

1. Agenda

Documents:

[AGENDA-CC-JAN-19-23 REG MTG.PDF](#)  
[2023-01-19-CC-REG-PAK.PDF](#)

Mayor  
Ed Tidwell

Mayor Pro-Tem  
Paul Prince



Council Members  
Gage Hunt  
Kevin Sullivan  
Rob Durbin  
Chelaine Marion  
Paul Roberts

## AGENDA CITY COUNCIL REGULAR MEETING

**NOTICE IS HEREBY GIVEN** that the Lago Vista City Council will hold a regular meeting on Thursday, January 19, 2022, beginning at 5:30 p.m. with Executive Session, in City Council Chambers at 5803 Thunderbird, Lago Vista Texas, as prescribed by Texas Government Code Section §551.041 to consider the following agenda items.

**THIS MEETING WILL BE HELD IN CITY COUNCIL CHAMBERS AT 5803 THUNDERBIRD, LAGO VISTA TEXAS AND UTILIZING THE GOTOMEETING VIDEOCONFERENCING TOOL.**

Please join my meeting from your computer, tablet or smartphone.  
<https://meet.goto.com/633504269>

You can also dial in using your phone.  
(For supported devices, tap a one-touch number below to join instantly.)  
United States: +1 (872) 240-3412  
- One-touch: <tel:+18722403412,633504269#>  
**Access Code: 633-504-269**

### CALL TO ORDER, CALL OF ROLL

### EXECUTIVE SESSION

1. Convene into a closed Executive Session for:
  - A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
  - B. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as "The Peninsula" and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).

### ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

2. Reconvene from Executive Session into open session to act as deemed appropriate in City Council's discretion regarding:

- A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
- B. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as “The Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).

## **PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG**

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[Citizen Participation Registration Form](#)

**CITIZEN COMMENTS:** In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

**ITEMS OF COMMUNITY INTEREST:** Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e., Proclamations.
- d. Reminders regarding City Council events.
- e. Reminders regarding community events.
- f. Health and safety announcements.

## **WORK SESSION**

- 3. Review and discuss City’s Ethics Policy.

## **CONSENT AGENDA**

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

- 4. Consider the procurement of a CX26 Mini Excavator for the utilities division from Associated Supply Company through the BuyBoard Cooperative in the amount of \$74,934.
- 5. Consider Resolution 23-1981, A Resolution by the City Council of the City of Lago Vista, Texas receiving a list of properties owned by the City of Lago Vista and the associated uses or planned uses of such properties.

6. Consider an amendment to the Bunker Bar & Grill concession services agreement at the Lago Vista Golf Course.

## **PUBLIC HEARINGS**

7. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing the zoning district for the approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, commonly referred to as being located at 21504 Boggy Ford Road from the C-1C (“Professional, Business Office, Low Density Retail”) district to P-1B (“Developed Park District, Active”).
  - Open public hearing
  - Applicant’s presentation
  - Close public hearing
  - Council discussion and possible decision (continue public hearing if no decision results)
8. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances regarding the procedures for special exception approvals for additional height, including property within the 100-year floodplain; and providing for related matters.
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  - Continuation of 01/05/2023 public hearing
  - Close public hearing
  - Council discussion and possible decision (continue public hearing if no decision results)

## **ACTION ITEMS**

10. Discussion, consideration, and possible action regarding a request by the owner of 9313 Rolling Hills Trail to waive the requirement to connect to the municipal wastewater system until an adequate connection to the municipal water system is also available.
11. Discussion, consideration, and possible action regarding an archery range proposal at Sunset Park from David Snyder.
12. Discussion, consideration, and possible action regarding the selection of a new website design and hosting service for the City of Lago Vista website.

13. Discussion, consideration, and possible action regarding a legislative bill concerning Capital Metro Transportation Authority and the Texas Transportation Code.
14. Discussion, consideration, and possible action on Resolution 23-1986, A Resolution of the City Council of the City of Lago Vista authorizing support for Legislative changes relating to the authority of the Capital Metropolitan Transportation Authority.
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## **ADJOURNMENT**

**IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at 6:19 p.m. on the 12th day of January 2023.**

*Lucy Aldrich*  
Lucy Aldrich, City Secretary

**THIS MEETING SHALL BE CONDUCTED PURSUANT TO THE TEXAS GOVERNMENT CODE SECTION 551.001 ET SEQ. AT ANY TIME DURING THE MEETING THE COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE**

**SESSION ON ANY OF THE ABOVE POSTED AGENDA ITEMS IN ACCORDANCE WITH THE SECTIONS 551.071, 551.072, 551.073, 551.074, 551.075 OR 551.076.**

**THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.**

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Lucy Aldrich, City Secretary

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MEETING DATE: January 19, 2023

CALL TO ORDER:

AGENDA ITEM: CALL TO ORDER, CALL OF ROLL, PLEDGE OF ALLEGIANCE, INVOCATION

Comments:

ADJOURN:

TURN RECORDER OFF

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Content of Motion: \_\_\_\_\_  
\_\_\_\_\_

Vote: Hunt \_\_\_\_\_; Sullivan \_\_\_\_\_; Durbin \_\_\_\_\_; Marion \_\_\_\_\_;

Tidwell \_\_\_\_\_; Roberts \_\_\_\_\_; Prince \_\_\_\_\_

Motion Carried: Yes \_\_\_\_\_; No \_\_\_\_\_

**MEETING DATE: January 19, 2023**

**AGENDA ITEM: EXECUTIVE SESSION**

**Comments:**

- A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
- B. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as “The Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).

**MEETING DATE: January 19, 2023**

**AGENDA ITEM: RECONVENE FROM EXECUTIVE SESSION**

A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).

B. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as “The Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Citizens

**Subject:** Citizen Comments

**Request:** Other

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Citizen Comments

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 13:30:11 -06'00'



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Mayor Tidwell/Council

**Subject:** Items of Community Interest

**Request:** Other

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

For this agenda, we have included the items that can be communicated under this section. Those items are:

- a. Expressions of thanks, gratitude, and condolences
- b. Information regarding holiday schedules
- c. Recognition of individuals, including Proclamations
- d. Reminders regarding City Council events
- e. Reminders regarding community events
- f. Health and safety announcements

No action is required for these items.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Items of Community Interest

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 13:31:02 -06'00'



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor and City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Council work session to discuss the current ethics policy as it relates to City ordinances.

