County, Texas, and being more particularly described as follows:

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THENCE North 3 deg. 07 min. 09 sec. West, a distance of 5.00 feet to a point for corner, in the west line of Lot A;

THENCE North 86 deg. 43 min. 08 sec. East, a distance of 138.57 to a point for corner;

THENCE North 3 deg. 10 min. 27 sec. West, a distance of 104.90 feet to a point for corner, also being in the common line of Lot A and Lot B, Replat of a portion of Eastons Addition;

THENCE North 86 deg. 14 min. 43 sec. East, along the common line of Lots A and B, a distance of 5.00 feet to a 5/8 inch iron rod found for the northeast corner of the herein described tract, also being the southeast corner of Lot B, and the northeast corner of Lot A, in the west right-of-way line of Ninth Street;

THENCE South 3 deg. 10 min. 27 sec. East, along the west right-of-way of Ninth Street, a distance of 109.94 feet to a point for the intersection of Ninth Street and the north right-of-way of Sealy Street, being the southeast corner of the herein described tract;

THENCE South 86 deg. 43 min. 08 sec. West, along the north right-of-way line of Sealy street, a distance of 143.57 feet to the PLACE OF BEGINNING and containing 0.03 acres of land.

METES AND BOUNDS WRITTEN OCTOBER 14, 2020

By



Chad A. Gormly

Registered Professional Land Surveyor No. 5796

EXHIBIT "A"

GORMLY SURVEYING, INC.
REGISTERED PROFESSIONAL LAND SURVEYORS
P. O. BOX 862, ALVIN, TEXAS, 77512-0862
PHONE 281-331-0883
FIRM# 10095700

METES AND BOUNDS

0.01 acres of land, being a 5 foot strip out of Lot "B", Replat of a portion of Easton's Addition, as recorded in Volume 19, Pages 451-452, Plat Records, Brazoria County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for the southeast corner of the herein described tract, in the west right-of-way line of Ninth Street, also being the northeast corner of Lot A, Replat of a portion of Easton's Addition;

THENCE South 86 deg. 14 min. 43 sec. West, along the common line of Lots B and A, a distance of 5.00 feet to a point for corner;

THENCE North 3 deg. 10 min. 27 sec. West, a distance of 27.34 feet to a point for angle;

THENCE North 6 deg. 22 min. 47 sec. West, a distance of 6.69 feet to a point for angle;

THENCE In a curve to the left having the following data: Length-25.95 feet, Radius-69.85 feet, Delta-21 deg. 17 min. 16 sec., Chord-North 4 deg. 27 min. 15 sec. West, 25.81 feet, to a point for angle;

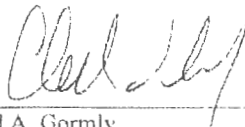
THENCE In a curve to the right having the following data: Length-4.01 feet, Radius-80.57 feet, Delta-2 deg. 50 min. 59 sec., Chord-North 10 deg. 33 min. 02 sec. East, 4.01 feet, to a point for angle;

THENCE North 3 deg. 10 min. 27 sec. West a distance of 26.33 feet to a point for corner, also being the northwest corner of the herein described tract, also in the southwest line of Lot C, as described in Document Number 2005050217, Official Records of Real Property, Brazoria County, Texas;

THENCE North 86 deg. 13 min. 22 sec. East, a distance of 5.00 feet to a 3/4 inch iron rod found for the northeast corner of the herein described tract, also being in the west right-of-way line of Ninth Street;

THENCE South 3 deg. 10 min. 27 sec. East, along the west right-of-way line of Ninth street, a distance of 90.04 feet to the PLACE OF BEGINNING and containing 0.01 acres of land.

METES AND BOUNDS WRITTEN OCTOBER 14, 2020

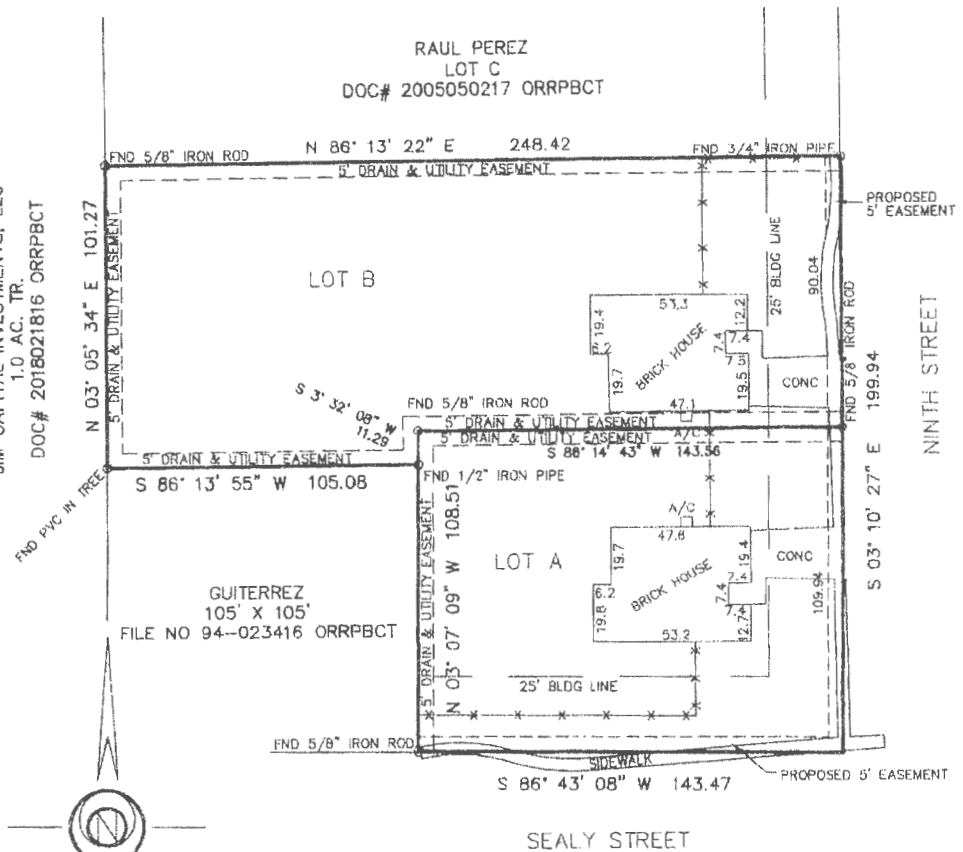
By: 
Chad A. Gormly
Registered Professional Land Surveyor No. 5796

*THIS DOCUMENT IS PART OF A PROFESSIONAL LAND SURVEYING REPORT
CONSISTING OF THIS METES AND BOUNDS DESCRIPTION AND A MAP.*

EXHIBIT "B"

JIM CAPITAL INVESTMENTS, LLC
1.0 AC. TR.
DOC# 2018021816 ORRPBCT

RAUL PEREZ
LOT C
DOC# 2005050217 ORRPBCT



SURVEY MAP SHOWING BOUNDARIES AND IMPROVEMENTS ON LOTS A AND B, REPLAT OF A PORTION OF EASTONS ADDITION, AS RECORDED IN VOLUME 19, PAGES 451-452, PLAT RECORDS, BRAZORIA COUNTY, TEXAS.

This survey was made on the ground on October 13, 2020, under my supervision and conforms to the Texas Professional Land Surveying Practices Act and the General Rules of Procedures and Practices of the Texas Board of Professional Engineers and Land Surveyors.

[Signature]

Chad A. Gormly, Registered Professional Land Surveyor No. 5796
Gormly Surveying, Inc. - FIRM#10095700
P. O. Box 862, Alvin, Texas 77512-0862 Phone (281) 331-0883

Source of bearing based upon the Texas Coordinate System of 1983 (South Central Zone) as computed from GPS Observations.

Chad A. Gormly has not performed an abstract of title on the above surveyed property.

This survey was performed without the benefit of a current title report or commitment, under the request and direction of Serafin Orduna.

Proposed sidewalk easement as shown to be dedicated by separate document.



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: Engineering

Contact: Michelle Segovia, City Engineer

Agenda Item: Consider a final plat of M.D. Davenport Subdivision (located near the northwest corner of the intersection of County Road 47 and County Road 33), being a subdivision plat of a 148.05 acre tract out of a called 150 acre tract out of the T.H. Lostak 560.776 acre tract out of the Skrabanek 991.07 acre tract in the Day Land and Cattle Company Survey, Abstract 604, Brazoria County, Texas, said 991.07 acre tract being described in a deed recorded in volume 208, page 40 of the deed records of Brazoria County, Texas.

Type of Item: ☐Ordinance ☐Resolution ☐Contract/Agreement ☐Public Hearing ☒Plat ☐Discussion & Direction ☐Other

Summary: On October 1, 2020, the Engineering Department received the final plat of M.D. Davenport Subdivision for review. The property is located near the northwest corner of the intersection of County Road 47 and County Road 33 and is being platted for conveyance of lot 2. The plat consists of 2 lots and complies with all requirements of the City's Subdivision Ordinance.

The City Planning Commission unanimously approved the plat at their meeting on October 20, 2020. Staff recommends approval.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☒ Required ☐ **Date Completed:** 10/30/2020 SLH

Supporting documents attached:

- Final Plat of M.D. Davenport Subdivision

Recommendation: Move to approve the final plat of M.D. Davenport Subdivision (located near the northwest corner of the intersection of County Road 47 and County Road 33), being a subdivision plat of a 148.05 acre tract out of a called 150 acre tract out of the T.H. Lostak 560.776 acre tract out of the Skrabanek 991.07 acre tract in the Day Land and Cattle Company Survey, Abstract 604, Brazoria County, Texas, said 991.07 acre tract being described in a deed recorded in volume 208, page 40 of the deed records of Brazoria County, Texas.

Reviewed by Department Head, if applicable ☒
Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☐
Reviewed by City Manager ☒

MATCH LINE

CITY OF ALVIN APPROVAL:
APPROVED BY CITY OF ALVIN, BRAZORIA COUNTY, TEXAS,
ON THIS THE _____ DAY OF _____, 20 ____.

PAUL HORN - MAYOR

DIXIE ROBERTS - CITY SECRETARY

MICHELLE SEGOVIA - CITY ENGINEER

- NOTES:
- ALL SET 1/2" IRON RODS HAVE CAP STAMPED STROUD, R.P.L.S 2112.
 - THIS PROPERTY APPEARS TO BE LOCATED IN ZONE "X" AND IS NOT IN THE 100 YEAR FLOOD PLAIN, ACCORDING TO THE FLOOD HAZARD MAP, IN BRAZORIA COUNTY, TEXAS. COMMUNITY# 485458
PANEL# 0290
SUFFIX: H
DATE: 6-5-89
ZONE: "X"
 - RIGHT-OF-WAY SHOWN ARE DEDICATED TO THE PUBLIC BY THIS PLAT.
 - THERE ARE NO LIENHOLDERS FOR THE 3.00 ACRES AND THE 145.05 ACRES.
 - R.O.W. = RIGHT OF WAY

I, RANDY L. STROUD, REGISTERED PROFESSIONAL LAND SURVEYOR, ANGLETON, TEXAS, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON IS A REPRESENTATION OF A FIELD SURVEY MADE UNDER MY SUPERVISION ON THE GROUND IN APRIL, 2020 AND THAT ALL CORNERS SHOWN WERE EITHER FOUND OR ESTABLISHED BY ME.

CERTIFIED: *Randy L. Stroud* 10-08-20
RANDY L. STROUD, REGISTERED PROFESSIONAL LAND SURVEYOR
LICENSE #2112



**FINAL PLAT OF
M.D. DAVENPORT SUBDIVISION
2 LOTS - 148.05 ACRES**

A SUBDIVISION PLAT OF A 148.05 ACRE TRACT OUT OF A CALLED 150 ACRE TRACT OUT OF THE T.H. LOSTAK 560.776 ACRE TRACT OUT OF THE SKRABANEK 991.07 ACRE TRACT IN THE DAY LAND AND CATTLE COMPANY SURVEY, ABSTRACT 604, BRAZORIA COUNTY, TEXAS, SAID 991.07 ACRE TRACT BEING DESCRIBED IN A DEED RECORDED IN VOLUME 208, PAGE 40 OF THE DEED RECORDS OF BRAZORIA COUNTY, TEXAS.

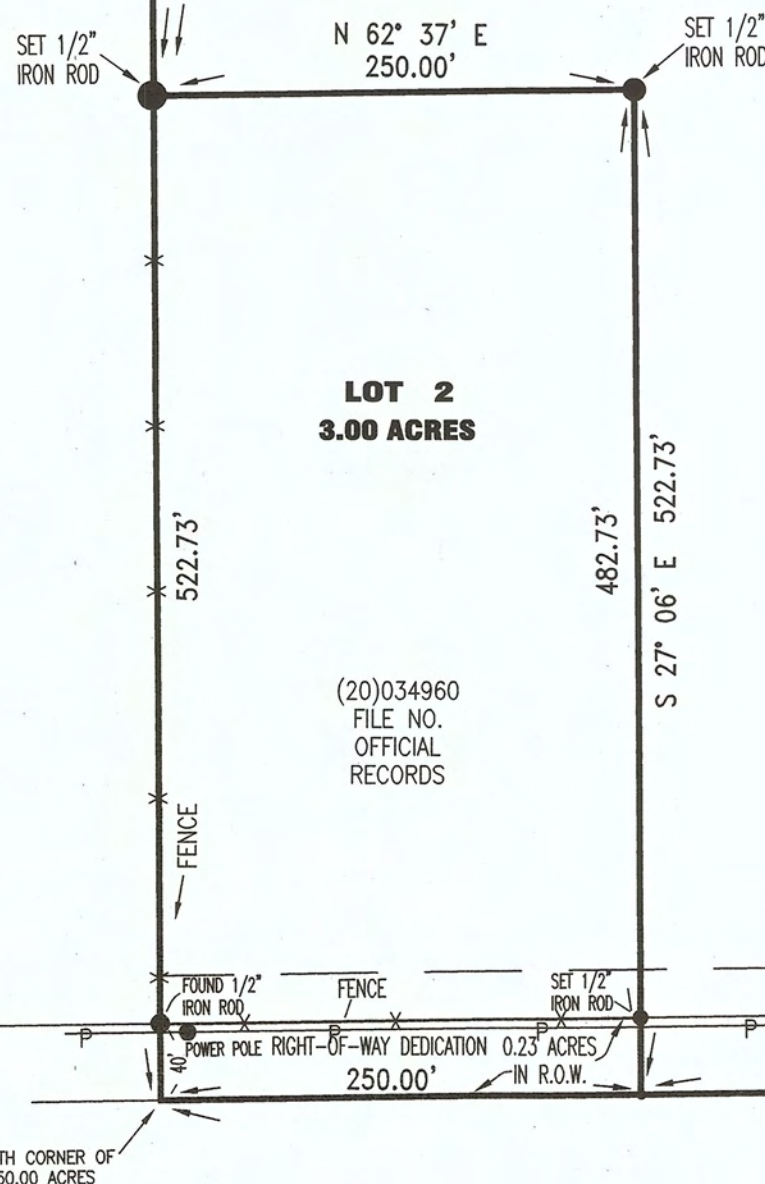
SCALE: 1" = 100' 10-8-20

FROM THE OFFICE OF:
RANDY L. STROUD, P.E.
FIRM NO. 10020500
201 SOUTH VELASCO
ANGLETON, TEXAS 77515
979-849-3141

T. L. L O S T A K 560.776 ACRES

LOT 1
148.05 ACRES (TOTAL)
145.05 ACRES

MIKE DAVENPORT
(14)011825 FILE NO.
OFFICIAL RECORDS

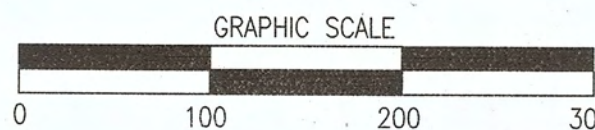


ABSTRACT 604

Q COUNTY ROAD 47
(80' RIGHT-OF-WAY)

ABSTRACT 14

S 62° 37' W 2109.53'
REFERENCE BEARING



FIELD NOTES OF A 148.05 ACRE TRACT OUT OF A CALLED 150 ACRE TRACT OUT OF THE T.H. LOSTAK 560.776 ACRE TRACT OUT OF THE SKRABANEK 991.07 ACRE TRACT IN THE DAY LAND AND CATTLE COMPANY SURVEY, ABSTRACT 604, BRAZORIA COUNTY, TEXAS; SAID 991.07 ACRE TRACT BEING DESCRIBED IN A DEED RECORDED IN VOLUME 208, PAGE 40 OF THE DEED RECORDS OF BRAZORIA COUNTY, TEXAS, AND SAID 148.05 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1" galvanized iron pipe found in County Road 33; said pipe bears North 62° 37' East 36.7 feet from the North corner of the Henry Austin Survey, Abstract 14, Brazoria County, Texas, and the East corner of the Day Land and Cattle Company Survey, Abstract 604, Brazoria County, Texas;

THENCE; South 62° 37' West, 36.7 feet to a point for the place of beginning of the herein described tract;

THENCE; South 62° 37' West (Reference Bearing) 2109.53 feet, along the Southeast line of the Day Land and Cattle Company Survey, Abstract 604 and the Northwest line of the Henry Austin Survey, Abstract 14, generally following the centerline of the pavement of County Road 47, for a distance of 2109.53 feet to a point for corner at the South corner of said called 150 acre tract;

THENCE; North 27° 06' West, along the Southwest line of said called 150 acre tract, at 40.00 feet pass 1/2" iron rod found in the Northwest right-of-way line of County Road 47, at 3590.55 feet pass a 1/2" iron rod set on line on the bank of a ditch, and continue to a total distance of 3626.47 feet to a point for corner in the center of said drainage ditch;

THENCE; North 6° 57' 22" East 768.82 feet, along the centerline of said drainage ditch, also being an easterly line of a 224.83 acre tract described in a deed recorded in File 1997-005995 of the Official Records of Brazoria County, Texas, to a point for corner at an angle point in the Easterly line of said 224.83 acre tract;

THENCE; North 66° 05' 17" East, along the Easterly line of said 224.83 acre tract, at 22.84 feet pass a 1" iron pipe set on the bank of said ditch, and continue to a total distance of 527.00 feet to a 1/2" iron rod set for corner in a Southwest line of a 435.56 acre tract described in a deed recorded in File 2012-058863 of the Official Records of Brazoria County, Texas;

THENCE; South 27° 06' East 1964.9 feet, along the Southwest line of said 435.56 acre tract, to a concrete monument found for the Westerly Southwest corner of said 435.56 acre tract;

THENCE; North 63° 12' 27" East, along a Southeast line of said 435.56 acre tract, at 1112.65 feet pass a 1/2" iron rod set in the Southwest right-of-way line of County Road 33, and continue to a total distance of 1153.45 feet to a point for corner in County Road 33;

THENCE; South 27° 06' East, 1257.60 feet, generally following the centerline of County Road 33, to a point for corner at the North corner of a 2.00 acre tract out of said called 150 acre tract;

THENCE; South 62° 55' 29" West, along the Northwest line of said 2.00 acre tract, at 36.52 feet pass a 1/2" iron rod found in the Southwest right-of-way line of County Road 33, and continue to a total distance of 417.37 feet to a 1/2" iron rod found for corner of said 2.00 acre tract;

THENCE; South 27° 04' 10" East 208.64 feet, along the Southwest line of said 2.00 acre tract, to a 1/2" iron rod found for corner at the South corner of said 2.00 acre tract;

THENCE; North 62° 55' 54" East, along the Southeast line of said 2.00 acre tract, at 380.80 feet pass a 1/2" iron rod found in the Southwest right-of-way line of County Road 33, and continue to a total distance of 417.42 feet to a point for corner near the centerline of County Road 33;

THENCE; South 27° 06' East, 786.31 feet, generally following the centerline of County Road 33, to the place of beginning.