**Request:**  Other

**Legal Document:**  Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The City received an ethics complaint in December of 2022. A preliminary hearing regarding the ethics complaint was held on December 12, 2022. During those proceedings, the City Council mentioned reviewing the current ethics policy to make sure it did not conflict with current City ordinances as they pertain to site visits and board and commission members.

This work session is to discuss those matters and provide staff with direction on possible revisions to the ethics policy.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Council work session to discuss the current ethics policy as it relates to City ordinances.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 17:45:58 -06'00'

## ETHICS – ARTICLE 1.800 ETHICS POLICY

## ARTICLE 1.1800 ETHICS POLICY

### ¶ Sec. 1.1801 Declaration of Policy

(a) It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. To promote confidence in the government of the City of Lago Vista ("the city"), and thereby enhance the city's ability to function effectively, this code of ethics is adopted. Although codes of ethics can provide instruction on what to do in various situations, the situations will always be more varied than the rules can anticipate. Recognizing this, the city manager and the city council will apply this article to not only enforce regulations, but also to enhance and promote virtue in public servants who are its officers, city officials or employees, paid or unpaid, elected or appointed, as well as members of any standing committee or board.

(b) Furthermore, it is declared to be the policy of the city that proper operation of democratic government requires that public servants be independent, impartial and responsible to the people of the city; that no public servants shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of their duties in the public interest; that public office not be used for illegal or improper personal gain; and that the city council at all times shall be maintained as a nonpartisan body. To implement such a policy, the city council deems it advisable to enact a standard of conduct for all public servants to serve not only as a guide for official conduct, but also as a basis for discipline for those who refuse to abide by its terms. The overriding interest being that public servants of the city shall at all times strive to avoid even the appearance of impropriety.

(c) The city further recognizes that public servants are also members of society and, therefore, cannot and should not be without any personal and economic interest in the decisions and policies of government; that public servants retain their rights as citizens to interests of a personal or economic nature, and their rights to publicly express their views on matters of general public interest. By prohibiting conduct incompatible with the city's best interests and minimizing the risk of any appearance of impropriety, this code of ethics will further legitimize the interests of democracy.

(d) Persons reviewing and considering the requirements of this code of ethics are cautioned to consider that Chapt. 171 and Chapt. 176, Tex. Loc. Gov't. Code, are also applicable. In addition, a material volume of state law directly applicable to issues involving public ethics and reporting is applicable to the city and each employee and officer of the city. It is the policy of the city to rely primarily on those laws in lieu of unnecessary duplication and incurring the costs and expense required to administer areas of a program that in fact duplicate state law.

### ¶ Sec. 1.1802 Purpose

This code of ethics has four purposes:

- (1) To encourage high ethical standards in official conduct by public servants;

- (2) To establish minimum guidelines for ethical standards of conduct for all such public servants by setting forth those acts or actions that are incompatible with the best interests of the city;
- (3) To require disclosure by public servants and candidates of private financial or property interests in matters affecting the city; and
- (4) To provide minimum standards of ethical conduct for the city's public servants, provide procedures regarding complaints for violations of such standards, and provide a mechanism for disciplining violators of such standards.

## **Sec. 1.1803 Present Public Servants**

### (a) Standards of Conduct.

- (1) To avoid the appearance and risk of impropriety, public servants shall not solicit or accept any gift, personal favor or benefit from any person doing business with, seeking to do business with, or being regulated by the city; and shall not take any action on behalf of any person or business entity from which he or she has received a prohibited gift, or in which he or she has a substantial interest. Except in the sole interest of the public and the performance of the duties of their position, public servants shall not take any action that he or she knows might reasonably tend to influence any other public servant to not properly perform their official duty, nor shall any public servant grant any improper favor, service or thing of value to any person.
- (2) As used in this article the word gift means a favor, hospitality, economic benefit, product or item having a value of \$50.00, or more. A gift does not include campaign contributions reported as required by state law, money, items, or benefits received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an inter vivos or testamentary trust established by a spouse or ancestor.

(3) The following factors are considered in evaluating whether a gift is prohibited:

- (A) The value of the gift, or gifts, does not exceed \$50.00, or \$200.00 during any twelve (12) consecutive calendar months;
- (B) Any preexisting relationship between the donor and donee;
- (C) Whether the benefit of the gift is transferred to the city or to the public servant and whether any consideration is given in exchange for the gift; and
- (D) Whether the person or entity giving the gift, or on whose behalf the gift is made, has done business with or has been regulated by the city within the immediate preceding twenty-four (24) calendar months, or is seeking to do

business with the city, or does business with or is regulated by the city during the subsequent twelve (12) months.

(4) Those items or services that do not constitute prohibited gifts include, but are not limited to, the following:

- (A) Political contributions made, and reported as required by applicable law.
- (B) Awards publicly presented in recognition of public service.
- (C) Entertainment, meals or refreshments furnished in conjunction with public events, appearances, or ceremonies related to official city business, if furnished by the sponsor of such public event, and meals and refreshments having a value of less than \$50.00 when furnished or provided to the public servant during the conduct of public business.
- (D) Any item received by a public servant and donated to a charitable organization or presented to the city within one (1) business day from the date of receipt; any item(s) other than money the value of which does not exceed \$50.00 or \$200.00 during any twelve (12) consecutive calendar months.
- (E) Pens, pencils, calendars, T-shirts, caps and similar items containing logos, slogans, company names or other marketing material and commonly given out for advertising purposes.

(b) Personal Financial Interest.

(1) Public servants of the city shall not participate in a vote or decision in which they have a direct substantial financial interest. Ownership in an amount in excess of one percent (1%) of an entity or property shall constitute substantial interest. Where members of the city council have a substantial interest in business or in real property which is affected by a proposed city council action and where any conflict of interest may arise they shall file an affidavit of disclosure provided by the city secretary prior to the vote and abstain from voting on such matters.