Said tract therein containing 148.05 acres of land.

I, MICHAEL DEAN DAVENPORT, OWNER OF LOT 1 OUT OF THE 148.05 ACRE TRACT OUT OF A CALLED 150 ACRE TRACT OUT OF THE T.H. LOSTAK 560.776 ACRE TRACT OUT OF THE SKRABANEK 991.07 ACRE TRACT IN THE DAY LAND AND CATTLE COMPANY SURVEY, ABSTRACT 604, BRAZORIA COUNTY, TEXAS, DO HEREBY MAKE RESUBDIVISION OF SAID PROPERTY ACCORDING TO THE LINES, LOTS AND EASEMENTS AND DESIGNATE SAID SUBDIVISION AS M.D. DAVENPORT SUBDIVISION, AND DO HEREBY DEDICATE TO THE PUBLIC FOR USE THE EASEMENTS SHOWN HEREON FOREVER, AND DO HEREBY AND BIND MYSELF, MY SUCCESSORS AND ASSIGNEES TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED. WITNESS MY HAND IN Angleton, BRAZORIA COUNTY, TEXAS, THIS 9th DAY OF October, 2010.

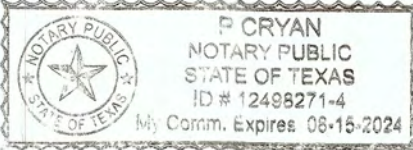
Michael Dean Davenport
MICHAEL DEAN DAVENPORT

STATE OF TEXAS
COUNTY OF BRAZORIA

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MICHAEL DEAN DAVENPORT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME, FOR THE PURPOSE AND CONSIDERATIONS THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 9 DAY OF October, 2010.
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS.

MY COMMISSION EXPIRES 15 Aug, 2010.



WE, OTTIS CAMPBELL AND PATRICIA, OWNERS OF THE 3.00 ACRE TRACT KNOWN AS LOT 2, OUT OF A 148.05 ACRE TRACT OUT OF A CALLED 150 ACRE TRACT OUT OF THE T.H. LOSTAK 560.776 ACRE TRACT OUT OF THE SKRABANEK 991.07 ACRE TRACT IN THE DAY LAND AND CATTLE COMPANY SURVEY, ABSTRACT 604, BRAZORIA COUNTY, TEXAS, DO HEREBY MAKE RESUBDIVISION OF SAID PROPERTY ACCORDING TO THE LINES, LOTS AND EASEMENTS AND DESIGNATE SAID SUBDIVISION AS M.D. DAVENPORT SUBDIVISION, AND DO HEREBY DEDICATE TO THE PUBLIC FOR USE THE EASEMENTS SHOWN HEREON FOREVER, AND DO HEREBY AND BIND MYSELF, MY SUCCESSORS AND ASSIGNEES TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED. WITNESS MY HAND IN Angleton, BRAZORIA COUNTY, TEXAS, THIS 9th DAY OF October, 2010.

Ottis Campbell
OTTIS CAMPBELL

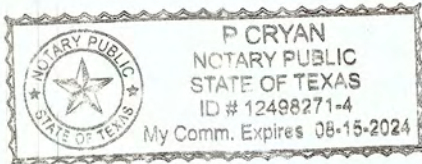
Patricia Campbell
PATRICIA CAMPBELL

STATE OF TEXAS
COUNTY OF BRAZORIA

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED OTTIS CAMPBELL, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME, FOR THE PURPOSE AND CONSIDERATIONS THEREIN STATED.

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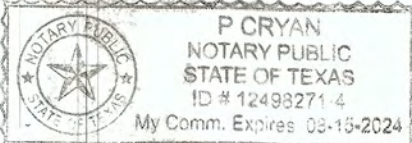


STATE OF TEXAS
COUNTY OF BRAZORIA

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED PATRICIA CAMPBELL, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME, FOR THE PURPOSE AND CONSIDERATIONS THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 9 DAY OF October, 2010.
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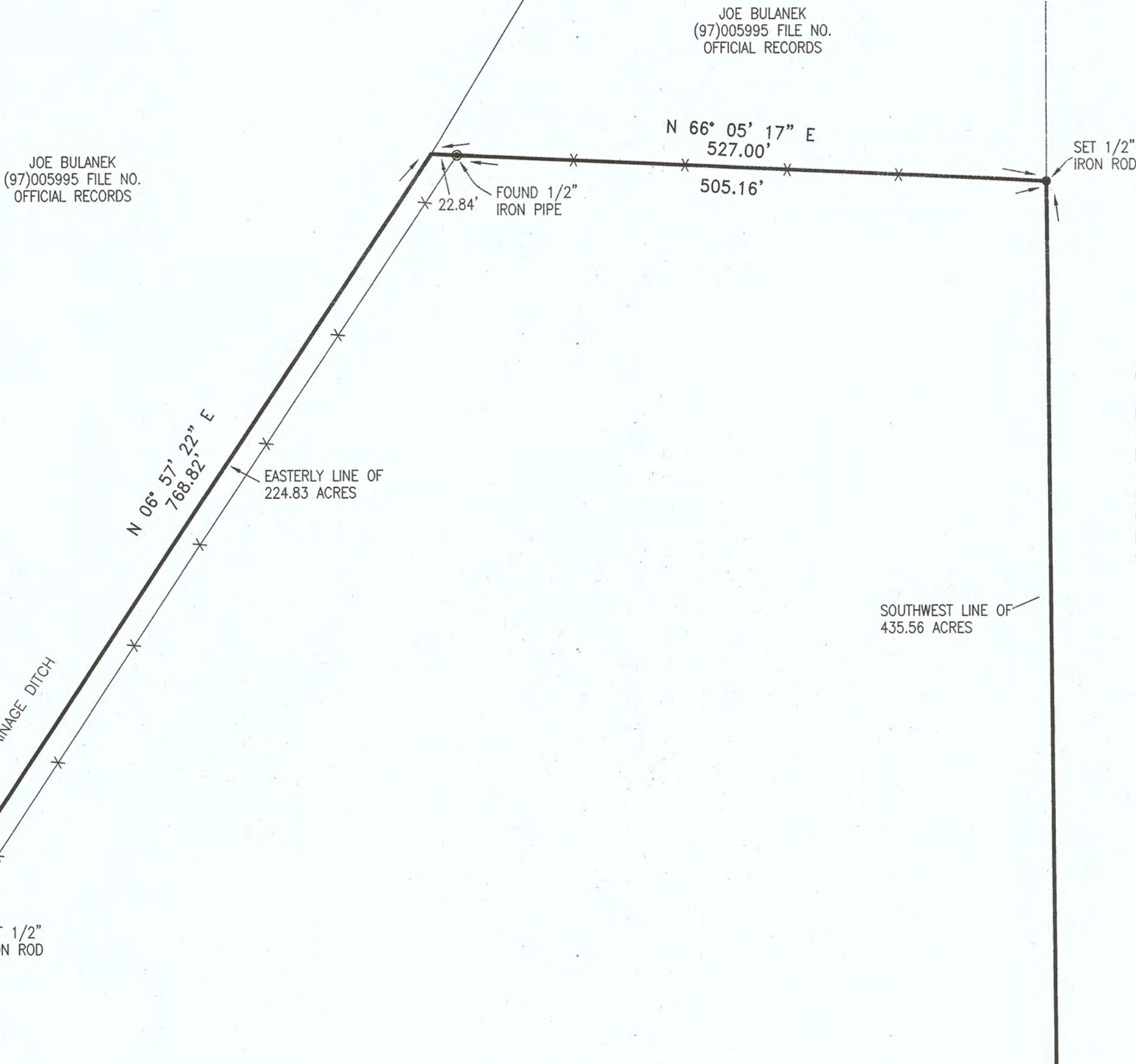


**FINAL PLAT OF
M.D. DAVENPORT SUBDIVISION
2 LOTS - 148.05 ACRES**

A SUBDIVISION PLAT OF A 148.05 ACRE TRACT OUT OF A CALLED 150 ACRE TRACT OUT OF THE T.H. LOSTAK 560.776 ACRE TRACT OUT OF THE SKRABANEK 991.07 ACRE TRACT IN THE DAY LAND AND CATTLE COMPANY SURVEY, ABSTRACT 604, BRAZORIA COUNTY, TEXAS, SAID 991.07 ACRE TRACT BEING DESCRIBED IN A DEED RECORDED IN VOLUME 208, PAGE 40 OF THE DEED RECORDS OF BRAZORIA COUNTY, TEXAS.

FROM THE OFFICE OF:
RANDY L. STROUD, P.E.
FIRM NO. 10020500
201 SOUTH VELASCO
ANGLETON, TEXAS 77515
979-849-3141

SCALE: 1" = 100' 10-8-20



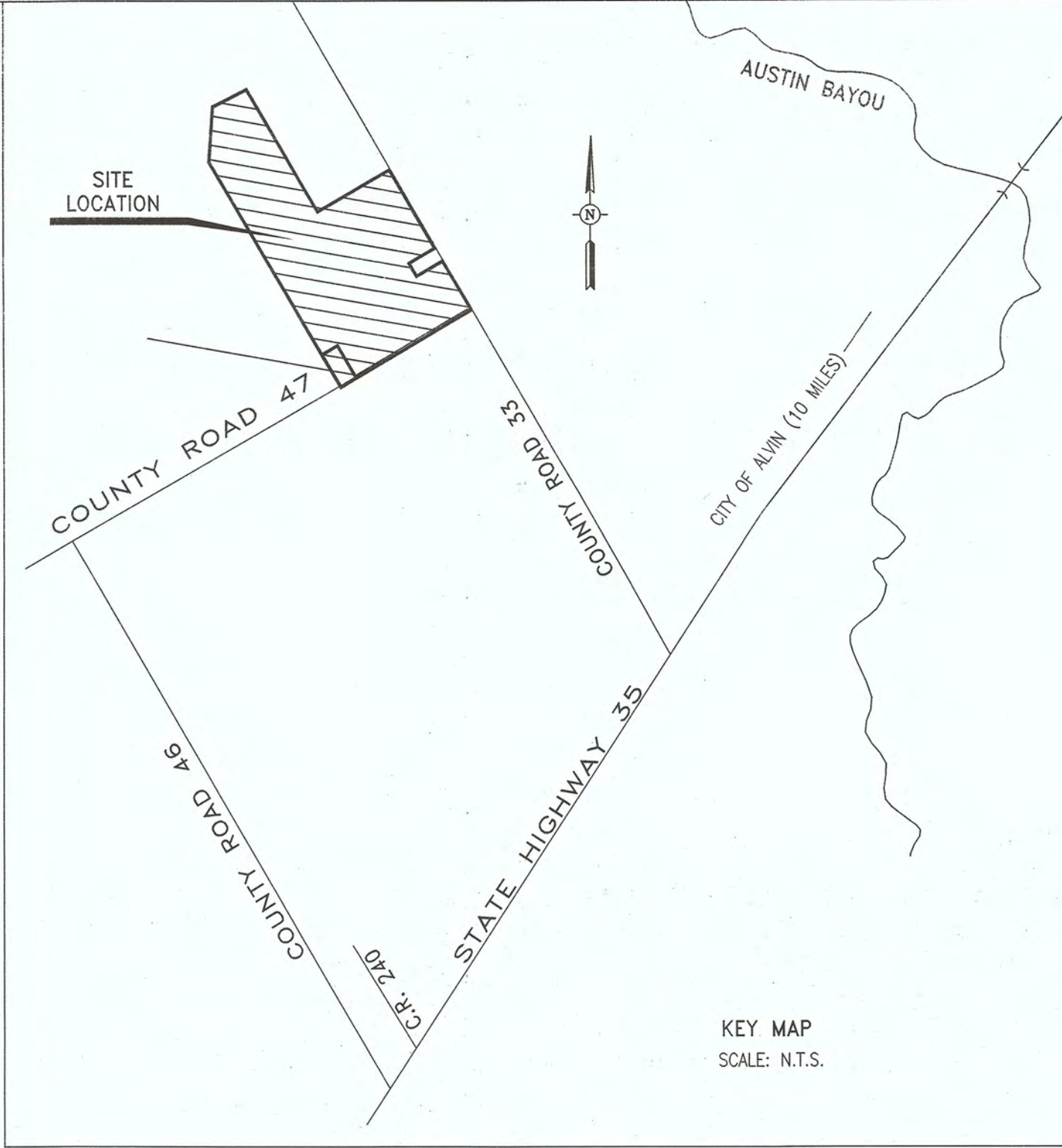
OWNERS:

MICHAEL DAVENPORT
1615 COUNTY ROAD 47
DANBURY, TEXAS 77534

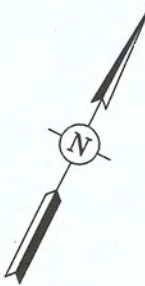
OTTIS AND PATRICIA CAMPBELL
COUNTY ROAD 47
DANBURY, TEXAS 77534
979-884-7544

SURVEYOR:

RANDY L. STROUD, P.E.
201 SOUTH VELASCO
ANGLETON, TEXAS 77515
979-849-3141



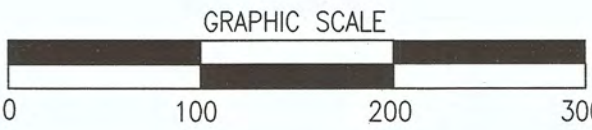
KEY MAP
SCALE: N.T.S.



LOT 1
148.05 ACRES (TOTAL)
145.05 ACRES

MIKE DAVENPORT
(14)011825 FILE NO.
OFFICIAL RECORDS

2012-058863 FILE NO.
OFFICIAL RECORDS



N 63° 12' 27" E 1153.45'

1112.65'

SET 1/2" IRON ROD

25' BUILDING LINE

FOUND
CONCRETE
MONUMENT
WESTERLY
SOUTHWEST
CORNER OF
435.56 ACRES

MATCH LINE

4T 27,263 45-2(M-469)

PAGE 2 OF 2



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: Finance

Contact: Michael Higgins, Dir. of Admin Services

Agenda Item: Receive and acknowledge receipt of the Financial Report for September 30, 2020.

Type of Item: ☐Ordinance ☐Resolution ☐Contract/Agreement ☐Public Hearing ☐Plat ☐Discussion & Direction ☒Other

Summary: The City Charter requires the Chief Financial Officer to report on the financial condition of the City. Included in the September 30, 2020 report are the following:

General Fund Summaries

Sales Tax Revenues

Utility Fund Revenue & Expense Comparison

Sanitation Fund Revenue & Expense Comparison

EMS Fund Revenue & Expense Comparison

Operating Revenues & Expenditures - Budget vs. Actual (General, Utility, Sanitation, EMS)

Cash & Investment Summary

Major Funds Recap - General, Hotel, Utility, Sanitation, EMS, Sales Tax, Fleet)

(Please note that these reports are unaudited for the FYE 9/30/20).

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☒ Required ☐ **Date Completed:** 10/30/2020 SLH

Supporting documents attached:

- Financial Reports – September 30, 2020
-

Recommendation: Move to acknowledge receipt of the September 30, 2020 financial report.

Reviewed by Department Head, if applicable ☐

Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☒

Reviewed by City Manager ☒

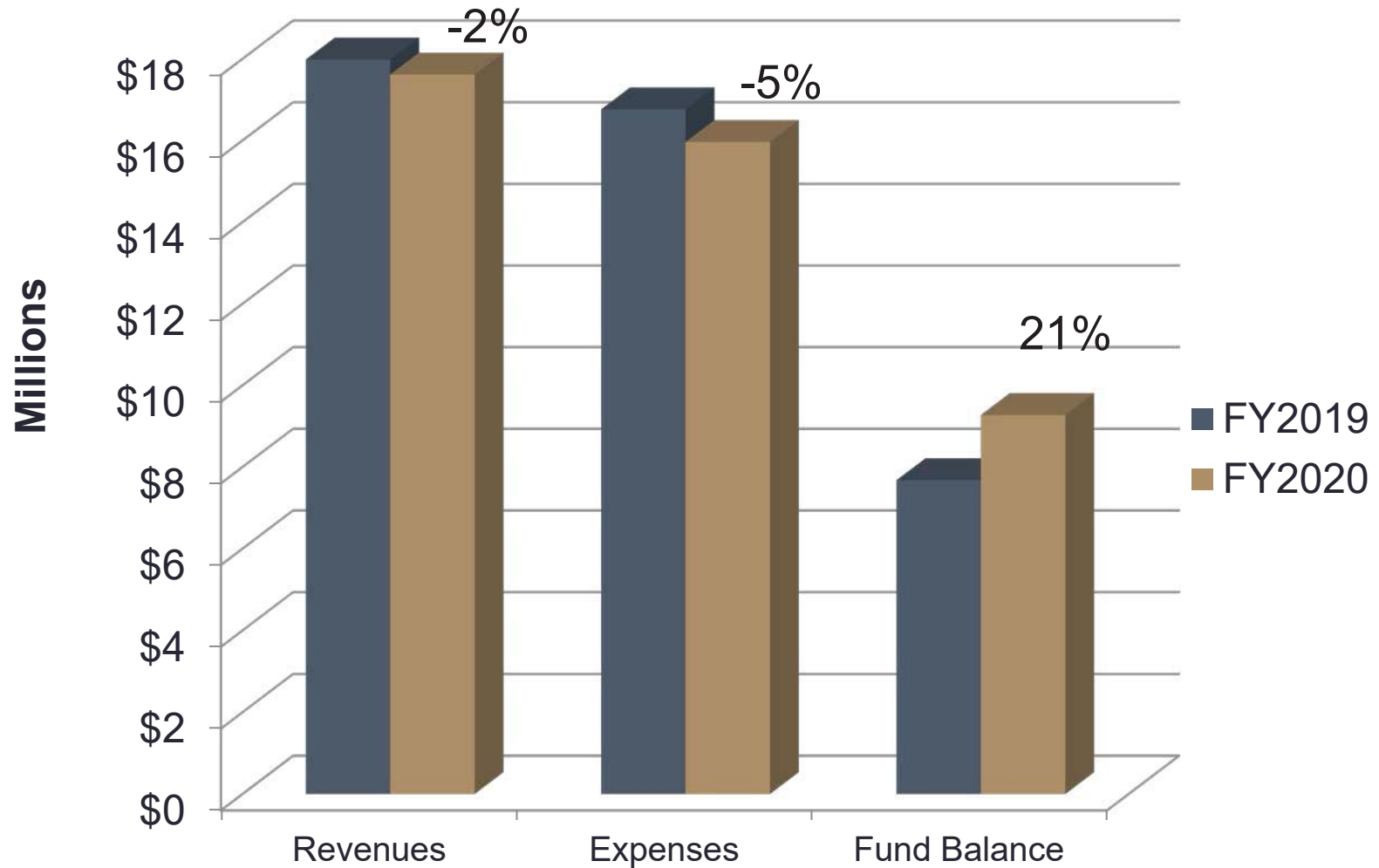
City of Alvin

Monthly Financial Summary Report For the month ended September 30, 2020

	<u>Page</u>
General Fund Summaries	2-5
Sales Tax Revenues	6-7
Utility Fund Revenue & Expense Comparison	8-14
Sanitation Fund Revenue & Expense Comparison	15-16
EMS Fund Revenue & Expense Comparison	17-18
Operating Revenues & Expenditures	
- Budget vs. Actual (General, Utility, Sanitation, EMS)	19-22
Cash & Investment Summary	23-24
Major Funds Recap	
- General, Hotel, Utility, Sanitation, EMS, Sales Tax, Fleet)	25-32