(2) No officer or employee of the city shall have a financial interest direct or indirect, or by reason of ownership of stock in a corporation, in a contract with the city, or be financially interested directly or indirectly in the sale to the city of land, materials, supplies or services except on behalf of the city as an officer or employee; provided, however, that the provision of this section shall only be applicable when the stock owned by the officer or employee exceeds one (1%) percent of the total capital stock of the corporation, or the city's taking of an interest in land by use of its eminent domain authority. Any violation of this shall render the contract voidable.

(Ordinance 09-05-21-01 adopted 5/21/09)

(3) In keeping with current case law, when a member of the city council has a substantial interest in business or in real property which is affected by a proposed city council action and such member is required to abstain from voting on such matter after filing his or her affidavit of disclosure, such abstention shall count as a ineligibility for that matter only and the number of votes required for passage of such matter shall be reduced by the number of ineligible members. In instances where a supermajority of the members of the governing body is required for passage, such supermajority number or fraction shall be based on the number of eligible voting members of the governing body and shall not count any ineligible members. (Ordinance 13-09-12-02 adopted 9/12/13)

(c) Confidential Information. Public servants shall not disclose confidential or proprietary information, or any information they have acquired or obtained in the course of any fiduciary capacity or relationship, that could adversely influence the property, government, or affairs of the city, nor directly or indirectly use his or her position to secure official information about any person or entity, for the financial benefit or gain of such public servant or any third party. Public servants shall not release confidential, proprietary or privileged information for any purpose other than the performance of official responsibilities. It shall be a defense to any complaint under this section that the release of information serves a legitimate public purpose, as opposed to the private financial or political interest of the public servant or any third party or group.

(d) Use of City Property. Public servants shall not use, request or permit the use of city facilities, personnel, equipment, or supplies for any purpose other than to conduct city business unless otherwise provided by law, ordinance or written city policy; or as specifically authorized by the city manager as a convenience to the city, or by terms of employment, e.g. assigned use of a city vehicle.

(e) Conflict of Interest.

(1) Public servants shall not for pay, profit, compensation, financial gain or benefit represent or appear on behalf of themselves or on behalf of the private interests of others before the city council or other city board, commission, or committee, or represent the private interest of others in any action or proceeding involving the city.

(2) No current members of the city council shall personally appear on their own behalf before the city council or any board, commission or committee but may designate and be represented by a person of their choice in any such personal business matter. This prohibition does not apply where a councilmember appears before the council on their own behalf, with respect to an issue arising under the city charter or this article. A member of any appointed committee or board shall remove himself/herself from deliberation regarding his/her interest.

(3) No current board or commission member shall personally appear on their own behalf before the board or commission upon which they serve, but may designate and be represented by a person of their choice in any such business matter. Board or commission members are prohibited from engaging in private discussions with any

applicant or owner regarding issues to be considered by their board or commission or from seeking to influence the outcome of any decision outside of a public meeting.

(f) Additional Standards of Conduct.

(1) Conflicting Outside Employment.

(A) The purpose of this provision is to prevent conflicts of interest, conflicts of loyalty, and loss of efficiency at work.

(B) This provision does not prevent employees or officials from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of their public duties, provided that the employees comply with all applicable city requirements.

(C) A city official or paid city employee shall not solicit, accept or engage in concurrent outside employment or enter into any contract which could impair independence of judgment in, or the faithful performance of, their official duties, or those results in a conflict of interest with their duties as an official or employee of the city.

(D) City employees must inform their supervisor before engaging in off-duty employment, and obtain written authorization from the city manager or their department head prior to accepting outside employment. Employees must consider the policy purpose and be aware of this policy and rule.

(2) Political Activity.

(A) Limitations on the political activities of city officials and employees are imposed by state law, the city charter, and city personnel rules. In addition, the ethical restrictions listed below shall apply.

(B) No employee shall solicit or receive contributions to the campaign funds of any candidate for city office or take part in the management, affairs, or political campaign of any city candidate. Current members of the city council who are seeking reelection may engage in any activity on behalf of their own campaign efforts. However, the mayor and councilmembers are prohibited from taking part in the management, affairs, or political campaign of any other city candidate. The following is a list of activities that are, except as specifically provided otherwise, permissible within the sole discretion of the individual employees:

(i) The placement of campaign signs on premises owned by the city employee.

(ii) The placement of bumper stickers on personal vehicles, except those vehicles supported in whole or in part by a car allowance provided by the city.

(iii) Off-duty or assigned duty attendance at a political rally or function for a city council candidate, so long as there is no active participation by the city employee; provided that an employee that is off-duty shall not wear any city uniform, item or clothing that identifies the employee as an employee of the city.

(iv) The donation of a political contribution that does not exceed the statutory limit for nonreportable contributions; provided that a candidate for, and the occupant of, an elective city office is prohibited from soliciting contributions from city employees.

This subsection shall be narrowly construed and in no event shall this section be construed or interpreted to prevent any officer, employee, councilmember, mayor or public servant from expressing his or her personal opinion regarding any candidate for office, or any other matter of public interest; provided that city employees shall not, while in uniform or on duty, make public comments or statements concerning any candidate for elective city office. Private statements or comments made by any officer or employee of the city to any other officer or employee of the city concerning any candidate for elective city office are not subject to subsection (f).

(C) Nonprofit Board Membership. While membership is encouraged a councilmember who serves on the board of a public or private nonprofit organization shall have a voice but no vote on any funding request or contract with the city by that organization, unless the organization has a board of directors or trustees appointed in whole or in part by the city council, commission or board members.

#### Q Sec. 1.1804 Former City Officials and Employees

[Reserved]

#### Q Sec. 1.1805 Contracts

(a) No officer or employee of the city shall have a financial interest direct or indirect, or by reason of ownership of stock in any corporation, in a contract with the city, or be financially interested directly or indirectly in the sale to the city of land, materials, supplies or services except on behalf of the city as an officer or employee; provided, however, that if the direct or indirect interest results from the ownership of stock the provision of this section shall only be applicable when the stock owned by the officer or employee exceeds one (1) percent of the total capital stock of the corporation. Any violation of this section shall render the contract voidable. This section shall not apply or be applicable to employment agreements approved by the city

manager and/or the city council, or instances in which the city is acquiring property by eminent domain.

(b) Except on behalf of the city, a former city councilmember, official, or employee may not, within two (2) years of the termination of official duties, perform work for any person or entity other than the city on a compensated basis relating to a discretionary contract, if he or she personally and substantially participated in the negotiation of awarding of the contract. A former city official or employee, within two (2) years of termination of official duties must disclose to the city secretary immediately upon knowing that he or she will perform work on a compensated basis relating to a discretionary contract.

## **Sec. 1.1806 Persons Doing Business With the City**

(a) Persons Seeking Discretionary Contracts.

(1) An individual or business entity seeking a discretionary contract from the city is required to disclose in connection with a proposal for a discretionary contract any conflict of interest. This is set forth in Sections 1.1803 and 1.1804 of this code of ethics. The individual or entity must agree to abide by the same ethical standards as set forth for public servants in this code of ethics.

(2) Subsection (a) above will become a permanent footnote on documents contained in city bid packets for discretionary contracts.

(3) All prospective vendors shall comply with Chapt. 176, Tex. Loc. Gov't. Code.

(b) Disclosure of Conflicts of Interest by Persons Appearing Before a Board or City Body. A person appearing before any city board or other city body for the purpose of doing business with the city shall disclose to that board or body any facts known to such person which may show or establish that:

(1) An employee or officer of the city that advises or makes presentations to the board or city body; or

(2) Any member of the board or city body;

has or may have a conflict of interest pursuant to Chapt. 171, Tex. Loc. Gov't. Code, or an interest which would violate the ethical standards set forth in this article, if he or she were to participate in the processing or consideration of the subject matter.

## **Sec. 1.1807 Lobbyist**

[Reserved]

 **Sec. 1.1808 Financial Disclosure**

Chapt. 176, Tex. Loc. Gov't. Code, requires every person, firm or entity proposing to sell any product to the city, or to contract with the city, to file documents identifying business connections or relationships they or their employees may have with officers and employees of the city. Upon any such document identifying an officer of the city that officer must complete and file a document prescribed by state law. Chapt. 171, Tex. Loc. Gov't. Code, requires members of the governing body and boards and commissions to publicly announce if they have a conflict, business or investment interest in the person or subject matter coming before that body. In addition to the public announcement, the officer is required to complete an affidavit specifying the conflict and file that document with the city secretary. These requirements obviate any need for the city to incur the expense to establish the required administrative procedures, obtain, store and make available financial statements from the officers of the city. The avoidance of the requirements for financial statements encourages public service because it permits officers from being required to report personal financial information and information that intrudes on the privacy of third parties that have no business dealings with the city.

 **Sec. 1.1809 Jurisdiction and Hearing of Complaints**

(a) City Manager. The city manager shall receive and hear all complaints filed against any city official or employee that is appointed by the city manager. The fact that the city manager has received a complaint, or is hearing a complaint, filed under this code of ethics, shall not deprive or lessen the authority of the city manager to take disciplinary action against such city official or employee without regard to the complaint or hearing. When hearing a complaint, the city manager may adopt such process and procedures as he/she finds suitable to the complaint. The hearing may be conducted informally or as a hearing in which witnesses may be produced.

(b) City Council. The city council shall receive and hear all complaints filed against any city official, board, committee or commission member that is appointed by the city council. The fact that the city council has received a complaint, or is hearing a complaint, filed under this code of ethics, shall not deprive or lessen the authority of the city council to take any discretionary action it finds appropriate, or to take any disciplinary action against such city official, without regard to the complaint or hearing. When hearing a complaint, the city council may adopt such process and procedures as the council finds suitable to the complaint. The hearing may be conducted informally or as a hearing in which witnesses may be produced.

(c) Violations of Chapt. 171 or Chapt. 176. Complaints alleging a violation of Chapt. 171 or Chapt. 176, Tex. Loc. Gov't. Code, shall be referred to the appropriate court and prosecutor. Such referral shall not deprive the city manager or the city council, as applicable, from exercising their respective discretionary authority, or any authority granted by local or state law.

(d) Advisory Opinions and Recommendations. The city attorney shall render advisory opinions and make recommendations to the city manager and city council, as applicable, on potential conflicts of interest or potential violations of this code of ethics at the request of a public servant. Such advisory opinions and recommendations shall be rendered thirty (30) days after a request or complaint is received, unless the city attorney requests, and is granted one thirty (30) day extension by the city council or city manager, as applicable. This subsection shall not be applicable to complaints that have been filed with the city council or the city manager.

(e) Defense to Alleged Violations. It shall be a defense to an alleged violation of this code of ethics that the person accused previously requested, and received, a written advisory opinion and recommendation from the city attorney, and acted on such opinion or recommendation in good faith, unless material facts were omitted or misstated by the person requesting the opinion. Absent, omitted or misstated facts, such written advisory opinion and recommendation shall be binding with respect to subsequent charges based on the same issue and facts concerning the person who requested the opinion.

(f) Disposition of Alleged Ethics Violations.

(1) A sworn complaint based on personal knowledge alleging a violation(s) of this article shall specify the provision(s) of this article alleged to have been violated, and shall name the public servant being charged.

(2) Upon the aforesaid sworn complaint of any person being filed with the city secretary's office, or on its own initiative, the city manager or city council, as applicable, shall consider possible violations of this article by any public servant. A complaint shall not be deemed to be filed on the initiative of the city council, save and except the complaint be signed and sworn by two (2) members of the city council, one of which is the mayor, after consultation with the city attorney. A complaint filed by an individual member of the city council shall be deemed to have been filed in the councilmember's capacity as a private citizen and, in such event, the member of the city council filing the complaint shall not thereafter participate in a city council meeting, or discuss the same with the city manager if applicable, at which such complaint is considered save and except the councilmember filing the complaint may participate as a complainant at such meeting.