General Fund Summary

Revenue, Expense & Fund Balance Comparison

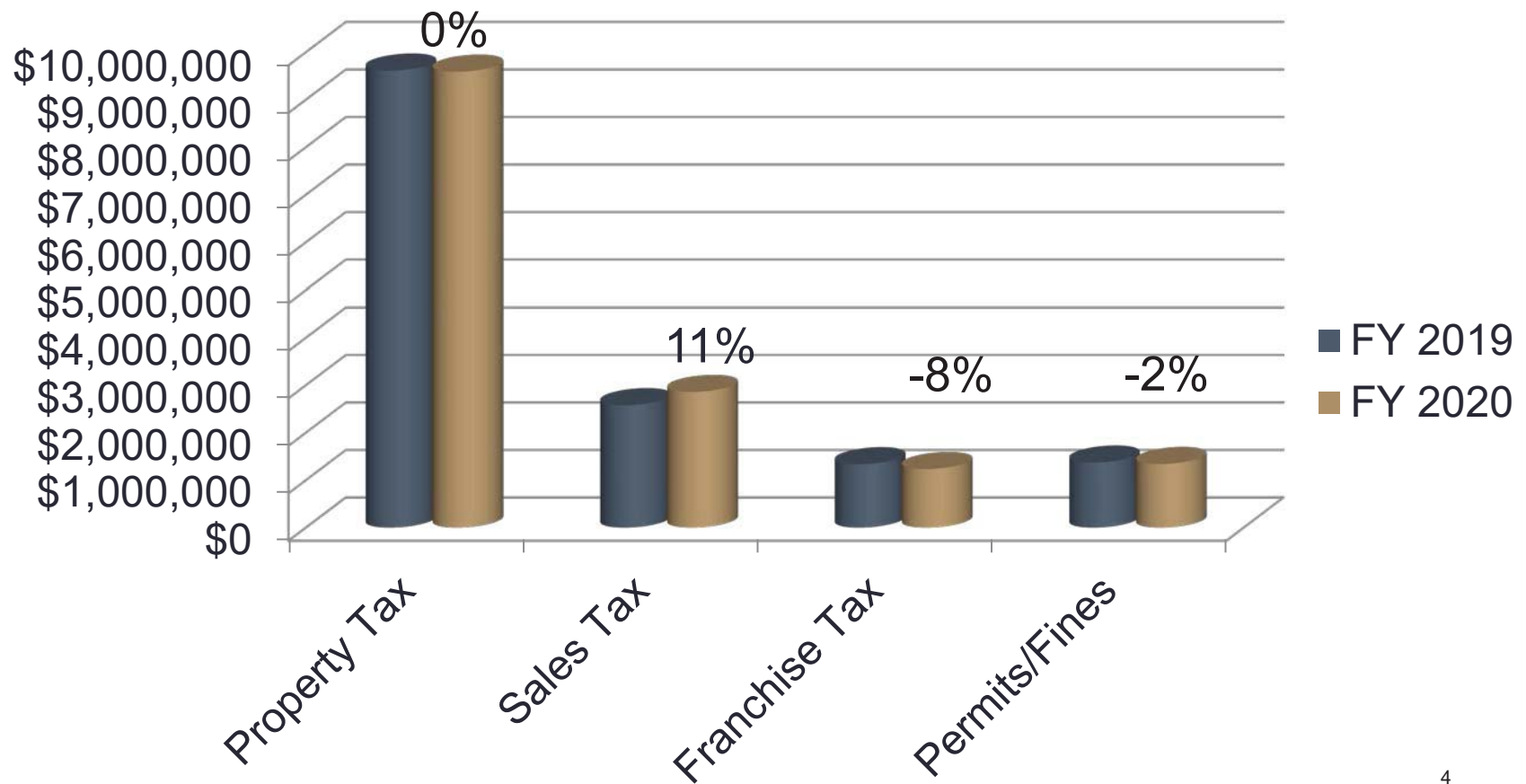


General Fund Summary

Revenue, Expense & Fund Balance Comparison

- General Fund revenues Oct-Sept 2020 are approximately \$17.6 million; which is 2% less than the previous year through September 2020.
- General Fund expenditures year to date (YTD) total approximately \$15.9 million, or 5% less than the previous year.
- Ending Fund Balance is approximately \$9m, a 21% increase over the prior year total

General Fund Major Revenue Comparison as of September 2020



General Fund

Major Revenue Comparison as of September 2020

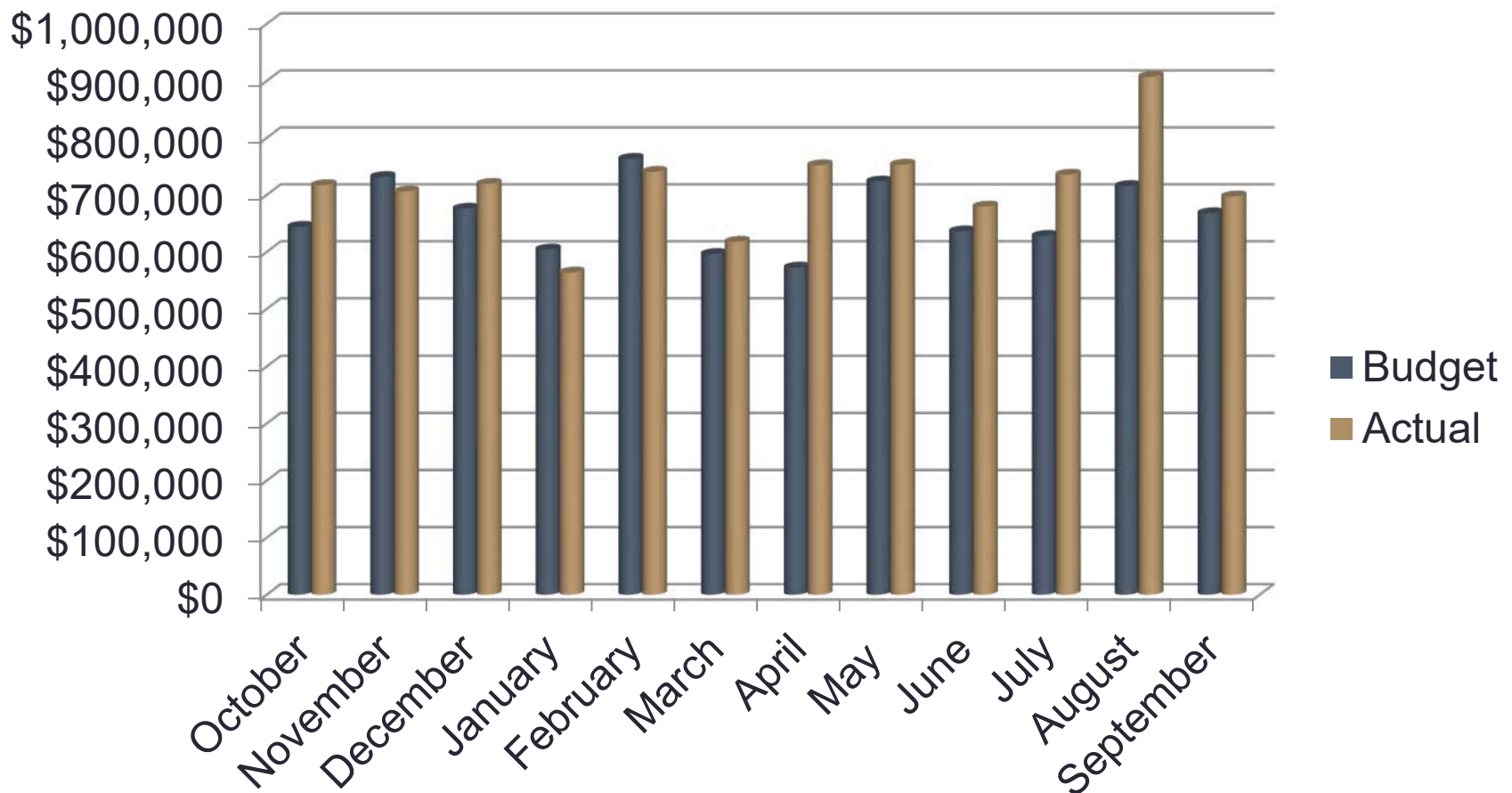
The City's five major revenue sources include: property tax, sales tax, franchise tax and permits/fines.

- To date, current property tax revenues are up 0% (\$22,665) compared to last year's total thru 9/30/20
- Sales taxes allocated to the General Fund are \$279,411 (11%) higher than the previous year to date.
- Franchise tax revenues are 8% less than the previous year. Franchise tax revenues are based on a percentage of a utility's gross receipts
- Permits/Fines are down 2% (\$29,993) over the previous year to date.
 - Permits \$926,411 (FY20) vs \$754,857 (FY19) = \$171,584 (i.e. building, electrical, mechanical, plan check fees)
 - Fines \$413,945 (FY20) vs \$615,522 (FY19) = \$201,577 (i.e. court)

Sales Tax Revenues

Budget vs. Actual

FY 2019-20



Sales Tax Revenues

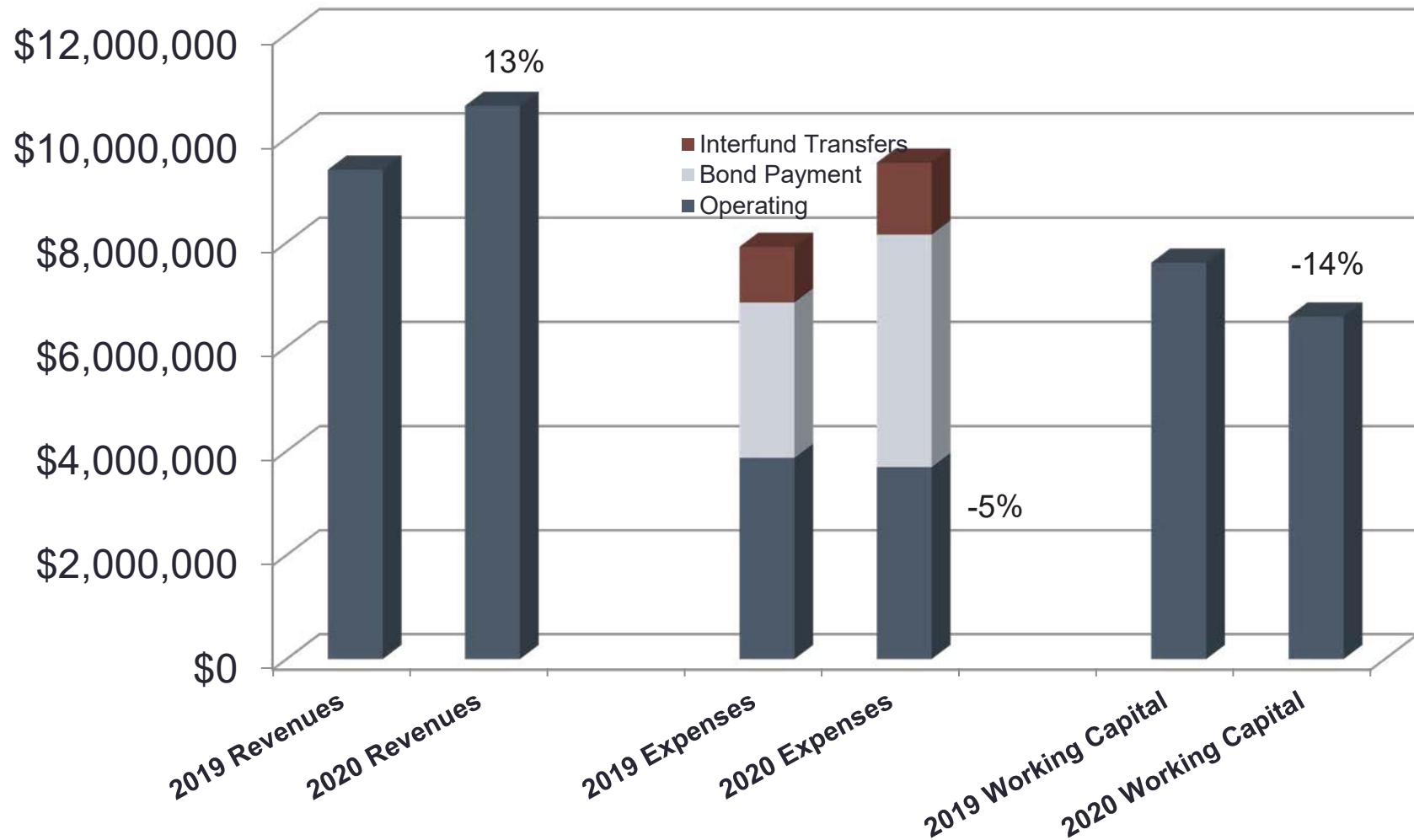
Budget vs. Actual

FY 2019-20

- Total sales tax receipts are 8% (\$629,750) over budget through September 2020

UTILITY FUND

Revenue & Expense Comparison (YTD)

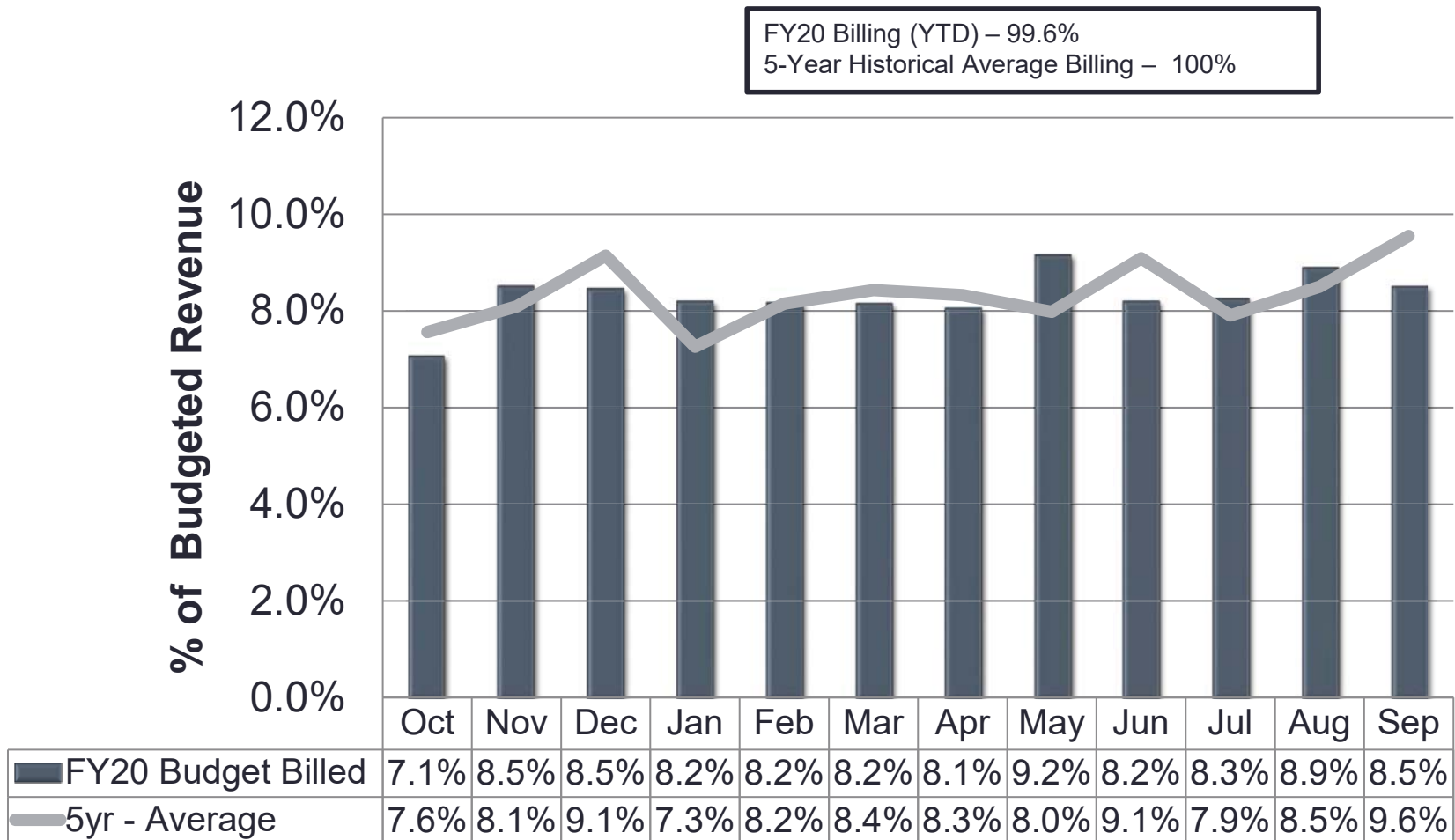


UTILITY FUND

Revenue & Expense Comparison (YTD)

- Total Utility Fund revenues are higher than the previous YTD (\$1,226,076). This is primarily a result of growth and the increase in the utility rates
- Utility Fund **operating** exp are less (\$177,703) in comparison to previous year at 9/30/20 (i.e. salaries & wages, materials, supplies, contractual svcs)
- Interfund Transfers represent funds transferred from the Utility Fund to the General Fund to reimburse the General Fund for the costs associated with providing administrative services –legal, human resource, finance, etc...--to the water and sewer operations. Also, interfund transfer to the Utility Projects Fund have increased due to funding of the Series 2019 WSSR bonds

% of FY20 Water & Sewer Revenue Budget Billed per Month



Line - 5 year history of the % of total annual billings per month.

Bar - % of the Fiscal Year 2019-20 budgeted revenues billed per month.

% of FY20 Water & Sewer Revenue Budget Billed per Month

Thru September 2020, the city billed 8.5% of our water and wastewater revenue budget – slightly less in comparison to the previous 5-year historical average for the month of September. Year to date, we have billed approximately 99.6% of our water and wastewater budget; which is slightly less than our 5-year historical billing average through September of 100%.

**Utility Operating Fund
Monthly Operating Summary
September 2020**

Year-to-Date

Year-to-date water billings is \$4,935,356, which is \$730,077 or 17.4%, better than this time year (\$4,205,279). Year-to-date sewer billings is \$5,431,696 which is \$757,586 or 16.2% more than the same time last year (\$4,674,110). Revenues increased in FY20 as a result of the scheduled 5th year rate increase. Total consumption for October through September is 691,186,079 gallons, which is 19,364,267 or 2.7% less than the same time last year (710,550,346 gallons).

Below is a summary of the budgeted and year-to-date totals for FY20.

	FY20 Budget	Year-to-Date	Variance	Var %
Water	\$4,772,522	\$4,935,356	\$162,834	3.41%
Sewer	\$5,640,967	\$5,431,696	\$(209,271)	-3.71%

September Details

September water billing is \$424,414 which is \$5,752 or 1.37%, better than last September (\$418,662). September sewer billing is \$457,099, which is \$55,892 or 13.93% better than the same time last year (\$401,207). Consumption for September is 58,641,535 gallons, which is 11,391,379 or 16.27% **less** than the same time last year (70,032,914).