(3) A complaint alleging a violation of this article must be filed with the city secretary within two (2) years from the date of the action alleged as a violation, and not afterward.

(4) Not later than three (3) working days after the city secretary receives a sworn complaint, the city secretary shall acknowledge the receipt of the complaint to the complainant, and provide a copy of the complaint to the city attorney, the city council or city manager as appropriate, and the person against whom the complaint was alleged. Not later than ten (10) working days after receipt of a complaint, the city secretary shall notify in writing the person who made the complaint and the person against whom the complaint was alleged, of a date for a preliminary hearing. If the

city manager or city council does not hold a preliminary hearing within twenty (20) days of receipt of the complaint, it shall notify the person who made the complaint of the reasons for the delay and shall subsequently give further appropriate notification.

(5) The city council or the city manager may consider possible violations of this article on their own initiative. Within seven (7) working days of the decision to consider a possible violation of this article, a draft written complaint specifying the provision(s) of this article alleged to have been violated shall be filed with the city secretary, and provided to the city attorney and the person against whom the complaint was alleged. Not later than fifteen (15) days after the drafting of the complaint, the city secretary shall notify in writing the person against whom the complaint was alleged of the date for the preliminary hearing.

(6) After a complaint has been filed, and during the pending of a complaint before the city council, a member of the city council may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the city council; provided that the mayor may consult and coordinate with the city attorney.

(7) As soon as reasonably possible, but in no event more than sixty (60) days after receiving a complaint, the city manager or city council, as applicable, shall conduct a preliminary hearing:

(A) The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of this article has occurred. The person filing a complaint, or the city attorney in cases considered upon the city manager's or city council's, as applicable, own initiative, shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violations stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing. Members of the city council or the city manager, as applicable, may question the complainant, the city attorney or the city manager, as applicable, or the public servant named in the complaint.

(B) The public servant named in the complaint shall have the opportunity to respond, but is not required to attend or make any statement. The public servant may describe in narrative form the testimony and other evidence that would be presented to disprove the alleged violation. If the public servant agrees that a violation has occurred, he or she may so state and the city manager or city council, as applicable, may consider the appropriate sanction.

(C) The complainant and the public servant named in the complaint shall have the right to representation by counsel.

(D) At the conclusion of the preliminary hearing, the city manager or city council, as applicable, shall decide whether a final hearing should be held. If the city manager or city council, as applicable, determines there are reasonable grounds to believe that a violation of this article has occurred, a final hearing will be scheduled. If the city manager or city council, as applicable, does not determine that there are reasonable grounds to believe that a violation of this article has occurred, the complaint shall be dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred.

(E) The city manager or city council, as applicable, at any time during the preliminary hearing, may also dismiss a complaint if the complaint does not allege conduct which would be a violation of this article. Before a complaint is dismissed for failure to allege a violation, the complainant may be permitted one opportunity, within ten (10) working days of such preliminary hearing, to revise and resubmit the complaint.

(F) The complainant, the city attorney or the public servant named in the complaint may ask the city manager or city council, as applicable, at a preliminary hearing to request certain persons and evidence for a final hearing, if one is scheduled.

(8) Final Hearing on Complaints.

(A) The final hearing shall be held as expeditiously as possible following the determination by the city manager or city council, as applicable, that reasonable grounds exist to believe that a violation of this article has occurred. In no event shall the hearing be held more than thirty (30) days after said determination. The city manager or city council, as applicable, may grant two (2) postponements, not to exceed fifteen (15) days each, upon the request of the public servant named in the complaint.

(B) The issue at a final hearing shall be whether a violation of this article has occurred. The city manager or city council, as applicable, shall make its determination based on clear and convincing evidence in the record. All witnesses shall make their statements under oath.

(C) If the city manager or city council, as applicable, determines that a violation has occurred, findings shall be stated in writing identify the particular provision(s) of this article which have been violated, and within five (5) working days a copy of the findings shall be delivered to the complainant, if any, the public servant named in the complaint, and the city secretary.

(D) If a complaint proceeds to a final hearing, the city manager or city council, as applicable, may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers records, or other evidence needed for the performance of the city

manager or city council, as applicable's duties or exercise of its powers, including its duties and powers of investigation.

(9) Sanctions.

(A) If the city manager or city council, as applicable, determines that a violation of this article has occurred, they shall proceed directly to determination of the appropriate sanction(s), if any. Save and except for a violation of Section 7.2, Section 8.6 or Section 11.1 [sic] a violation of this article shall not be subject to criminal penalties. The city manager or city council, as applicable, may receive additional testimony or statements before considering sanctions, but is not required to do so. If the public servant named in the complaint acted in reliance upon a written opinion of the city attorney, the city manager or city council, as applicable, shall consider that fact.

(B) If the city manager or city council, as applicable, determines that a violation of this article has occurred, they may impose one of the following sanctions:

(i) A letter of notification shall be the appropriate sanction when the violation is clearly unintentional, or when the public servant's violation was made in reliance on a written opinion of the city attorney. A letter of notification shall advise the public servant to whom it is directed of any steps to be taken to avoid future violations.

(ii) A letter of admonition shall be the appropriate sanction in those cases in which the city manager or city council, as applicable, finds that the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification.

(iii) A reprimand shall be the appropriate sanction when the city manager or city council, as applicable, finds that a violation has been committed intentionally or through disregard of this article. A copy of a reprimand directed to a public servant, city official, councilmember, or board or commission member shall be sent to the city council. A reprimand directed to an employee of the city shall be included in said employee's personnel file. A letter of reprimand directed to an elected city official shall be transmitted to the city secretary and shall be published in the official newspaper of the city.

(iv) A recommendation of removal from employment or a recommendation of suspension from employment, as well as a recommendation for length of suspension, shall be the appropriate sanction when the city manager or city council, as applicable, finds that a serious or repeated violation(s) of this article has been committed

intentionally or through culpable disregard of this article by city employees.

(v) A letter of censure shall be the appropriate sanction when the city council finds that a serious or repeated violation(s) of this article has been committed intentionally or through culpable disregard of this article by an elected city official. A letter of censure directed to an elected city official shall be transmitted to the city secretary and thereafter published in the official newspaper of the city.

#### **Sec. 1.1810 Independent Legal Counsel**

Independent Legal Counsel. If a complaint is filed against the city manager or any member of the city council independent legal counsel shall be utilized to advise the city council, and participate in hearings.

#### **Sec. 1.1811 Baseless Complaints**

(a) In the event a complaint is received by the city manager or city council, as applicable, that is subsequently found to be baseless, and the city manager or city council, as applicable, deems that the complaint was filed with the intent to:

- (1) Harass the person named in the complaint;
- (2) Damage the respondent's reputation;
- (3) Benefit the person filing the complaint, personally, professionally or politically; or
- (4) Damage a related third party;

the city manager, or the city council, may refer the matter to the appropriate court or prosecutor.

(b) The city manager or city council, as applicable, may take or recommend disciplinary action(s) against the individual who filed the complaint including but not limited to filing legal charges. The city manager or city council, as applicable, may also make recommendations for what other action(s) should be taken.

#### **Sec. 1.1812 General Provisions**

(a) Definitions. The words "public servant" when used in this article, shall mean the elected officers of the city, all persons appointed by or by vote of the city council, all department heads of the city, all city employees that have any supervisory authority over other employees, and all employees that have discretionary authority to make recommendations to boards or to the city

council. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this article. The word "regulations" means the provisions of any applicable article, rule, regulation or policy.

(b) Penalties. Any person who shall violate this code of ethics, or shall fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(c) Reservations and Exceptions. Notwithstanding any other term or provision of this article, this article: (1) is not applicable to the performance and behavior of officers, employees and public servants that does not violate a standard or provision set forth in this code of ethics; (2) does not waive the authority and discretion of the city council or the city manager, as applicable, to enforce higher standards for, or to supervise, provide oversight, appoint and remove, any officer, employee or public servant that is appointed by the city council or city manager, as applicable; and (3) does not transfer or limit the authority of the city manager to act in his or her discretion to enforce higher standards for, or to supervise, provide oversight, appoint and remove, all officers, employees and public servants of the city that are not appointed and removed by the city council. Further, neither the city manager nor the city council shall be required to file a complaint in order to take action against any employee, public servant or city official under their respective supervision or jurisdiction.

(d) City Manager Complaint Resolution. If the city council is not satisfied with the actions taken by the city manager with respect to any complaint filed with him/her under this code of ethics, the city council shall consider that matter in the annual evaluation of the city manager.

(Ordinance 09-05-21-01 adopted 5/21/09)

## CONFLICT OF INTEREST - FORMS

## PROPOSED FORMS

At its October 5, 2015, meeting, the Texas Ethics Commission voted to propose changes to Forms CIQ and CIS, regarding conflicts of interest that were previously revised in August 2015. The Ethics Commission invites public comment on the proposed changes. A written statement should be emailed to [public\\_comment@ethics.state.tx.us](mailto:public_comment@ethics.state.tx.us), or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed rule may do so during the public comment period at any commission meeting when the commission considers the proposed changes. Information concerning the time and location of commission meetings is available at <https://www.ethics.state.tx.us/tec/meetings.htm> or by telephoning (512) 463-5800.

**FORM CIS: Local Government Officer Conflicts Disclosure Statement**

**FORM CIQ: Conflict of Interest Questionnaire**

# LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

FORM CIS

(Instructions for completing and filing this form are provided on the next page.)

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This is the notice to the appropriate local governmental entity that the following local government officer has become aware of facts that require the officer to file this statement in accordance with Chapter 176, Local Government Code.

## OFFICE USE ONLY

Date Received

**1** Name of Local Government Officer

**2** Office Held

**3** Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code

**4** Description of the nature and extent of employment or other business relationship with vendor named in Item 3

**5** List gifts accepted by the local government officer and any family member, if aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100 during the 12-month period described by Section 176.003(a)(2)(B).

Date Gift Accepted \_\_\_\_\_ Description of Gift \_\_\_\_\_

Date Gift Accepted \_\_\_\_\_ Description of Gift \_\_\_\_\_

Date Gift Accepted \_\_\_\_\_ Description of Gift \_\_\_\_\_

(attach additional forms as necessary)

**6** **AFFIDAVIT**

I swear under penalty of perjury that the above statement is true and correct. I acknowledge that the disclosure applies to each family member (as defined by Section 176.001(2), Local Government Code) of this local government officer. I also acknowledge that this statement covers the 12-month period described by Section 176.003(a)(2)(B), Local Government Code.

\_\_\_\_\_  
Signature of Local Government Officer

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_ this the \_\_\_\_\_ day  
of \_\_\_\_\_ 20\_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
Signature of officer administering oath

\_\_\_\_\_  
Printed name of officer administering oath

\_\_\_\_\_  
Title of officer administering oath

## LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

Section 176.003 of the Local Government Code requires certain local government officers to file this form. A "local government officer" is defined as a member of the governing body of a local governmental entity; a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. This form is required to be filed with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of this statement.

A local government officer commits an offense if the officer knowingly violates Section 176.003, Local Government Code. An offense under this section is a misdemeanor.

Please refer to chapter 176 of the Local Government Code for detailed information regarding the requirement to file this form.

### INSTRUCTIONS FOR COMPLETING THIS FORM

*The following numbers correspond to the numbered boxes on the other side.*

- 1. Name of Local Government Officer.** Enter the name of the local government officer filing this statement.
- 2. Office Held.** Enter the name of the office held by the local government officer filing this statement.
- 3. Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code.** Enter the name of the vendor described by Section 176.001(7), Local Government Code, with whom the officer has an employment or other business relationship as described by Section 176.003(a)(2)(A), Local Government Code.
- 4. Description of the nature and extent of employment or business relationship with vendor named in item 3.** Describe the nature and extent of the employment or other business relationship with the vendor in item 3 as described by Section 176.003(a)(2)(A), Local Government Code.
- 5. List gifts accepted, if the aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100.** List gifts accepted during the 12-month period (described by Section 176.003(a)(2)(B), Local Government Code) by the local government officer or family member of the officer from the vendor named in item 3 that in the aggregate exceed \$100 in value.
- 6. Affidavit.** Signature of local government officer.