Multi-family units decreased by 813,537 gallons. The September 2019 water consumption for multi-family units was 13,677,437 gallons (or \$85,731 in billings). For September 2020, multi-family units consumed 12,863,900 gallons (or \$94,703 in billings).

Commercial consumption went to 11,707,583 gallons (\$249,247) in 2020 from 17,826,480 gallons (\$108,600), or an increase of 6,118,897 gallons and an 52.3% increase in consumption. Residential consumption went from 37,836,297 gallons (\$217,295 billed) in September 2019 to 32,205,543 gallons (\$224,149.75 billed) in September 2020, or a 5,630,754 (17.48%) decrease in consumption.

Accounts Receivable

At September 30, 2020, the total accounts receivable balance was \$702,862. The accounts receivable balance at September 2019 was \$1,117,736.

Water Revenues FY18-FY20



Water Revenues FY20 Monthly Estimated vs Actual Billings



Sewer Revenues FY18-FY20

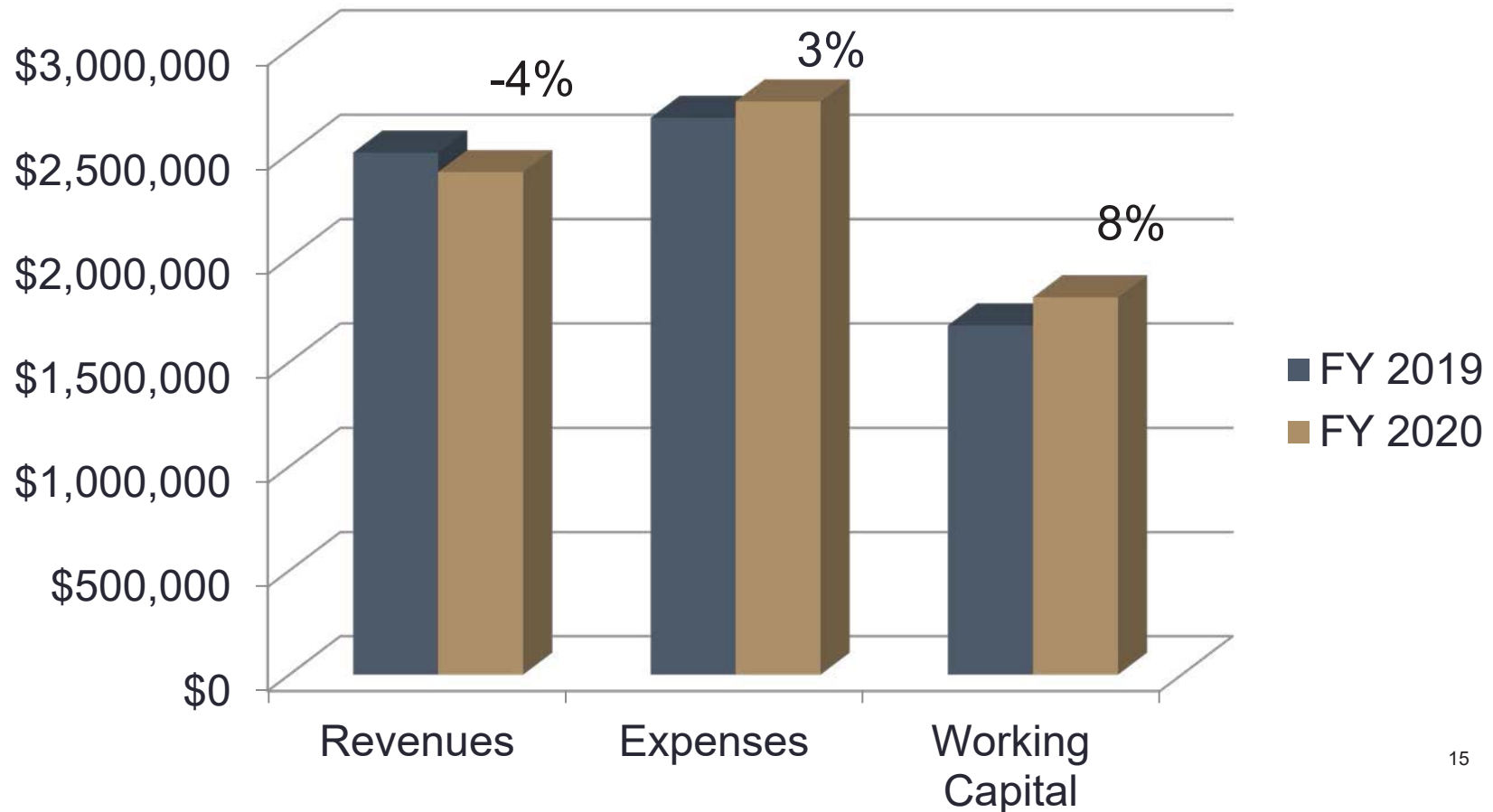


Sewer Revenues FY20 Monthly Estimated vs Actual Billings



Sanitation Fund

Revenue & Expense Comparison (YTD)



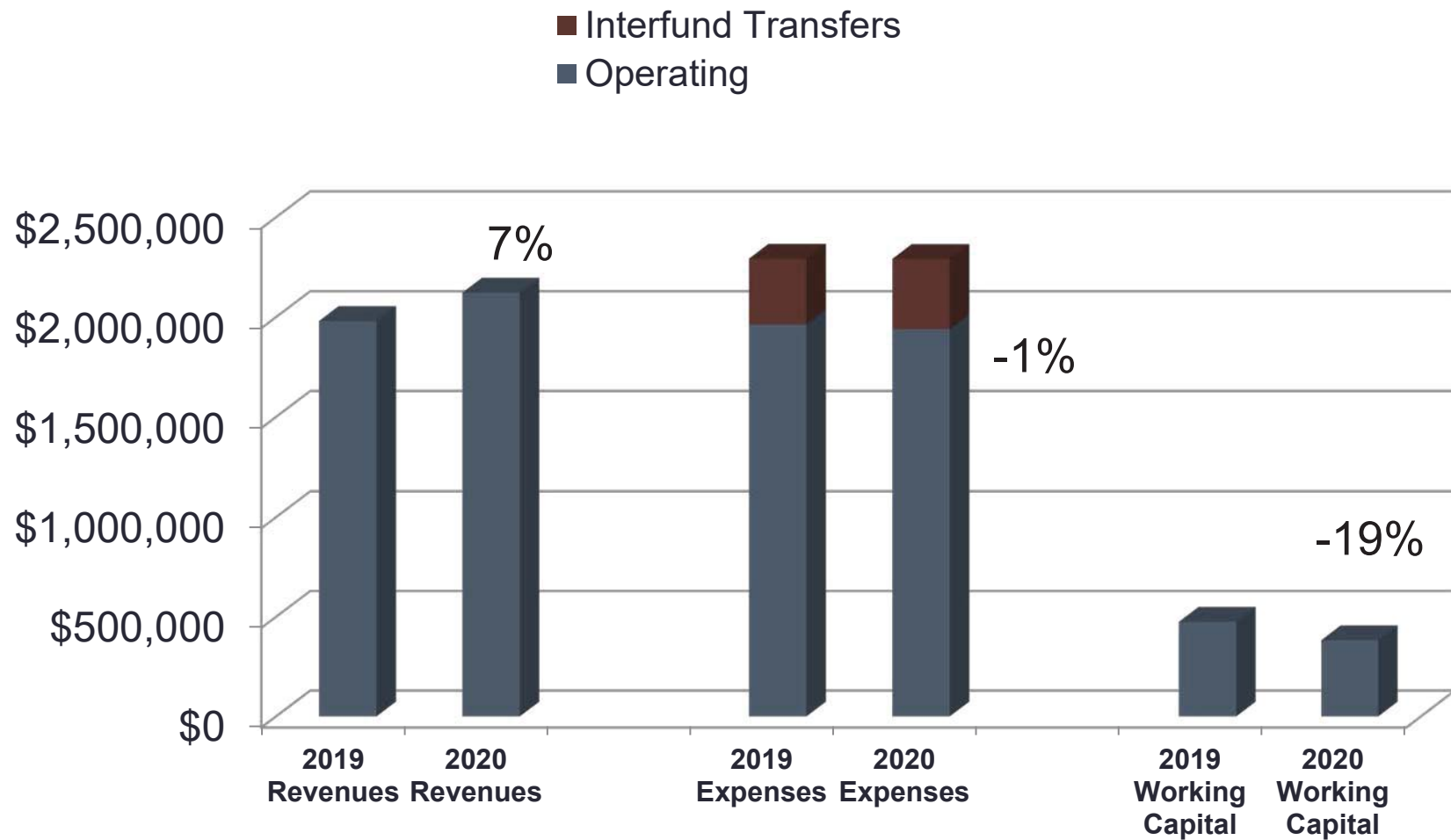
Sanitation Fund

Revenue & Expense Comparison (YTD)

- September 2020 revenues are down 4% from previous YTD, and expenditures are up by 3% in comparison to the previous YTD. FY20 expenditures are up due to an increase in the CPI-U rate paid to Waste Connections of Texas. Working Capital (net cash available for operations) through September 2020 is \$2M.

EMS Fund

Revenue & Expense Comparison (YTD)



EMS Fund

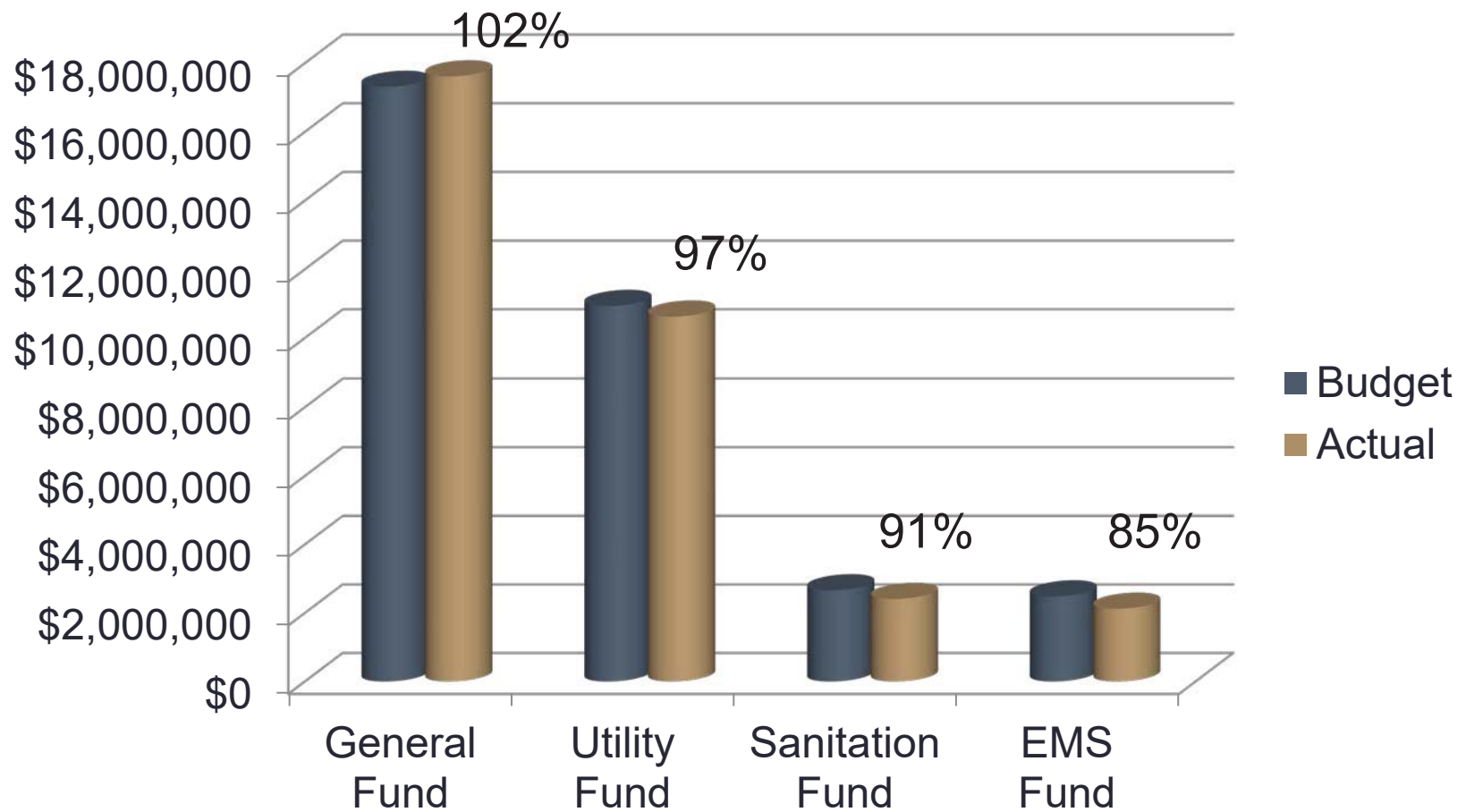
Revenue & Expense Comparison (YTD)

- EMS revenues through September 2020 are up 7% (\$141,833) from September 2019 YTD. Revenues are contingent on services provided as well as collections from our billing company. Medicaid and Medicare revenues are down \$60K, or 20%, and the EMS fee is up 108% or \$347,817.
- YTD operating expenditures are less than 1% down (\$24K) from FY19 YTD EMS operating expenditures.
- The YTD working capital (or net cash available for operations) is \$383K; 19% (\$92,372) less than the previous YTD balance.

Operating Revenues

Budget vs. Actual

as of September 2020 (100% of FY)



Operating Revenues

Budget vs. Actual

as of September 2020 (100% of FY)

- **General Fund Revenues**

- Budget: \$17,310,096
- Actual: \$17,614,884
- 102%

- **Utility Fund**

- Budget: \$10,929,665
- Actual: \$10,621,483
- 97%

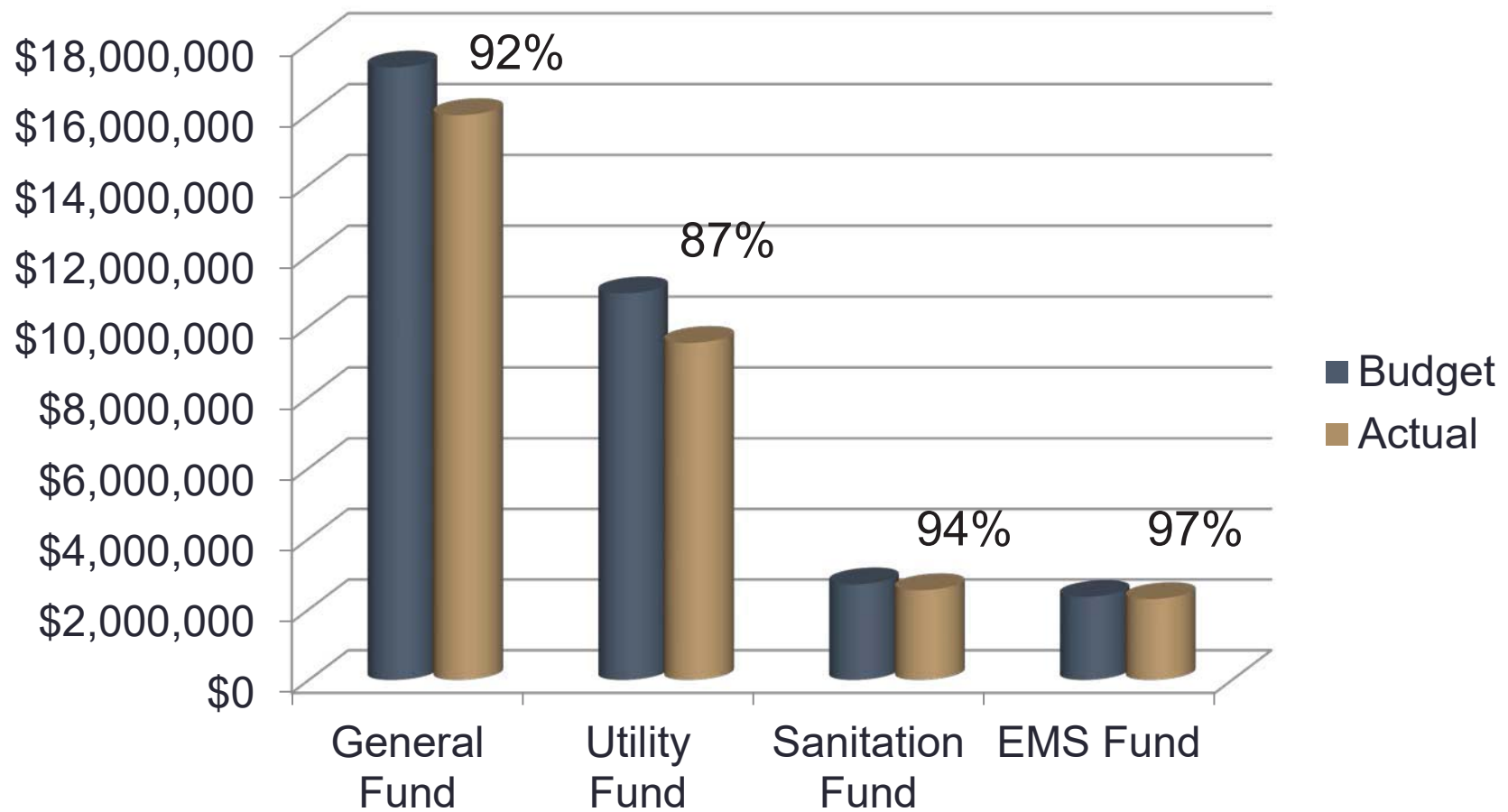
- **Sanitation Fund**

- Budget: \$2,661,240
- Actual: \$2,409,995
- 91%

- **EMS Fund**

- Budget: \$2,482,492
- Actual: \$2,122,228
- 85%

Operating Expenditures Budget vs. Actual as of September 2020 (100% of FY)



Operating Expenditures

Budget vs. Actual

as of September (100% of FY)

- **General Fund Exp**
 - Budget: \$17,310,096
 - Actual: \$15,961,505
 - 92%
- **Utility Fund**
 - Budget: \$10,929,665
 - Actual: \$9,531,203
 - 87%
- **Sanitation Fund**
 - Budget: \$2,707,439
 - Actual: \$2,540,302
 - 94%
- **EMS Fund**
 - Budget: \$2,352,550
 - Actual: \$2,291,283
 - 97%



Cash and Investment Summary

Cash and Investments as of September 2020

FUNDS	BALANCE
GENERAL FUND	\$ 11,676,910
UTILITY FUND	12,607,205
SPECIAL REVENUE FUNDS *	2,144,774
TIRZ	1,086,901
CEMETERY FUND	705,761
SANITATION FUND	2,466,566
EMS FUND	264,107
CAPITAL PROJECTS (GOVERNMENTAL) **	22,659,161
CAPITAL PROJECTS (UTILITY) ***	23,548,603
INTERNAL SERVICE FUNDS ****	4,965,387
DEBT SERVICE	383,080
Total	\$ 82,508,457

- * Fire Capital, Hotel, Municipal Court, Special Investigation, Senior, Public Education Governmental, and Donation Funds
- ** Sales Tax Fund and Governmental Bond Funds
- *** Utility Bond Funds
- **** Central Shop, Vehicle Replacement, Computer Replacement / Maintenance Funds