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# CONFLICT OF INTEREST QUESTIONNAIRE

## For vendor doing business with local governmental entity

# FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

OFFICE USE ONLY

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

Date Received

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

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**1**  Name of vendor who has a business relationship with local governmental entity.

**2**  Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

---

**3**  Name of local government officer about whom the information in this section is being disclosed.

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes       No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes       No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?

Yes       No

D. Describe each employment or business and family relationship with the local government officer named in this section.

---

\_\_\_\_\_  
Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
Date



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Lucy Aldrich, City Secretary

**Subject:** Consent Agenda

**Request:** Consent Agenda

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

- x. Consider the procurement of a CX26 Mini Excavator for the utilities division from Associated Supply Company through the BuyBoard Cooperative in the amount of \$74,934.
- x. Consider Resolution 23-xxxx, A resolution by the City Council of the City of Lago Vista, Texas ....
- x. Consider and amendment to the Bunker Bar & Grill concession agreement.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Consent Agenda

**Agenda Item Approved by City Manager**

Tracie Hlavinka

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## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Taylor M. Whichard, Director of Public Works

**Subject:** Consider approving the procurement of a CX26 Mini Excavator for utilities division from Associated Supply Company through the BuyBoard Cooperative in the amount of \$74,934.

**Request:** Consent Agenda

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Included in this report is a BuyBoard Quote for the Purchase of a CX26 Mini Excavator for the Utility Department. This purchase was approved in the FY23 Budget for \$80,000. The BuyBoard quote attached is for \$74,934.

This piece of equipment will allow for safer, easier and more efficient operations when utility crews are operating in tight spaces.

Public Works is seeking approval to purchase this vehicle for \$74,934.

**Impact if Approved:**

If approved, the Mini Excavator will allow Utility Crews to work in tight spaces with other utilities in the same area. The ground damages will be significantly less, which in return means less time patching up the damaged area.

**Impact if Denied:**

Utility Crews will have to spend more time making sure to not hit other utilities in the area, with a bigger bucket. More damage to the ground will mean more time patching it up.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:**

Water Services Account: 30-560-9720

**Suggested Motion/Recommendation/Action**

**Motion to**  Approve Item  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Purchase of CX26 Mini Excavator for the Utility Department.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 10:46:21 -06'00'





**ENGINE**

Model	Kubota D1305
Emissions Certification	Tier 4 Final
Fuel	Diesel
Cylinders	3
Displacement	77.0 in <sup>3</sup> (1 261 cc)
Fuel injection	Mechanical
Gross horsepower – SAE J1995 @ 2300 RPM:	
	24.8 hp (18.5 kW)
Net horsepower – SAE J1349 @ 2300 RPM:	
	23.2 hp (17.3 kW)
Maximum Engine Torque @ 1600 RPM:	
	60.0 lb ft (81.4 Nm)
Cooling	Water-cooled

**DRIVETRAIN**

Travel speeds:	
1st	1.5 mph (2.4 kph)
2nd	2.7 mph (4.3 kph)
Maximum traction force	3,300 lb (1 420 kg)
Gradeability	30° (58%)
Ground pressure:	

Canopy	4.3 psi (0.3 kgf/cm <sup>2</sup> )
Cab	4.6 psi (0.32 kgf/cm <sup>2</sup> )

**ELECTRICAL**

Voltage	12 Volts
Alternator rating	40 amp
Battery	1 x 12 V x 58 Ah 680 CCA

**OPERATOR ENVIRONMENT**

ROPS/FOPS four post canopy; ISO 6396: 2008 sound pressure level LpA=77bB (A); Pilot operated hand controls and foot pedals; Adjustable seat w/seat belt; Arm rests; 12V socket.

Display includes:

Engine oil pressure lamp; Water temperature lamp; Low fuel warning lamp; Battery charge lamp; Engine preheat lamp; Travel speed lamp; Air cleaner warning lamp; Hyd. quick coupler lock lamp; High travel speed lamp; Water temperature gauge; Fuel gauge and Hour meter.

**OPERATING WEIGHT**

Canopy operating weight:	
Short arm	5,520 lb (2 505 kg)
Long arm w/additional counterweight	5,830 lb (2 645 kg)
Cab operating weight:	
Short arm	5,850 lb (2 655 kg)
Long arm w/additional counterweight	6,160 lb (2 795 kg)

NOTE: w/rubber tracks/no quick coupler/bucket/fluids/full of fuel/165 lb operator.

**HYDRAULICS**

Main pumps:	Variable displacement tandem axial piston pump
Max rated flow x 2:	7.3 gpm (27.6 L/min)
Auxiliary flow @ 2,538 psi (175 bar):	
Primary	12.5 gpm (47.2 L/min)
Secondary	12.5 gpm (47.2 L/min)
System relief pressure:	
Standard	3,130 psi (220 bar)
Overload relief valve	3,410 psi (240 bar)
Pilot control hydraulic system:	
Pump	Gear Pump
Maximum capacity	2.7 gpm (10.4 L/min)

Control valves:  
Pilot control for left/right track travel, boom, arm, bucket and swing