CITY OF ALVIN

MAJOR FUNDS RECAP

Budget to Actual

For the period ending 9/30/20

General Fund
Hotel Tax Fund
Utility Fund
Sanitation Fund
EMS Fund
Sales Tax Fund
Fleet Maintenance Fund



CITY OF ALVIN
BUDGET VS ACTUAL
For the period ending 9/30/2020

GENERAL FUND

REVENUES

	<u>CURRENT MONTH</u>		<u>%</u>	<u>YEAR TO DATE</u>		<u>%</u>	<u>CURRENT</u>	<u>BUDGET</u>
	<u>LAST YEAR</u>	<u>THIS YEAR</u>		<u>LAST YEAR</u>	<u>THIS YEAR</u>			
			<u>CHANGE</u>			<u>CHANGE</u>	<u>BALANCE</u>	
PROPERTY TAXES	19,374	17,145	-12%	9,612,462	9,589,797	0%	9,693,430	103,634
DENBURY (PAYMENT IN LIEU OF TAXES)	-	-	0%	467,714	554,969	19%	554,813	(156)
SALES TAXES	216,090	233,355	8%	2,578,946	2,858,357	11%	2,661,858	(196,499)
OTHER TAXES	15,773	-	0%	61,419	39,455	0%	50,000	10,545
FRANCHISE TAXES	(3,070)	86	-103%	1,334,949	1,234,411	-8%	1,111,250	(123,161)
PERMITS AND LICENSES	74,944	84,062	12%	754,857	926,441	23%	532,300	(394,141)
FINES AND FORFEITURES	43,345	29,405	-32%	615,522	413,945	-33%	587,000	173,055
OTHER INCOME	41,619	51,393	23%	1,363,937	737,249	-46%	859,184	121,935
INTRAGOVERNMENTAL	99,259	105,022	6%	1,191,107	1,260,261	6%	1,260,261	-
TOTAL REVENUES	507,334	520,467	3%	17,980,912	17,614,884	-2%	17,310,096	(304,788)

EXPENDITURES

CITY COUNCIL	1,570	3,117	98%	52,338	43,389	-17%	53,441	10,052
CITY SECRETARY	33,544	27,479	-18%	276,369	302,806	10%	345,221	42,415
CITY ATTORNEY	31,034	23,433	-24%	255,780	276,037	8%	307,851	31,814
CITY MANAGER	31,170	29,281	-6%	322,929	317,106	-2%	348,858	31,752
ECONOMIC DEVELOPMENTS	22,379	19,786	-12%	212,183	207,584	-2%	225,924	18,340
FINANCE	55,205	33,602	-39%	374,808	440,874	18%	474,798	33,924
COURT	23,156	19,358	-16%	227,602	244,013	7%	267,868	23,855
HUMAN RESOURCES	23,810	13,009	-45%	176,381	182,099	3%	214,328	32,229
CITY HALL	10,076	11,129	10%	96,706	129,236	34%	156,778	27,542
POLICE	752,046	552,980	-26%	7,059,703	7,081,020	0%	7,383,954	302,934
HUMANE	49,143	36,954	-25%	456,832	453,961	-1%	498,411	44,450
FIRE	175,222	140,739	-20%	895,716	907,291	1%	1,003,598	96,307
EMERGENCY MGMT	11,622	5,653	-51%	72,858	76,839	5%	88,783	11,944
ENGINEERING	77,744	58,689	-25%	634,964	721,147	14%	796,048	74,901
CODE ENFORCEMENT	13,570	9,436	-30%	114,151	94,168	-18%	123,137	28,969
PARKS AND RECREATION	157,505	140,535	-11%	1,556,716	1,525,889	-2%	1,770,225	244,336
LIBRARY	9,392	7,579	-19%	87,907	89,685	2%	111,002	21,317
NON-DEPARTMENTAL	383,877	197,210	-49%	3,886,634	2,868,361	-26%	3,139,870	271,509

TOTAL EXPENDITURES	1,862,066	1,329,968	-29%	16,760,577	15,961,505	-5%	17,310,096	1,348,591
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EXCESS (DEFICIENCY) OF
REVENUES OVER EXPENDITURES

1,220,335 1,653,379

BEGINNING FUND BALANCE

6,454,695 7,619,100

ENDING FUND BALANCE

7,675,030 9,272,479



**CITY OF ALVIN
BUDGET VS ACTUAL
For the period ending 9/30/2020**

HOTEL TAX FUND

REVENUES

	<u>CURRENT MONTH</u>			<u>YEAR TO DATE</u>			<u>CURRENT</u>	<u>BUDGET</u>
	LAST YEAR	THIS YEAR	% CHANGE	LAST YEAR	THIS YEAR	% CHANGE	BUDGET	BALANCE
OCCUPANCY TAXES	20,290	11,995	-41%	333,829	264,315	-21%	300,000	35,685
OTHER OPERATING INCOME	520	384	-26%	32,782	10,655	-67%	26,000	15,345
TOTAL REVENUES	20,810	12,380	-41%	366,611	274,970	-25%	326,000	51,030

EXPENDITURES

PERSONNEL	7,430	2,127	-71%	63,921	57,797	-10%	70,677	12,880
SUPPLIES	6,573	374	-94%	23,485	7,291	-69%	33,000	25,709
CONTRACT SERVICES	27,132	20,886	-23%	213,152	118,382	-44%	228,258	109,876
CAPITAL OUTLAY	87,186	-	0%	384,632	208,804	0%	-	(208,804)
DEBT SERVICE	-	-	0%	6,823	8,241	21%	8,241	0
INTERFUND TRANSFERS	1,486	1,748	18%	17,837	20,970	18%	20,970	-
TOTAL EXPENDITURES	129,807	25,135	82%	709,850	421,484	-41%	361,147	(60,338)

EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(343,239)	(146,514)
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BEGINNING FUND BALANCE	996,508	645,984
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ENDING FUND BALANCE	<u>653,269</u>	<u>499,470</u>
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CITY OF ALVIN
BUDGET VS ACTUAL (Cash basis)
For the period ending 9/20/2020

UTILITY FUND

REVENUES

	<u>CURRENT MONTH</u>		<u>%</u>	<u>YEAR TO DATE</u>		<u>%</u>	<u>CURRENT</u>	<u>BUDGET</u>
	<u>LAST YEAR</u>	<u>THIS YEAR</u>	<u>CHANGE</u>	<u>LAST YEAR</u>	<u>THIS YEAR</u>	<u>CHANGE</u>	<u>BUDGET</u>	<u>BALANCE</u>
CHARGES FOR SERVICES	243,135	258,038	6%	8,488,690	9,988,415	18%	10,579,884	591,469
OTHER OPERATING INCOME	445,604	21,860	-95%	906,717	633,068	-30%	349,781	(283,287)
TOTAL REVENUES	688,739	279,897	-59%	9,395,407	10,621,483	13%	10,929,665	308,182

EXPENDITURES

WATER	91,820	97,589	6%	941,382	910,561	-3%	1,110,607	200,046
SEWER	241,165	94,467	-61%	938,929	814,209	-13%	912,411	98,202
WASTEWATER TREATMENT	69,020	60,253	-13%	711,654	700,995	-1%	752,309	51,314
ADMINISTRATION	35,215	19,128	-46%	328,477	264,965	-19%	363,161	98,196
BILLING AND COLLECTIONS	43,606	35,884	-18%	292,413	309,800	6%	336,799	26,999
PUBLIC SERVICES FACILITY	9,093	6,149	-32%	63,219	56,874	-10%	75,800	18,926
CODE ENFORCEMENT PROGRAM	11,889	10,819	-9%	118,866	120,865	2%	132,205	11,340
CONTRACT SERVICES	30,198	37,177	0%	474,841	513,808	8%	537,692	23,884
TOTAL OPERATING EXPENDITURES	532,007	361,465	-32%	3,869,780	3,692,077	-5%	4,220,984	528,907
DEBT SERVICE PRINCIPAL & INT.	-	-	0%	2,979,982	4,460,324	50%	5,363,533	903,209
INTERFUND TRANSFERS	65,523	69,437	6%	1,068,174	1,378,801	29%	1,345,148	(33,653)
TOTAL EXPENDITURES	597,530	430,902	-28%	7,917,936	9,531,203	20%	10,929,665	1,432,115

EXCESS (DEFICIENCY) OF
REVENUES OVER EXPENDITURES

1,477,471 1,090,280

BEGINNING NET OPERATING ASSETS

6,134,548 5,487,235

ENDING NET OPERATING ASSETS

7,612,019 6,577,515



CITY OF ALVIN
BUDGET VS ACTUAL
For the period ending 9/30/20

SANITATION FUND

	<u>CURRENT MONTH</u>			<u>YEAR TO DATE</u>			<u>CURRENT BUDGET</u>	<u>BUDGET BALANCE</u>
	<u>LAST YEAR</u>	<u>THIS YEAR</u>	<u>% CHANGE</u>	<u>LAST YEAR</u>	<u>THIS YEAR</u>	<u>% CHANGE</u>		
REVENUES								
CHARGES FOR SERVICES	18,072	24,434	35%	2,451,758	2,396,891	-2%	2,641,240	244,349
OTHER OPERATING INCOME	2,126	218	-90%	51,233	13,104	-74%	20,000	6,896
TOTAL REVENUES	20,198	24,651	22%	2,502,991	2,409,995	-4%	2,661,240	251,245
EXPENDITURES								
CONTRACT SERVICES	204,579	207,684	2%	2,426,942	2,512,502	4%	2,477,752	(34,750)
INTERFUND TRANSFERS	13,172	12,611	-4%	232,686	223,673	-4%	217,560	(6,113)
DEBT SERVICE	-	-	0%	10,040	12,126	21%	12,127	1
TOTAL EXPENDITURES	217,751	220,295	1%	2,669,668	2,748,302	3%	2,707,439	(34,750)
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES				(166,678)	(338,307)			
BEGINNING NET OPERATING ASSETS				1,842,136	2,148,086			
ENDING NET OPERATING ASSETS				\$ 1,675,458	\$ 1,809,779			



CITY OF ALVIN
BUDGET VS ACTUAL
For the period ending 9/30/2020

EMS FUND

REVENUES

	<u>CURRENT MONTH</u>			<u>YEAR TO DATE</u>			<u>CURRENT</u>	<u>BUDGET</u>
	LAST YEAR	THIS YEAR	% CHANGE	LAST YEAR	THIS YEAR	% CHANGE	BUDGET	BALANCE
Hillcrest EMS/Fire Service	3,600	-	0%	10,800	10,800	0%	14,400	3,600
Emergency Service District	-	-	0%	364,250	369,000	1%	369,000	-
Medicaid	2,094	1,723	-18%	32,012	29,293	-8%	32,000	2,707
Medicare	21,105	22,324	6%	323,605	266,121	-18%	340,000	73,879
Service Charges - Intermedix	115,289	70,182	-39%	876,538	718,464	-18%	890,000	171,536
EMS Utility Fee	15,885	69,206	336%	321,686	669,503	108%	824,592	155,089
Other Operating Income	473	14	-97%	51,504	59,048	15%	12,500	(46,548)
TOTAL REVENUES	158,446	163,449	3%	1,980,395	2,122,228	7%	2,482,492	360,264

Personnel	168,989	122,066	-28%	1,403,087	1,427,558	2%	1,383,826	(43,732)
Supplies	20,705	16,614	-20%	189,438	184,442	-3%	221,700	37,258
Contract Services	24,375	22,456	-8%	362,468	299,995	-17%	389,710	89,715
Debt Service	-	-	0%	8,331	5,198	-38%	5,198	(0)
Interfund Transfers	27,435	29,343	7%	329,219	352,116	7%	352,116	-
OPERATING EXPENDITURES	241,504	190,479	-21%	2,292,544	2,269,309	-1%	2,352,550	83,241

CAPITAL OUTLAY (NON RECURRING)	-	-		-	21,974		-	(21,974)
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TOTAL EXPENDITURES	241,504	190,479	-21%	2,292,544	2,291,283	0%	2,352,550	61,267
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EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES				(312,149)	(169,055)			
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BEGINNING WORKING CAPITAL				787,269	551,803			
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ENDING WORKING CAPITAL				475,120	382,748			
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CITY OF ALVIN
BUDGET VS ACTUAL
For the period ending 9/30/2020

SALES TAX FUND

REVENUES

	<u>CURRENT MONTH</u>		<u>%</u>	<u>YEAR TO DATE</u>		<u>%</u>	<u>CURRENT</u>	<u>BUDGET</u>
	<u>LAST YEAR</u>	<u>THIS YEAR</u>	<u>CHANGE</u>	<u>LAST YEAR</u>	<u>THIS YEAR</u>	<u>CHANGE</u>	<u>BUDGET</u>	<u>BALANCE</u>
SALES TAX REVENUES	432,052	466,571	8%	5,156,352	5,715,006	11%	5,298,803	(416,203)
OTHER OPERATING INCOME	6,265	1,229	-80%	97,476	40,440	-59%	50,000	9,560
TOTAL REVENUES	438,318	467,800	7%	5,253,828	5,755,446	10%	5,348,803	(406,643)

EXPENDITURES

PERSONNEL (STREET)	77,576	55,444	-29%	734,326	686,523	-7%	988,723	302,200
PERSONNEL (CODE ENFORCEMENT)	2,317	1,664	-28%	19,731	20,500	4%	20,820	320
SUPPLIES	9,236	10,933	18%	159,471	172,441	8%	253,650	81,209
CONTRACT SERVICES	125,162	74,269	-41%	846,040	742,285	-12%	1,115,448	373,163
CAPITAL OUTLAY (CIP)	228,645	13,050	-94%	2,730,431	791,375	-71%	1,625,000	833,625
INTERFUND TRANSFERS	70,762	58,781	-17%	752,732	722,331	-4%	789,140	66,809
TOTAL EXPENDITURES	513,698	214,141	-58%	5,242,730	3,135,455	-40%	4,792,781	1,657,326

EXCESS (DEFICIENCY) OF
REVENUES OVER EXPENDITURES

2,619,991

BEGINNING FUND BALANCE

6,141,256

ENDING FUND BALANCE

8,761,247



**CITY OF ALVIN
BUDGET VS ACTUAL
For the period ending 9/30/2020**

Fleet Maintenance Fund

REVENUES

	<u>CURRENT MONTH</u>			<u>YEAR TO DATE</u>			<u>CURRENT</u>	<u>BUDGET</u>
	LAST YEAR	THIS YEAR	%	LAST YEAR	THIS YEAR	%	BUDGET	BALANCE
INTRA GOVERNMENTAL TRANSFERS	58,355	60,248	3%	700,255	722,973	3%	722,973	-
OTHER OPERATING INCOME	10,789	2,594	-76%	30,245	63,427	110%	-	(63,427)
TOTAL REVENUES	69,144	62,842	10%	730,500	786,400	8%	722,973	(63,427)

EXPENDITURES

PERSONNEL	7,942	12,540	58%	102,213	140,666	38%	168,630	27,964
SUPPLIES	136,741	16,205	-88%	99,583	129,554	30%	163,600	34,046
CONTRACT SERVICES	43,853	36,894	-16%	358,545	431,697	20%	363,643	(68,054)
INTERFUND TRANSFERS	1,830	2,258	23%	21,961	27,100	23%	27,100	5,139
TOTAL EXPENDITURES	190,366	67,898	-64%	582,301	729,017	25%	722,973	(905)

EXCESS (DEFICIENCY) OF
REVENUES OVER EXPENDITURES

57,383

BEGINNING OPERATING ASSETS

568,775

ENDING OPERATING ASSETS

626,158



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: City Secretary

Contact: Dixie Roberts, City Secretary

Agenda Item: Accept resignation from Senior Citizens Board member, Nell Shimek.

Type of Item: ☐Ordinance ☐Resolution ☐Contract/Agreement ☐Public Hearing ☐Plat ☐Discussion & Direction ☒Other

Summary: Nell Shimek submitted her resignation from the Senior Citizens Board for her term ending on December 31, 2020. This agenda item is the formal acceptance of her resignation.

With the resignation of Ms. Shimek, there will be six (6) members on this board. Chapter 2 of the Alvin Code of Ordinances states that the Board shall be comprised of seven (7) members. City Council will consider appointments to all board and commissions on December 3, 2020, at which time this vacant position will be filled.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☒ Required ☐ **Date Completed:** 10/27/2020 SLH

Supporting documents attached:

•

Recommendation: Move to accept the resignation from Senior Citizens Board member, Nell Shimek.

Reviewed by Department Head, if applicable ☐

Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☐

Reviewed by City Manager ☒



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: City Attorney

Contact: Suzanne L. Hanneman, City Attorney

Agenda Item: Consider Resolution 20-R-29, approving the Utility Conveyance and Security Agreement accepting the water distribution, wastewater collection and storm water facilities to serve Mustang Crossing, Sections 5 and 5B, and authorize the Mayor to sign.

Type of Item: ☐Ordinance ☒Resolution ☐Contract/Agreement ☐Public Hearing ☐Plat ☐Discussion & Direction ☐Other

Summary: This conveyance of utility facilities conforms with the initial Utility Services Contract dated September 21, 2007, with the developer, Rooted Development Group, LLC. Rooted Development Group contracted with the City to obtain water supply and wastewater treatment services for MUD #73 serving Mustang Crossing. The Developer provided for the construction and financing of the water and wastewater facilities to serve the MUD district. These services (water supply and wastewater treatment services) are to be transferred to the City for ownership, operation, and maintenance after completion.

Staff recommends approval of the Utility Conveyance and Security Agreement for Mustang Crossing, Sections 5 and 5B.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☐ Required ☒ **Date Completed:** 10/27/20 SLH _____

Supporting documents attached:

- Resolution 20-R-29
 - Utility Conveyance and Security Agreement
-

Recommendation: Move to approve Resolution 20-R-29, approving the Utility Conveyance and Security Agreement accepting the water distribution, wastewater collection and storm water facilities to serve Mustang Crossing, Sections 5 and 5B, and authorize the Mayor to sign.

Reviewed by Department Head, if applicable ☐
Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☒
Reviewed by City Manager ☒

RESOLUTION 20-R-29

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS, APPROVING THE UTILITY CONVEYANCE AND SECURITY AGREEMENT ACCEPTING THE WATER DISTRIBUTION, WASTEWATER COLLECTION AND STORM WATER FACILITIES THAT SERVE MUSTANG CROSSING, SECTIONS FIVE AND FIVE B AND AUTHORIZE THE MAYOR TO SIGN.

WHEREAS, Brazoria County Municipal Utility District No. 73 (the “District”) has acquired certain improvements, structures, and facilities designed to provide water and wastewater to serve areas within the District’s boundaries and the boundaries of the City of Alvin, Texas;

WHEREAS, certain facilities were constructed by or on behalf of the District pursuant to a construction contract dated June 8, 2018, for the water distribution, wastewater collection, and storm water facilities to serve Mustang Crossing, Sections Five and Five B; and

WHEREAS, the District has constructed the facilities and is conveying the facilities to the City pursuant to the Utility Services Contract, dated September 21, 2007, which was assumed by the District on August 16, 2018; and

WHEREAS, this conveyance is made subject to the terms of that Agreement;

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

Section 1. That the City Council hereby approves the Utility Conveyance and Security Agreement Accepting the Utility Conveyance and Security Agreement accepting the water distribution, wastewater collection, and storm water facilities that serve Mustang Crossing, Sections 5 and 5B.

Section 2. That the Utility Conveyance and Security Agreement shall be signed by the Mayor.

Section 3. That this Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED on this the 5th day of November 2020.

CITY OF ALVIN, TEXAS

ATTEST:

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary

SCHWARTZ, PAGE & HARDING, L.L.P.

ATTORNEYS AT LAW

1300 POST OAK BOULEVARD

SUITE 1400

HOUSTON, TEXAS 77056

WWW.SPHLLP.COM

TELEPHONE (713) 623-4531
TELECOPIER (713) 623-6143

JOSEPH M. SCHWARTZ
ABRAHAM I. RUBINSKY
HOWARD M. COHEN
SPENCER W. CREED
CHRISTOPHER T. SKINNER
DANIEL S. RINGOLD
MITCHELL G. PAGE
BRYAN T. YEATES
CHRISTINA J. COLE
MATTHEW R. REED

GINA FREE
JOHN H. EICHELBERGER
DIANA MILLER
RICK L. BARKER
KEVIN B. GIESEKE
EMILY C. NOH
KATE H. HENDERSON

July 7, 2020

VIA MESSENGER AND

ELECTRONIC MAIL shanneman@cityhall.cityofalvin.com

Ms. Suzanne Hanneman
City Attorney
City of Alvin Legal Department
216 West Sealy Street
Alvin, Texas 77511

Re: Brazoria County Municipal Utility District No. 73 (the "District");
Utility Conveyance and Security Agreement – Mustang Crossing,
Section 5 and Section 5B

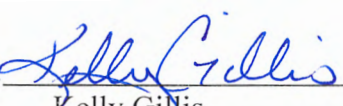
Dear Ms. Hanneman:

Enclosed please find a Utility Conveyance and Security Agreement for Mustang Crossing, Section 5 and Section 5B for the City of Alvin's consideration.

Should you have any questions regarding the enclosed, please do not hesitate to call me at (713) 623-4531.

Very truly yours,

SCHWARTZ, PAGE & HARDING, L.L.P.

By: 

Kelly Gillis
Legal Secretary

Enclosure
559980_1

cc: Ms. Michelle Segovia, P.E. (via e-mail)
City of Alvin

UTILITY CONVEYANCE AND SECURITY AGREEMENT
(Water Distribution, Wastewater Collection, and Storm Water Facilities
to serve Mustang Crossing, Sections 5 and 5B)

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BRAZORIA §

Brazoria County Municipal Utility District No. 73 (the “District”) has acquired certain improvements, structures, and facilities designed to provide water, wastewater and drainage to serve areas within the District's boundaries and the boundaries of the City of Alvin, Texas (the “City”). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District hereby conveys, transfers, and delivers to the City, its successors and assigns, subject to a security interest therein, those certain facilities described as follows:

Those certain facilities constructed by or on behalf of the District pursuant to the construction contract with Blazey Construction Services, LLC, dated June 8, 2018, for Detention Pond, Phase 2 and Water, Sewer and Drainage Facilities – Mustang Crossing Subdivision, Section 5, and together with any improvements, structures, storm sewer mains, plants, service pumps, storage reservoirs, electrical equipment, plant equipment, distribution lines, collection lines, water mains, lift stations, meters, valves, pipes, fittings, connections, meter boxes, laterals, easements, rights-of-way, licenses, operating rights and all other property therein whether real, personal or mixed, owned by the District in connection with the facilities being conveyed hereby, but specifically excluding any detention ponds or sites upon which such ponds are located (the “Facilities”).

The District has constructed the Facilities and is conveying the Facilities to the City pursuant to the Utility Services Contract, dated September 21, 2017, between the City, and Rooted Development Group, LLC (“RDG”), on behalf of themselves and proposed Brazoria County Municipal Utility District No. 73, which was assigned to the District by RDG (or its assignee) on August 16, 2018, and which has been amended thereafter (the “Agreement”). This conveyance is made subject to the terms of the Agreement. The District hereby reserves (and the City grants) a security interest in the Facilities to secure the capacity reserved to the District in the Facilities under the Agreement.

The District hereby assigns to the City all rights, maintenance bonds, warranties and manufacturer's warranties, if any, owned or acquired by the District for the Facilities.

The City hereby agrees by its acceptance of this conveyance to operate and maintain the Facilities in accordance with the terms of the Agreement.

IN WITNESS WHEREOF, this conveyance is executed on 6/19/20.

BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 73

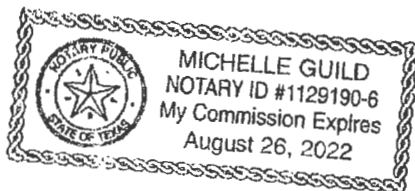
By: [Signature]
Name: Lewis Locke
Title: President, Board of Directors

THE STATE OF TEXAS §
 §
COUNTY OF Harris §

This instrument was acknowledged before me on 6/19/20, by Lewis Locke, as President of the Board of Directors of Brazoria County Municipal Utility District No. 73, a political subdivision of the State of Texas, on behalf of said political subdivision.

[Signature]
Notary Public in and for
the State of T E X A S

(NOTARY SEAL)



In accordance with the Agreement, The City hereby accepts this Utility Conveyance and Security Agreement on _____.

CITY OF ALVIN, TEXAS

By: _____
Paul Horn, Mayor

ATTEST:

Dixie Roberts, City Secretary

APPROVED AS TO FORM:

Suzanne Hanneman, City Attorney

550771.2

EXHIBIT "A"

Those certain water distribution, wastewater collection, and storm water collection facilities serving Mustang Crossing Subdivision, Sections 5 and 5B, within Brazoria County Municipal Utility District No. 73 (the "District"), together with all improvements, structures, fences, distribution lines, collection lines, storm sewer mains, water mains, flushing valves, meters, valves, pipes, fittings, connections, meter boxes, laterals, easements and rights-of-way (specifically including those listed on "Attachment "1"" hereto), licenses, operating rights and all other property therein whether real, personal, or mixed, contract rights or equipment used or useful in connection with said facilities being conveyed hereby, and being more particularly described as all such facilities installed pursuant to a contract between Blazey Construction Services, LLC, dated June 8, 2018, as further identified and described in record drawings on file in the Office of the City Secretary of the City of Alvin, Texas, for construction of the said facilities; provided, however that, notwithstanding anything hereinabove to the contrary, there is saved and excepted from the above any storm water detention ponds and systems constructed under said contract, which excepted facilities shall not be conveyed to the City hereunder, all as provided in the Utility Contract referenced in the instrument to which this exhibit is attached.

ATTACHMENT "I"

1. Public Roads and Utility Easements in the Mustang Crossing Section 5 Subdivision, a subdivision consisting of 14.77 acres of land in Brazoria County, Texas, according to the map or plat thereof recorded in the Official Public Records of Brazoria County, Texas under Clerk's File No. 2019039269.
2. Public Roads and Utility Easements in the Mustang Crossing Section 5B Subdivision, a subdivision consisting of 2.9314 acres of land in Brazoria County, Texas, according to the map or plat thereof recorded in the Official Public Records of Brazoria County, Texas under Clerk's File No. 2019039262.
3. Public Roads and Utility Easements in the Mustang Crossing Detention Pond 2 Subdivision, a subdivision consisting of 14.35 acres of land in Brazoria County, Texas, according to the map or plat thereof recorded in the Official Public Records of Brazoria County, Texas under Clerk's File No. 2019017776.



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: Engineering

Contact: Michelle Segovia, City Engineer

Agenda Item: Consider Ordinance 20-BB, amending Appendix A, Flood Damage Prevention, of the Code of Ordinances, City of Alvin, Texas; updating several sections as required by FEMA; and setting forth other provisions related thereto.

Type of Item: ☒ Ordinance ☐ Resolution ☐ Contract/Agreement ☐ Public Hearing ☐ Plat ☐ Discussion & Direction ☐ Other

Summary: On August 13, 2020, a representative from the Federal Emergency Management Agency (FEMA) notified the City that the new Flood Insurance Rate Map (FIRM) and the Flood Insurance Study (FIS) for Brazoria County and Incorporated Areas would become effective December 30, 2020. In order to stay in compliance with the National Flood Insurance Program (NFIP), participating Cities are required to update their Flood Protection Ordinance to include the new flood maps and any associated requirements related to the maps. Approval of Ordinance 20-BB will amend Appendix A Flood Damage Prevention by making the following changes as recommended by FEMA:

1. Article 2, Definitions: Including the new map survey datum in the definitions of Mean Sea Level and Water Surface Elevation and adding definitions for Primary Frontal Dune and Sand Dunes;
2. Article 3, Section B: Updated to reflect the new flood maps and study;
3. Article 4, Section B: Added back in items (7)-(10) that were inadvertently removed during the 2019 amendment;
4. Article 5: Added Section F Coastal High Hazard Areas, to account for areas of the 100' City Limit Strip that lie within V Flood Zones; and
5. Article 5: Added Section G Severability Clause as FEMA required.

Staff recommends approval of Ordinance 20-BB.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☐ Required ☒ **Date Completed:** 10/30/2020 SLH

Supporting documents attached:

- Ordinance 20-BB (Redlined and Clean Versions)

Recommendation: Move to approve Ordinance 20-BB, amending Appendix A, Flood Damage Prevention, of the Code of Ordinances, City of Alvin, Texas; updating several sections as required by FEMA; and setting forth other provisions related thereto.

Reviewed by Department Head, if applicable ☒
Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☐
Reviewed by City Manager ☒

ORDINANCE NO. 20-BB

AN ORDINANCE AMENDING APPENDIX A, FLOOD DAMAGE PREVENTION, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS; UPDATING SEVERAL SECTIONS AS REQUIRED BY FEMA; PROVIDING FOR A SEVERABILITY CLAUSE; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR OTHER RELATED MATTERS.

WHEREAS, the Legislature of the State of Texas has, in Chapter 16 of the Texas Water Code, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the flood hazard areas within the City of Alvin, Texas are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage; and

WHEREAS, the City Council desires to amend previously adopted ordinances; **NOW, THEREFORE**,

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

Section 1. That Appendix A, Flood Damage Prevention of the Code of Ordinances, City of Alvin, Texas is hereby amended to read as follows:

**APPENDIX A
FLOOD DAMAGE PREVENTION**

**ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT,
PURPOSE AND METHODS**

Section A. Authorization.

The Legislature of the State of Texas has in V.T.C.A, Water Code, Ch. 16, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council of the City of Alvin, Texas desires to enact this ordinance to protect the health, safety and welfare of its citizens, and does ordain as follows.

Section B. Findings of fact.

(1) The flood hazard areas of the City of Alvin are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

Section C. Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

Section D. Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance uses the following methods:

- (1) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or that cause increase in flood heights or velocities;
- (2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Controls filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, A1-30, AO, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Board means building board of adjustments and appeals.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a nonbasement building, which has its lowest elevated floor, raised above ground by foundation walls, shear walls, posts, piers, pilings or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the city.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. See flood elevation study.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term

describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See regulatory floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the department of [the] interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of [the] interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the secretary of the interior; or
- (2) Directly by the secretary of the interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" includes a HUD-code manufactured home and mobile home as those terms are defined in article 5221f of the Texas Revised Civil Statutes. The term "manufactured home" shall also include a modular home as defined in chapter 21 of this Code of Ordinances. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the city.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Recreational vehicle means a vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. See area of special flood hazard.

Start of construction (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the improvement. This includes structures

which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE 3. GENERAL PROVISIONS

Section A. Lands to which this ordinance applies.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Alvin.

Section B. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Brazoria County, Texas and Incorporated Areas," dated December 30, 2020, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) dated December 30, 2020 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Section C. Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this ordinance.

Section D. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. Interpretation.

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

Section G. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section H. Penalty.

Any person who shall violate any provisions of this ordinance shall be guilty of a misdemeanor which shall be punishable by a fine prescribed by section 1-5 of this Code. Prosecution in municipal court shall be in addition to other remedies provided in this ordinance. (Ord. No. 07-E, § 26, 8-2-07)

ARTICLE 4. ADMINISTRATION

Section A. Designation of the floodplain administrator.

The City Engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance--National Flood Insurance Program Regulations) pertaining to floodplain management.

Section B. Authority of the floodplain administrator.

In enforcing the provisions of this ordinance, the floodplain administrator has authority to:

(1) Maintain and hold open for public inspection records pertaining to the provisions of this ordinance.

(2) Review development permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Approve or deny all applications for development permits required by this ordinance.

(4) Review permits for proposed development to determine whether all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Make the necessary interpretation of the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with article 3, section B, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of article 5.

(9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the city's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood within the city.

(10) Under the provisions of 44 CFR Chapter 1, section 65.12, of the National Flood Insurance Program regulations, a city may approve certain development in zones A1-30, AE, AH, on the city's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the city first completes all of the provisions required by Section 65.12.

Section C. Permit procedures.

(1) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and shall include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the

foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of article 5, section B(2); and
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- e. Maintain a record of all such information in accordance with article 4, section B(1);

(2) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- j. The relationship of the proposed use to the comprehensive plan for that area.

Section D. Variance and appeal procedures.

(1) The appeal board, as established by the city, shall hear and render judgment on requests for variances from the requirements of this ordinance. An applicant for a variance shall pay a nonrefundable fee, in an amount provided for in the fee schedule in chapter 28.

(2) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance. An appeal must be filed with the city clerk by the applicant within ten (10) days of the date the floodplain administrator issues the decision or determination about which applicant is complaining.

(3) Any person or persons aggrieved by the decision of the board may appeal such decision in the courts of competent jurisdiction.

(4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section C(2) of this article have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (article 1, section C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(10) Prerequisites for granting variances:

a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in article 4, section D are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General standards.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment elevated to a level at least one foot above the base flood elevation.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section B. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) article 3, section B, (ii) article 4, section B(8), or (iii) article 5, section C(3), the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation or one foot above adjacent existing natural grade, whichever is higher. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in article 4, section C(1)a., is satisfied. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment elevated to a level at least one foot above the base flood elevation.
- (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above base flood elevation or one foot above adjacent existing natural grade, whichever is higher, or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment elevated to a level at least one foot above the base flood elevation.

(3) *Enclosures.* Building enclosures, including breakaway walls, are prohibited below the base flood elevation.

(4) *Manufactured homes.*

a. All manufactured homes to be placed within zone A on the city's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated above the highest adjacent existing natural grade at least as high as the depth number specified in feet on the city's FIRM plus one foot (at least three (3) feet if no depth number is specified) and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the city's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, must be elevated on a permanent foundation such that the lowest horizontal structural member of the manufactured home is elevated to one foot above base flood elevation or adjacent existing natural grade, whichever is higher, and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the city's FIRM that are not subject to the provisions of paragraph (4) of this section must be elevated so that either:

- (i) The lowest horizontal structural member of the manufactured home is one foot above base flood elevation or adjacent existing natural grade, whichever is higher, above the base flood elevation; or
- (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than one foot above base flood elevation or thirty-six (36) inches in height above adjacent existing natural grade, whichever is higher, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) *Recreational vehicles.* Recreational vehicles placed on sites within zones A1-30, AH, and AE on the city's FIRM must either (i) be on the site for fewer than one hundred eighty (180) consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of article 4, section C(1), and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section C. Standards for subdivision proposals.

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with article 1, sections B, C, and D of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of article 3, section C; article 4, section C; and the provisions of article 5 of this ordinance.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to article 3, section B or article 4, section B (8) of this ordinance.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section D. Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in article 3, section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures and manufactured homes have the lowest floor (including basement) elevated above the highest adjacent existing grade at least as high as the depth number specified in feet on the city's FIRM plus one foot (at least three (3) feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures;

- (i) Have the lowest floor (including basement) elevated above the highest adjacent existing grade at least as high as the depth number specified in feet on the city's FIRM plus one foot (at least three (3) feet if no depth number is specified); or
- (ii) Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in article 4, section C(1)a. are satisfied.

(4) Within zones AH or AO there must be adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

Section E. Floodways.

Floodways located within areas of special flood hazard established in article 3, section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

(2) If article 5, section E(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article 5.

(3) Under the provisions of 44 CFR Chapter 1, section 65.12, of the National Flood Insurance Program Regulations, the city may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the city first completes all of the provisions required by Section 65.12.

Section F. Coastal High Hazard Areas

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as Coastal High Hazard Areas (Zones V1-30, VE, and/or V). These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, in addition to meeting **all** provisions outlined in this ordinance, the following provisions must also apply:

(1) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved

structures, and whether or not such structures contain a basement. The Floodplain Administrator shall maintain a record of all such information.

(2) All new construction shall be located landward of the reach of mean high tide.

(3) All new construction and substantial improvements shall be elevated on pilings and columns so that:

(i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;

(ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of 3(i) and (ii) of this Section.

(4) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(i) breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

(ii) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

(5) Prohibit the use of fill for structural support of buildings.

(6) Prohibit man-made alteration of sand dunes and mangrove stands that increase potential flood damage.

(7) *Manufactured Homes-*

Require that manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or

subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, meet standards of paragraphs (1) through (6) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the community's FIRM meet the requirements of Article 5, Section B(4) of this ordinance.

(8) Recreational Vehicles-

Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet requirements in Article 3, Section C of this ordinance and paragraphs (1) through (6) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section G. Severability

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 2. Severability Clause. If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

Section 4. Effective Date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52, of the Texas. Local Government Code and the City of Alvin Charter.

PASSED on the 5th day of November 2020.

CITY OF ALVIN, TEXAS

ATTEST:

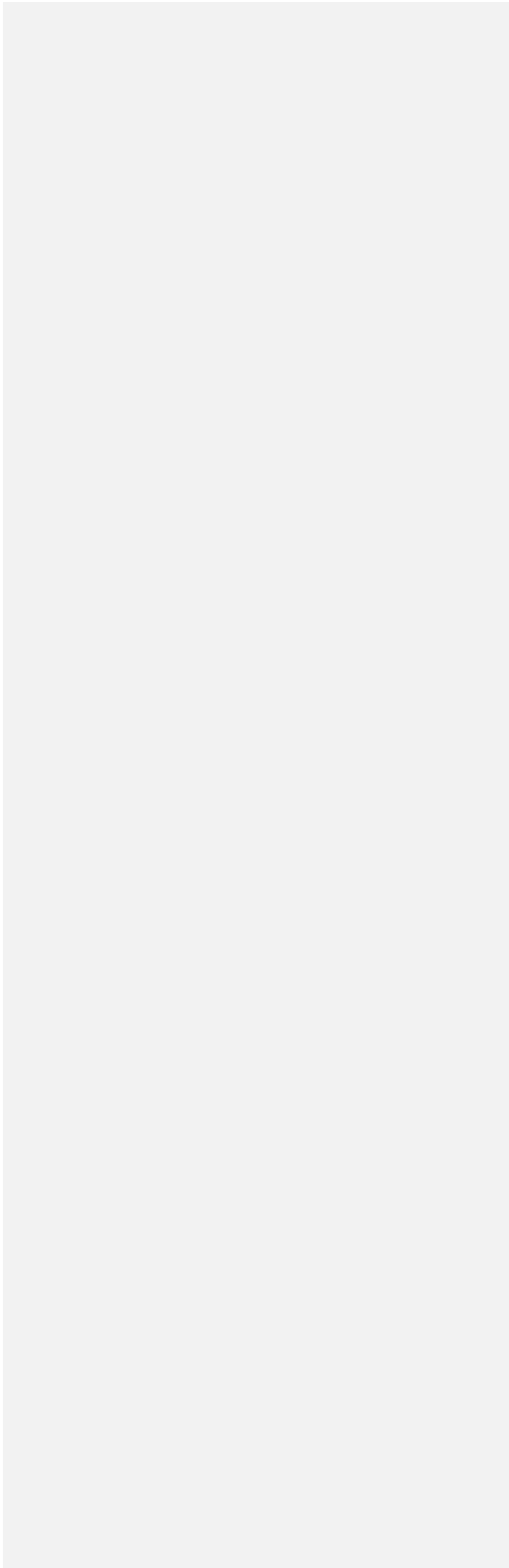
By: _____

By: _____

Paul A. Horn, Mayor

Dixie Roberts, City Secretary

|



ORDINANCE NO. 20-BB

AN ORDINANCE AMENDING APPENDIX A, FLOOD DAMAGE PREVENTION, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS; UPDATING SEVERAL SECTIONS AS REQUIRED BY FEMA; PROVIDING FOR A SEVERABILITY CLAUSE; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR OTHER RELATED MATTERS.

WHEREAS, in Chapter 16 of the Texas Water Code, the Legislature of the State of Texas has delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the flood hazard areas within the City of Alvin, Texas, are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage; and

WHEREAS, the City Council desires to amend previously adopted ordinances;

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

Section 1. That Appendix A, Flood Damage Prevention of the Code of Ordinances, City of Alvin, Texas is hereby amended to read as follows:

APPENDIX A FLOOD DAMAGE PREVENTION

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

Section A. Authorization.

The Legislature of the State of Texas has in V.T.C.A., Water Code, Ch. 16, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Alvin, Texas, desires to enact this Ordinance to protect the health, safety, and welfare of its citizens, and does ordain as follows.

Section B. Findings of fact.

(1) The flood hazard areas of the City of Alvin are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

Section C. Statement of purpose.

It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

Section D. Methods of reducing flood losses.

In order to accomplish its purposes, this Ordinance uses the following methods:

- (1) Restricts or prohibits uses that are dangerous to health, safety, or property in times of flood or that cause increase in flood heights or velocities;
- (2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Controls filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, A1-30, AO, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Board means building board of adjustments and appeals.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a nonbasement building, which has its lowest elevated floor, raised above ground by foundation walls, shear walls, posts, piers, pilings or columns.

Existing construction means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRM’s effective before that date. “Existing construction” may also be referred to as “existing structures.”

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the city.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. See flood elevation study.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term

describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See regulatory floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the department of [the] interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of [the] interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the secretary of the interior; or
- (2) Directly by the secretary of the interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" includes a HUD-code manufactured home and mobile home as those terms are defined in article 5221f of the Texas Revised Civil Statutes. The term "manufactured home" shall also include a modular home as defined in chapter 21 of this Code of Ordinances. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the city.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The

inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Recreational vehicle means a vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. See area of special flood hazard.

Start of construction (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Variance is a grant of relief to a person from the requirement of this Ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Ordinance. (For full requirements see section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE 3. GENERAL PROVISIONS

Section A. Lands to which this ordinance applies.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Alvin.

Section B. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, “The Flood Insurance Study (FIS) for Brazoria County, Texas and Incorporated Areas,” dated December 30, 2020, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) dated December 30, 2020 and any revisions thereto are hereby adopted by reference and declared to be a part of this Ordinance.

Section C. Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this Ordinance.

Section D. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Ordinance and other applicable regulations.

Section E. Abrogation and greater restrictions.

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. Interpretation.

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

Section G. Warning and disclaimer of liability.

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any official or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section H. Penalty.

Any person who shall violate any provisions of this Ordinance shall be guilty of a misdemeanor which shall be punishable by a fine prescribed by section 1-5 of this Code. Prosecution in municipal court shall be in addition to other remedies provided in this Ordinance. (Ord. No. 07-E, § 26, 8-2-07)

ARTICLE 4. ADMINISTRATION

Section A. Designation of the floodplain administrator.

The City Engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this Ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations) pertaining to floodplain management.

Section B. Authority of the floodplain administrator.

In enforcing the provisions of this Ordinance, the floodplain administrator has authority to:

- (1) Maintain and hold open for public inspection records pertaining to the provisions of this Ordinance.
- (2) Review development permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Approve or deny all applications for development permits required by this Ordinance.
- (4) Review permits for proposed development to determine whether all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Make the necessary interpretation of the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with article 3, section B, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of article 5.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the city's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood within the city.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a city may approve certain development in zones A1-30, AE, AH, on the city's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the city first completes all of the provisions required by Section 65.12.

Section C. Permit procedures.

- (1) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and shall include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the

foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of article 5, section B(2);
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
- e. Maintain a record of all such information in accordance with article 4, section B(1).

(2) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this Ordinance and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- j. The relationship of the proposed use to the comprehensive plan for that area.

Section D. Variance and appeal procedures.

(1) The appeal board, as established by the city, shall hear and render judgment on requests for variances from the requirements of this Ordinance. An applicant for a variance shall pay a nonrefundable fee, in an amount provided for in the fee schedule in Chapter 28.

(2) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this Ordinance. An appeal must be filed with the city clerk by the applicant within ten (10) days of the date the floodplain administrator issues the decision or determination about which applicant is complaining.

(3) Any person or persons aggrieved by the decision of the board may appeal such decision in the courts of competent jurisdiction.

(4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section C(2) of this article have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this Ordinance, the board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (article 1, section C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(10) Prerequisites for granting variances:

a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in article 4, section D are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General standards.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment elevated to a level at least one foot above the base flood elevation.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section B. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) article 3, section B, (ii) article 4, section B(8), or (iii) article 5, section C(3), the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation or one foot above adjacent existing natural grade, whichever is higher. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in article 4, section C(1)a, is satisfied. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment elevated to a level at least one foot above the base flood elevation.
- (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above base flood elevation or one foot above adjacent existing natural grade, whichever is higher, or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment elevated to a level at least one foot above the base flood elevation.

(3) *Enclosures.* Building enclosures, including breakaway walls, are prohibited below the base flood elevation.

(4) *Manufactured homes.*

a. All manufactured homes to be placed within zone A on the city's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated above the highest adjacent existing natural grade at least as high as the depth number specified in feet on the city's FIRM plus one foot (at least three (3) feet if no depth number is specified) and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the city's FIRM on sites (i) outside of a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, must be elevated on a permanent foundation such that the lowest horizontal structural member of the manufactured home is elevated to one foot above base flood elevation or adjacent existing natural grade, whichever is higher, and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the city's FIRM that are not subject to the provisions of paragraph (4) of this section must be elevated so that either:

- (i) The lowest horizontal structural member of the manufactured home is one foot above base flood elevation or adjacent existing natural grade, whichever is higher, above the base flood elevation; or
- (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than one foot above base flood elevation or thirty-six (36) inches in height above adjacent existing natural grade, whichever is higher, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) *Recreational vehicles.* Recreational vehicles placed on sites within zones A1-30, AH, and AE on the city's FIRM must either (i) be on the site for fewer than one hundred eighty (180) consecutive days; (ii) be fully licensed and ready for highway use; or (iii) meet the permit requirements of article 4, section C(1), and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section C. Standards for subdivision proposals.

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with article 1, sections B, C, and D of this Ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of article 3, section C; article 4, section C; and the provisions of article 5 of this Ordinance.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to article 3, section B or article 4, section B (8) of this Ordinance.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section D. Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in article 3, section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures and manufactured homes have the lowest floor (including basement) elevated above the highest adjacent existing grade at least as high as the depth number specified in feet on the city's FIRM plus one foot (at least three (3) feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures;

- (i) Have the lowest floor (including basement) elevated above the highest adjacent existing grade at least as high as the depth number specified in feet on the city's FIRM plus one foot (at least three (3) feet if no depth number is specified); or

- (ii) Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in article 4, section C(1)a. are satisfied.

(4) Within zones AH or AO there must be adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

Section E. Floodways.

Floodways located within areas of special flood hazard established in article 3, section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

(2) If article 5, section E(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article 5.

(3) Under the provisions of 44 CFR Chapter 1, section 65.12, of the National Flood Insurance Program Regulations, the city may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the city first completes all of the provisions required by Section 65.12.

Section F. Coastal High Hazard Areas

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as Coastal High Hazard Areas (Zones V1-30, VE, and/or V). These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, in addition to meeting **all** provisions outlined in this Ordinance, the following provisions must also apply:

(1) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The Floodplain Administrator shall maintain a record of all such information.

(2) All new construction shall be located landward of the reach of mean high tide.

(3) All new construction and substantial improvements shall be elevated on pilings and columns so that:

(i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;

(ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of 3(i) and (ii) of this Section.

(4) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(i) breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

(ii) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

(5) Prohibit the use of fill for structural support of buildings.

(6) Prohibit man-made alteration of sand dunes and mangrove stands that increase potential flood damage.

(7) *Manufactured Homes-*

Require that manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites (i) outside of a manufactured home park or

subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, meet standards of paragraphs (1) through (6) of this section **and** that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the community’s FIRM meet the requirements of Article 5, Section B(4) of this ordinance.

(8) Recreational Vehicles-

Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community’s FIRM either (i) be on the site for fewer than 180 consecutive days; or (ii) be fully licensed and ready for highway use; or (iii) meet requirements in Article 3, Section C of this ordinance and paragraphs (1) through (6) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section G. Severability

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 2. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

Section 3. Effective Date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52, of the Texas Local Government Code and the City of Alvin Charter.

PASSED on the 5th day of November 2020.

CITY OF ALVIN, TEXAS

ATTEST:

By: _____

Paul A. Horn, Mayor

By: _____

Dixie Roberts, City Secretary



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: Engineering

Contact: Michelle Segovia, City Engineer

Agenda Item: Consider authorizing the Stephen F. Austin Community Health Center to add additional parking spaces and associated storm water detention improvements at the 1111 West Adoue Street facility, and authorize the Mayor to sign, subject to legal review.

Type of Item: ☐Ordinance ☐Resolution ☒Contract/Agreement ☐Public Hearing ☐Plat ☐Discussion & Direction ☐Other

Summary: In 2009, the City entered into the first Lease Agreement with Stephen F. Austin, for the Stephen F. Austin Community Health Center, located at 1111 W. Adoue Street. The Stephen F. Austin Community Health Center provides free or reduced priced medical and social services to the residents of Brazoria County, and has been fully operational at this location since the 2009 lease agreement. In July 2019, the lease agreement was extended and contains the same terms and conditions, and will run for five (5) years, with an additional five (5) year renewal.

In August 2020, the Engineering Department received site plans for the proposed addition of 28 parking spaces and associated storm water detention improvements from Ezreal Garcia of Stephen F. Austin Community Health Center. Paragraph 14 of the lease agreement provides that any significant modifications to the property must be approved by the City.

Staff recommends approval.

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☐ Required ☒ **Date Completed:** 10/27/2020 SLH

Supporting documents attached:

- Request Letter
- Site Plan
- SFA Current Lease Agreement 2019
- Amendment to Lease Agreement

Recommendation: Move to authorize the Stephen F. Austin Community Health Center to add additional parking spaces and associated storm water detention improvements at the 1111 West Adoue Street facility, and authorize the Mayor to sign, subject to legal review

Reviewed by Department Head, if applicable ☒

Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☒

Reviewed by City Manager ☒

Mark D. Young, CEO
1111 W. Adoue St
Alvin, Texas 77511
Monday, October 19, 2020

The Honorable Paul D. Horn, Mayor
City of Alvin
216 W. Sealy St.
Alvin, Texas 77511

Dear Honorable Paul D. Horn,

Stephen F. Austin Community Health Center, dba Community Health Network has strived to serve as a partner with the City of Alvin for the past 12 years, and during this time, Community Health Network has expanded healthcare services to more than 19,000 unduplicated patients throughout its 11 health centers. In 2019 alone, more than 5,000 patients received care at our Adoue Family Health Center, and 3,600 patients accessed care through our Women and Children's Health Center and Callaway Care and Wellness Center, also located in Alvin.

Adoue Family Health Center provides medical, dental, behavioral & mental health services, including pharmacy and Medicaid and CHIP enrollment services to our community. In 2019, Community Health Network expanded our Class D pharmacy to a Class A. This expansion enabled patients to access affordable pharmaceuticals onsite and on-demand. As a result of the global pandemic, Adoue Family Health Center was one of the first non-emergent healthcare facilities to provide no-cost COVID-19 tests and virtual visits in the Houston area.

Due to the increase in demand for our services, we applied and were awarded two grants to renovate the Adoue Family Health Center's interior and exterior. The first grant enabled Community Health Network to paint and install new flooring throughout the facility. The second grant has allowed Community Health Network to expand the parking lot.

As a tenant of a facility owned by Brazoria County and leased by The City of Alvin, we are formally requesting the parking lot expansion renovations' acceptance and approval. The additional 30 parking spaces will enable residents to access quality care at this location.

The Honorable Paul D. Horn

Date

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Our commitment goes beyond providing much-needed healthcare services and is to the financial success of our community as well. That is why we shop local. Two of the three contracting agencies are small businesses in Alvin.

We are proud to call ourselves an Alvin healthcare facility and your neighbors.

Sincerely,

Mark D. Young, CEO

Enclosure

(60' R.O.W.)

(OO R.O.W.)

W Adoue St

W Adoue St

P.O.B.

W. CORNER OF LOT 3 &
NE. CORNER OF LOT 4,

N86°43'02"E

170.33'

FND 1/2" I.R.
W/CAP MARKED

(A)

UAN GARCIA &
OLGA GARCIA
C.F. NO.
2015050050
O.R.B.C.

DENNIS E. BA
C.F. NO
19980107
O.R.B.C

FND 1/2" I.R.
W/CAP MARKED

(B)

DWICK, CRYSTA
C.F. NO.
009021252
O.R.B.C.

N03°16'58"W 250.00'

20.00'

20.00'

ON
ITION PG. 556
23, PG.
D.R.B.C.

W. MCGUIRE &
S. W. MCGUIRE
JO. 2015049585
O.R.B.C.

23.1'

1 STORY
METAL
BUILDING

1.0026 ACRES
(43,671 SQ.FT.)

N86°43'02"E
8.00'

ERIC KINN
C.F. NC
20180082
O.R.B.C

503° 10' 58" E 135° 00'

S86°43'02"W

178.33'

WEST CLEVELAND STREET

(60' R.O.W.)

W Cleveland St

W Cleveland St

W Cleveland St

STATE OF TEXAS §

COUNTY OF BRAZORIA §

This Lease Agreement is entered into by and between the City of Alvin, Texas, a home rule municipality (the “City”), and the Stephen F. Austin Community Health Center (“Stephen F. Austin”), and in consideration thereof, do hereby covenant and agree as follows:

1. The City hereby leases to Stephen F. Austin all that certain tract or parcel of land including the improvements situated at 1111 West Adoue Street, Alvin, Brazoria County, Texas (“the Facility”), and being more particularly described as follows, to-wit:

Lots number 2 and 3 and 6 and 7 of Block 2 in the Jamison Addition to the City of Alvin, Brazoria County, Texas, as recorded in the plat of the said Jamison Addition at Volume 23, Page 556 of the Deed Records of Brazoria County, Texas.

2. Stephen F. Austin shall use the leased facility only for the purpose of reduced cost health and social services to residents of Brazoria County, Texas. Such services may be provided directly by Stephen F. Austin or by other persons or agencies with whom Stephen F. Austin may contract. The City is leasing the facility to Stephen F. Austin subject to the City's lease with Brazoria County, Texas.

3. Stephen F. Austin agrees not to sublease, assign, or otherwise transfer the property, or use the property for a non-grant-related purpose(s) at any time during the term of the Lease Agreement, whether or not grant support has ended without the prior written approval from Health Resources and Services Administration (“HRSA”) and the City of Alvin.

4. The property owner (City of Alvin and/or Brazoria County) will inform HRSA of any default by Stephen F. Austin under the Lease Agreement.

5. HRSA shall have sixty (60) days from the date of receipt of the property owner's notice of default in which to attempt to cure the default, and that the property owner will delay exercising remedies until the end of the sixty (60) day period.

6. HRSA may intervene to ensure that the default is eliminated by Stephen F. Austin or another recipient named by HRSA.

7. The City of Alvin shall accept payment of money or performance of any other obligation by the HRSA's designee, for Stephen F. Austin, as if such payment of money or performance had been made by Stephen F. Austin.

8. In the event that Stephen F. Austin defaults, the grant is terminated, or Stephen F. Austin vacates the property before the end of the lease term, HRSA shall have the right to designate a replacement for Stephen F. Austin for the balance of the lease term, subject to approval by the property owner, which will not be withheld except for good reason.

9. The initial term of the lease shall be for five (5) years, commencing on the 18th day of June 2019, and ending on the 30th day of June 2024. The lease may be renewed for an additional five (5) year term unless one of the parties gives notice of its intention not to renew the lease at least sixty (60) days prior to the end of the current five (5) year term. With one (1) year remaining on the lease, both parties shall meet to consider renewal of the lease.

10. The City shall have the right to terminate the lease at any time if any of the following events occur:

- a) Stephen F. Austin fails to use the leased facility for its intended purpose for thirty (30) or more consecutive calendar days, and such failure is not caused by a force majeure; or
- b) Stephen F. Austin's federal funding under Section 330 of the Public Health Service Act or its equivalent is not renewed; or
- c) Stephen F. Austin fails to maintain the required insurance pursuant to provisions 16 and 17.

11. Stephen F. Austin shall have the right to terminate the lease at any time as long as Stephen F. Austin provides the City a ninety (90) day written notice to terminate the lease.

This termination provision is subject to further renegotiation by the City or Brazoria County in the event the City or Brazoria County construct additional improvements on the premises.

12. In consideration for this lease, Stephen F. Austin agrees to utilize the leased facility to provide reduced cost health and social services for the residents of Brazoria County, Texas, including, but not limited to, primary health care services such as: immunizations, tuberculosis tests, well-baby services, pre-natal care, and family planning services, which services are in the interest of the public health and welfare.

13. Stephen F. Austin agrees to provide the City with a copy of the following documentation:

- a) their annual Notice of Grant Award (“NGA”) and/or letters from Health Resources and Services Administration (“HRSA”) regarding their annual Section 330 grant renewal, including non-compliance letters or “final determination” letters; and
- b) any audits prepared on behalf of Stephen F. Austin; and
- c) a list of all grants for more than \$25,000 received by Stephen F. Austin during the preceding year.

The City shall keep all documents and information received from Stephen F. Austin proprietary and confidential and will not disseminate such material unless otherwise agreed to in writing by Stephen F. Austin.

14. Stephen F. Austin acknowledges there are existing improvements upon the land and that they have the use of the existing improvements “as is” and the City has no obligation to repair or maintain them. Stephen F. Austin shall maintain and insure the current improvements. Stephen F. Austin shall have the right to make valuable improvements upon the land and premises hereby leased at its own expense with prior approval of the City for any significant modifications or new construction, and any improvements made upon the land shall go with the land and shall remain thereon after the lease is terminated or Stephen F. Austin abandons the premises.

15. It is understood and agreed between the parties that Stephen F. Austin shall have the sole responsibility for the healthcare and social services it provides directly, or through contracts with others, and that the City is a Lessor of leased premises only and has no right, duty, or responsibility in performing services to be undertaken by Stephen F. Austin, and that the City has no control or authority over the health services and social services to be undertaken by Stephen F. Austin, nor in the decision making process.

16. Stephen F. Austin shall indemnify, keep and hold Brazoria County, including its officers, agents, servants and employees, and the City of Alvin, Texas, including the City Council, Mayor and City officers, agents, servants and employees, harmless from any and all costs, liability, damage or expense, including costs of suit and reasonable expenses of legal services claimed by anyone by reason of injury or damage to person or property sustained in, on or about the leased premises, or arising out of Stephen F. Austin’s construction or operations on said premises, as a proximate result of the acts or omissions of Stephen F. Austin, its subcontractors, agents, servants, or employees, or arising out of any condition of the leased premises. Stephen F. Austin shall purchase and keep in force during the term of this agreement insurance coverage sufficient to meet its obligations under this paragraph.

17. In addition to holding Brazoria County and the City harmless, Stephen F. Austin agrees to maintain insurance as required by their primary funding source and/or recommended

by the Texas Association of Community Health Centers (“TACHC”) and State and Federal law and acceptable by the City, including making the City and Brazoria County additional named insureds on its property liability and medical malpractice insurances.

18. This Agreement constitutes the entire Agreement between the parties hereto and no other prior or contemporaneous oral or written agreement shall be a binding obligation upon the parties hereto. This Agreement supersedes all prior agreements, contracts, and understandings, whether written or otherwise, between the parties relating to the subject matter hereof.

19. This Agreement shall be interpreted, construed and governed according to the laws of the State of Texas. Any action at law, suit in equity or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in a state or local court having jurisdiction over Brazoria County, Texas.

20. No amendments, variations, modifications or alterations of the terms and conditions of this Agreement shall be valid unless in writing and signed by all parties; provided however, this Agreement can and will be amended at any time to conform with all federal and state laws and regulations.

21. Any provision of this Agreement prohibited by any rule of law or statutory provision of the State of Texas or the United States shall be ineffective to the extent of such prohibition without invalidating the remaining provisions herein and shall be deemed modified to conform to such rule of law or statutory provision.

22. All notices required under this Agreement shall be in writing and shall be deemed to have been given at the time they are mailed in any general or branch United States Post Office enclosed in a registered or certified postage-paid envelope addressed to the address of the respective parties stated below or to any changed address either party may have fixed by notice:

To City: Mayor of the City of Alvin
216 West Sealy Street
Alvin, Texas 77511

To Center: Stephen F. Austin Community Health Center
Chief Operating Officer
1111 West Adoue Street
Alvin, Texas 77511

Provided, however, that any notice of change of address shall be effective only on receipt.

23. This Agreement shall be binding upon the successors and assigns of the parties hereto as though they had signed this Agreement originally.

EXECUTED on this _____ day of June 2019 by the City of Alvin:

CITY OF ALVIN, TEXAS

ATTEST:

By: _____
Paul A. Horn
Mayor

By: _____
Dixie Roberts
City Secretary

EXECUTED on this _____ day of _____ 2019 by the Stephen F. Austin
Community Health Center:

**STEPHEN F. AUSTIN COMMUNITY
HEALTH CENTER**

ATTEST:

By: _____
Mark Young
Chief Executive Officer

By: Mark Young
Name: Mark Young
Title: CEO

STATE OF TEXAS **§**

This Agreement is entered into by and between the City of Alvin, Texas, a home rule municipality (the “City”), and the Stephen F. Austin Community Health Center, Inc. (“Stephen F. Austin”), and in consideration thereof, do hereby covenant and agree as follows:

In accordance with paragraph 14 of the Lease Agreement entered into between the parties on the ____ day of July 2019, the City hereby gives Stephen F. Austin approval to make valuable improvements upon the land and premises at their own expense, to wit: construction of a new parking lot and appropriate required detention.

Stephen F. Austin agrees that these improvements shall run with the land and shall remain thereon, and Stephen F. Austin shall be entitled to no compensation for said improvements including if the Lease Agreement is terminated or Stephen F. Austin abandons the premises.

This Agreement shall be binding upon the successors and assigns of the parties hereto as though they had signed this Agreement originally.

EXECUTED on this _____ day of October 2020 by the City of Alvin:

CITY OF ALVIN, TEXAS

ATTEST:

By: _____
Paul A. Horn
Mayor

By: _____
Dixie Roberts
City Secretary

EXECUTED on this _____ day of _____ 2020 by the Stephen F. Austin
Community Health Center, Inc.:

**STEPHEN F. AUSTIN COMMUNITY
HEALTH CENTER, INC.**

ATTEST:

By: _____
Mark Young
Chief Executive Officer

By: Mark Young

Name: Mark Young

Title: CEO



AGENDA COMMENTARY

Meeting Date: 11/5/2020

Department: Engineering

Contact: Michelle Segovia, City Engineer

Agenda Item: Discussion of Chapter 34, Public Storage Facilities/Mini-Warehouses, of the Code of Ordinances, City of Alvin, Texas.

Type of Item: ☒Ordinance ☐Resolution ☐Contract/Agreement ☐Public Hearing ☐Plat ☒Discussion & Direction ☐Other

Summary: Staff was contacted by a developer who is interested in building a RV & Boat Storage facility on a piece of commercial property in Alvin. The desired location of the requested site of the RV & Boat Storage facility is within 500 feet of a single-family dwelling (a house or any other site built building used for single-family residential purposes). This location does not comply with Section 34-3 Public Storage Facilities/Mini-Warehouses which states that, "A public storage facility shall not be located within 500 feet of a single-family dwelling."

Chapter 34 *Public Storage Facilities/Mini Warehouses* was adopted by council on May 19, 2005. It is speculated that – in the absence of zoning -- the intent of the initial adoption of Section 34-3 may have been an effort to "regulate" storage facilities closer to the bypass and state highways, and limit storage facilities from being built in the older residential parts of town. There is not a provision for a variance in the current ordinance.

Staff is asking council to provide direction to staff concerning the continuance, discontinuance or amending of Section 34-3 (Location Restrictions).

Funding Expected: Revenue ☐ Expenditure ☐ N/A ☒ **Budgeted Item:** Yes ☐ No ☐ N/A ☒

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes ☐ No ☒

Legal Review Required: N/A ☐ Required ☐ **Date Completed:** 10/30/2020 SLH

Supporting documents attached:

- Chapter 34 Public Storage Facilities – Alvin Code of Ordinances
- Ordinance 20-N Public Storage Facilities/Mini Warehouses

Recommendation:

Reviewed by Department Head, if applicable ☒
Reviewed by City Attorney, if applicable ☒

Reviewed by Chief Financial Officer, if applicable ☐
Reviewed by City Manager ☒

Chapter 34 - PUBLIC STORAGE FACILITIES/MINI-WAREHOUSES

Footnotes:

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Editor's note— Ord. No. 20-N, adopted May 7, 2020, amended ch. 34 in its entirety to read as herein set out. Former ch. 34 pertained to the same subject matter, consisted of §§ 34-1—34-17, and derived from Ord. No. 13-H, adopted April 4, 2013; Ord. No. 16-U, adopted August 18, 2016; and Ord. No. 17-A, adopted February 16, 2017.

Cross reference— Flammable or combustible liquids, ch. 9, art. III et seq.

Sec. 34-1. - Definitions.

The following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:

City means the City of Alvin, Texas.

Major arterial roadways consist of North and South Gordon (Business 35), East and West Highway 6, Highway 35 Bypass, FM 1462, FM 528, South Street, Mustang Road, Johnson Street, and House Street.

Person means an individual, association, corporation, firm, partnership, or any legal entity howsoever formed.

Public storage facility or mini-warehouse means any storage facility containing multiple storage units or rooms which are available for rental to the general public.

Significant redevelopment means the substantial renovation and/or improvement of all existing nonoperational commercial structures on a site to the extent that the structures are returned to operation for a commercial purpose.

Single-family dwelling means a house or any other site-built building used for single-family residential purpose(s).

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-2. - Lot requirements.

- (a) The minimum site area for a public storage facility shall be five (5) acre(s) and the maximum site area shall not exceed ten (10) acres. Existing developed sites that meet the definition of significant redevelopment are exempt from this requirement. Existing public storage facilities wanting to construct additions to their facility are exempt from this requirement.

- (b) Lot coverage of all structures shall not exceed fifty (50) percent.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-3. - Location restrictions.

A public storage facility shall not be located within five hundred (500) feet of a single-family dwelling. The measurement of the distance between the public storage facility and the single-family dwelling shall be in a direct line from the nearest property line of the public storage facility to the nearest property line of the single-family dwelling. Existing developed sites that meet the definition of significant redevelopment, and existing public storage facilities, are exempt from this requirement.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-4. - Front facades of buildings.

The facades of all buildings outside the fencing and that are visible from a public street must be constructed of brick or split-faced CMU concrete block. (Hardi-plank is noncompliant with this section.)

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-5. - Setback requirements.

The minimum front setback line for a public storage facility, including the fence line, shall be at least fifty (50) feet. Existing public storage facilities wanting to construct additions to their facility are exempt from this requirement. The minimum side setback line shall be at least ten (10) feet. All setbacks shall include greenspace with landscaping.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-6. - Fencing and lighting.

- (a) The storage facility shall be fenced.
- (b) All fences shall be erected so that the structural supports are not visible from a public roadway or adjacent properties.
- (c) Fences must, unless otherwise specified, be constructed of wood, stone, brick, masonry, stucco or concrete. Wire-type fencing such as chain link fence, with or without vertical slats, shall not satisfy the requirements of this section.
- (d) All wood fences shall have either a grade beam or rot board along the entire length of the base of the wooden section of the fence. The grade beam or rot board may be partly below grade. All fence posts shall be set in concrete.
- (e) The posts and grade beams of all fences shall be designed and constructed using materials and methods expected to last at least twenty (20) years without requiring major repair.
- (f) All fences shall be maintained by the owner of record in good condition so that there are no damaged or missing boards or parts, all structural supports are sound and sufficient to maintain the fence in its original upright condition, and any surface treatment, including paint or stucco, is

substantially maintained in its original appearance so that there is no noticeable cracking, discoloration, or similar surface blemishes or defects.

- (g) Fences shall be at least eight (8) feet in height. Fences that exceed eight (8) feet in height shall be constructed to meet the city's wind load design standards.
- (h) Adequate lighting shall be provided within a mini-warehouse site so as to fully illuminate all areas within the development. Such lighting shall be appropriately hooded or otherwise installed to prevent obnoxious or dangerous glare beyond the boundaries of the property.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-7. - Height of buildings.

The eave height of all buildings shall not exceed sixteen (16) feet. The manager's office and/or a single-family dwelling shall not exceed two (2) stories. Existing developed sites that meet the definition of significant redevelopment are exempt from this requirement.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-8. - Sidewalks.

Minimum four (4) feet wide concrete sidewalks shall be constructed in the street right-of-way.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-9. - Circulation, parking and loading.

- (a) All drives, which include loading lanes, shall not be less than twenty-eight (28) feet in width. Drives without loading lanes shall not be less than twenty-four (24) feet in width and shall be posted to prohibit parking or loading. Public access shall be restricted to a single location along a public street. The public access shall be equipped with a gate which shall be closed during the hours when the business is closed, and the access point shall be fully visible from the manager's office. At least one additional emergency vehicle access point shall be provided which shall be closed to the public.
- (b) Customer parking shall be provided at the manager's office calculated on the basis of one space for each four hundred (400) square feet of the manager's office floor area. Two (2) additional parking spaces for employees and/or residents shall be provided at the manager's office.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-10. - Storage of flammable materials prohibited.

Storage of flammable liquids, gases or other flammable materials, including, but not limited to, paint, motor oil and gasoline; all explosives, including, but not limited to, dynamite, ammunition and fireworks; and noxious chemicals, including, but not limited to, common garden and insect sprays is prohibited, unlawful and shall be a criminal offense. This prohibition specifically includes motor oil and gasoline contained in any internal combustion engine or vehicle; any liquid or gas which is contained under pressure; and any of the potentially dangerous chemical compounds commonly associated with maintenance and repair activities.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-11. - Maintenance.

The exterior of structures and grounds shall be maintained in a neat, clean and orderly manner.

Commercial dumpsters/trash containers are subject to chapter 11, section 11-12 of the Alvin Code of Ordinances.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-12. - Management.

- (a) There shall be employed on the premises of any mini-warehouse development a full-time manager of the operation. Such manager may be "live-in", provided that a permanent residence which meets all the requirements of the city for residential occupancy is located on the site.
- (b) The lessee of any storage unit or space shall be provided with a document, whether a lease or other writing, which shall, at a minimum, contain a clear statement of all limitations and prohibitions of this chapter. The operator shall require that the lessee acknowledge advisement of the limitations and prohibitions of this chapter.
- (c) A copy of this chapter shall be conveniently displayed throughout the premises.
- (d) It shall be the joint responsibility of the owner and the manager to ensure that the lessees comply with all applicable provisions of this chapter.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-13. - Compliance with other laws.

Public storage facilities must be in compliance with all other city ordinances and regulations not in conflict herewith.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-14. - Special conditions for facilities located on major arterial roadways.

This provision shall apply to all facilities within one hundred fifty (150) feet of the right-of-way of any designated major arterial roadway.

(1) *Fencing.*

- a. Any fence facing a public street shall be constructed of brick or masonry, and shall be at least eight (8) feet in height.
- b. All vehicles, boats, RV's, etc., kept in "open storage" shall be obscured from view from any public street by fencing or by their location on the storage facility property.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-15. - Applicability.

The requirements of this chapter apply to permits for new facilities and additions to existing facilities from the effective date of enactment of this chapter.

(Ord. No. 20-N, § 1, 5-7-20)

Sec. 34-16. - Penalty.

Any person convicted of a violation of any provision, restriction or requirement of this chapter shall be deemed guilty of a misdemeanor and shall be fined as prescribed by section 1-5. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. No. 20-N, § 1, 5-7-20)

ORDINANCE NO. 20-N

AN ORDINANCE AMENDING CHAPTER 34, PUBLIC STORAGE FACILITIES/MINI-WAREHOUSES, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS, FOR THE PURPOSE OF REMOVING THE MAXIMUM INDIVIDUAL STORAGE UNIT AREA REQUIREMENT FOR ALL PUBLIC STORAGE FACILITIES; PROVIDING FOR A PENALTY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

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

Section 1. That the Code of Ordinances, City of Alvin, Texas, Chapter 34, Public Storage Facilities/Mini-Warehouses, is hereby amended by removing the maximum individual storage unit area requirement for all public storage facilities, to read as follows:

"Chapter 34

Public Storage Facilities/Mini-Warehouses

Sec. 34-1. Definitions.

The following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:

City means the City of Alvin, Texas.

Major arterial roadways consist of North and South Gordon (Business 35), East and West Highway 6, Highway 35 Bypass, FM 1462, FM 528, South Street, Mustang Road, Johnson Street, and House Street.

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Sec. 34-2. Lot requirements.

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(b) Lot coverage of all structures shall not exceed fifty (50) percent.

Sec. 34-3. Location restrictions.

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(b) All fences shall be erected so that the structural supports are not visible from a public roadway or adjacent properties.

(c) Fences must, unless otherwise specified, be constructed of wood, stone, brick, masonry, stucco or concrete. Wire-type fencing such as chain link fence, with or without vertical slats, shall not satisfy the requirements of this section.

(d) All wood fences shall have either a grade beam or rot board along the entire length of the base of the wooden section of the fence. The grade beam or rot board may be partly below grade. All fence posts shall be set in concrete.

(e) The posts and grade beams of all fences shall be designed and constructed using materials and methods expected to last at least twenty (20) years without requiring major repair.

(f) All fences shall be maintained by the owner of record in good condition so that there are no damaged or missing boards or parts, all structural supports are sound and sufficient to maintain the

fence in its original upright condition, and any surface treatment, including paint or stucco, is substantially maintained in its original appearance so that there is no noticeable cracking, discoloration, or similar surface blemishes or defects.

(g) Fences shall be at least eight (8) feet in height. Fences that exceed eight (8) feet in height shall be constructed to meet the City's wind load design standards.

(h) Adequate lighting shall be provided within a mini-warehouse site so as to fully illuminate all areas within the development. Such lighting shall be appropriately hooded or otherwise installed to prevent obnoxious or dangerous glare beyond the boundaries of the property.

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(b) Customer parking shall be provided at the manager's office calculated on the basis of one space for each four hundred (400) square feet of the manager's office floor area. Two (2) additional parking spaces for employees and/or residents shall be provided at the manager's office.

Sec. 34-10. Storage of flammable materials prohibited.

Storage of flammable liquids, gases or other flammable materials, including, but not limited to, paint, motor oil and gasoline; all explosives, including, but not limited to, dynamite, ammunition and fireworks; and noxious chemicals, including, but not limited to, common garden and insect sprays is prohibited, unlawful and shall be a criminal offense. This prohibition specifically includes motor oil and gasoline contained in any internal combustion engine or vehicle; any liquid or gas which is contained under pressure; and any of the potentially dangerous chemical compounds commonly associated with maintenance and repair activities.

Sec. 34-11. Maintenance.

The exterior of structures and grounds shall be maintained in a neat, clean and orderly manner.

Commercial dumpsters/trash containers are subject to chapter 11, section 11-12 of the Alvin Code of Ordinances.

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(b) The lessee of any storage unit or space shall be provided with a document, whether a lease or other writing, which shall, at a minimum, contain a clear statement of all limitations and prohibitions of this chapter. The operator shall require that the lessee acknowledge advisement of the limitations and prohibitions of this chapter.

(c) A copy of this chapter shall be conveniently displayed throughout the premises.

(d) It shall be the joint responsibility of the owner and the manager to ensure that the lessees comply with all applicable provisions of this chapter.

Sec. 34-13. Compliance with other laws.

Public storage facilities must be in compliance with all other city ordinances and regulations not in conflict herewith.

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(1) Fencing.

(a) Any fence facing a public street shall be constructed of brick or masonry, and shall be at least eight (8) feet in height.

(b) All vehicles, boats, RV's, etc., kept in "open storage" shall be obscured from view from any public street by fencing or by their location on the storage facility property.

Sec. 34-15. Applicability.

The requirements of this chapter apply to permits for new facilities and additions to existing facilities from the effective date of enactment of this chapter.

Sec. 34-16. - Penalty.

Any person convicted of a violation of any provision, restriction or requirement of this chapter shall be deemed guilty of a misdemeanor and shall be fined as prescribed by section 1-5. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 2. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 3. Code of Ordinances. It is the intention of the Council that this ordinance shall become a part of the Code of Ordinances of the City of Alvin, Texas, and may be renumbered and codified therein accordingly.

Section 4. Penalty. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-5 of the Code of Ordinances.

Section 5. Publication. The City Secretary of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by *Chapter 52 of the Texas Local Government Code* and the *City of Alvin Charter*.

Section 6. Effective Date. This ordinance shall take effect immediately after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code, and the City of Alvin Charter*.

Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on first and final reading on the 7th day of May, 2020.

CITY OF ALVIN, TEXAS:

ATTEST:

By: 
Paul A. Horn, Mayor

By: 
Dixie Roberts, City Secretary