Manual control for breaker and backfill blade

Swing motor: Fixed displacement axial piston motor

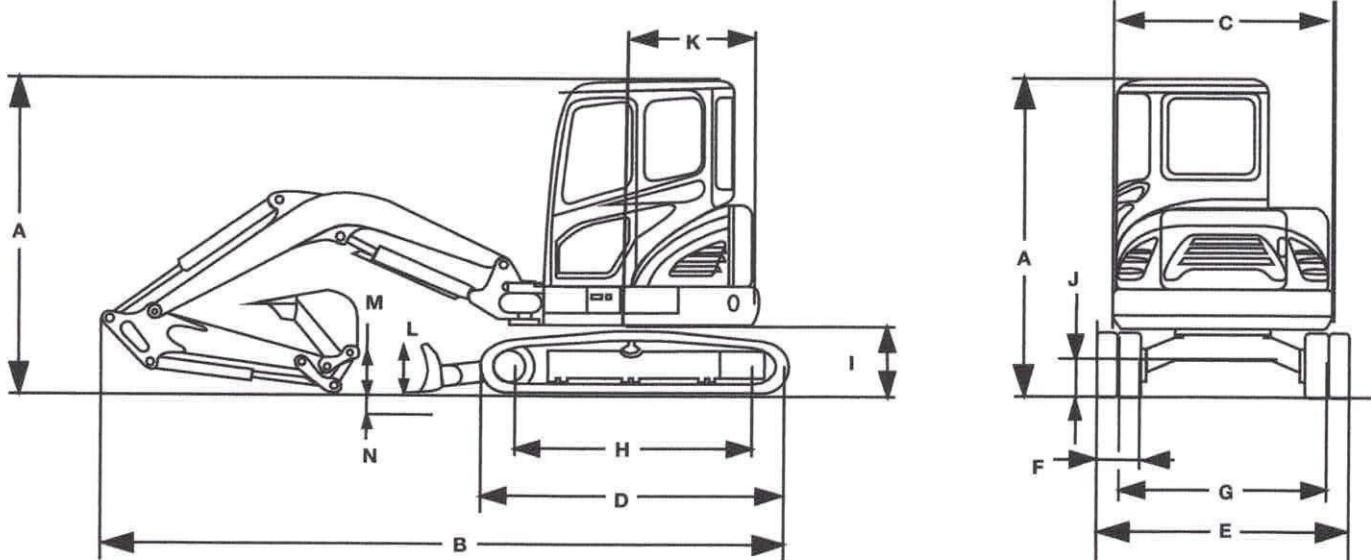
Travel motor: Variable displacement axial piston 2-stage planetary Automatic spring applied hydraulic released brake

**SERVICE CAPACITIES**

Fuel tank	7.9 gal (30 L)
Hydraulic tank:	
Refill capacity	7.1 gal (27 L)
Total system	14.5 gal (55 L)
Engine oil w/filter change	1.5 gal (5.7 L)
Radiator	1.3 gal (5 L)

**OTHER SPECIFICATIONS**

Swing speed	0 – 9.1 RPM
Undercarriage:	
Track rollers	1 upper/3 lower each
Boom:	
Swing	75° left/50° right
Length	6 ft 5 in (1.95 m)
Arm:	
Standard length	3 ft 8 in (1.12 m)
Long arm length	4 ft 5 in (1.35 m)



Line drawings are for illustrative purpose only and may not be exact representation of unit.

#### DIMENSIONS

##### 3 ft 8 in (1.12 m) Arm

A. Overall height	8 ft 2 in (2 500 mm)
B. Overall transport length	13 ft 3 in (4 030 mm)
C. Width of upper structure	4 ft 7 in (1 400 mm)
D. Track overall length	6 ft 3 in (1 910 mm)
E. Track overall width	4 ft 11 in (1 500 mm)
F. Track shoe width	9.8 in (250 mm)
G. Track Gauge	4 ft 1 in (1 250 mm)
H. Center to center – idler to sprocket	4 ft 11 in (1 490 mm)
I. Upper structure ground clearance	1 ft 8 in (510 mm)
J. Minimum ground clearance	11 in (290 mm)
K. Tail swing radius:	
Standard counterweight	2 ft 6 in (750 mm)
Additional counterweight	2 ft 10 in (875 mm)
Boom swing	75° left/50° right
Tail swing overhang:	
Standard counterweight	0 in (0 mm)
Additional counterweight	5 in (125 mm)

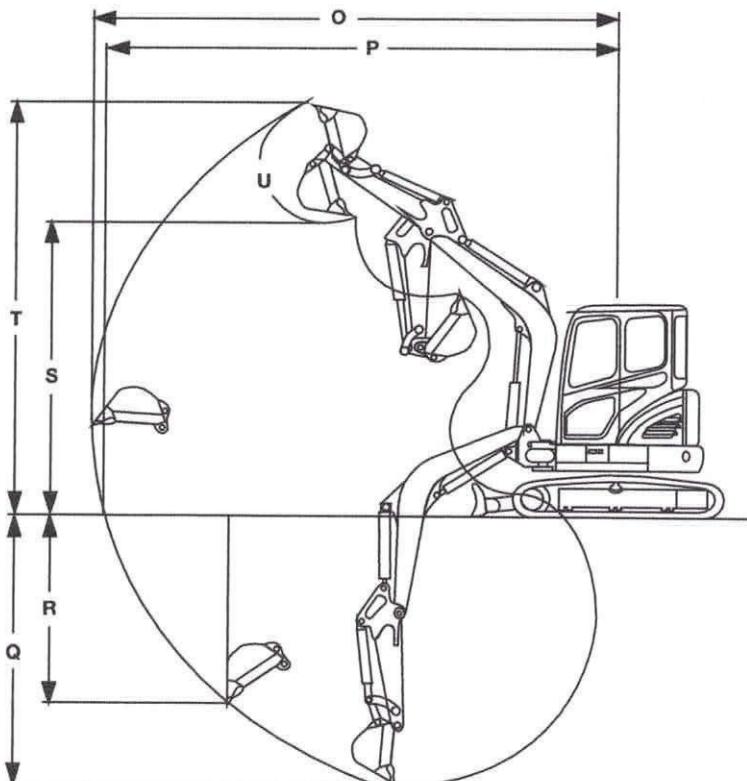
#### BLADE SPECS

L. Backfill blade height	1 ft 0 in (300 mm)
M. Backfill blade rise above ground	1 ft 1 in (330 mm)
N. Backfill blade dig depth	1 ft 3 in (380 mm)
Backfill blade width	5 ft 0 in (1 500 mm)

#### PERFORMANCE SPECS

##### 3 ft 8 in (1.12 m) Arm

O. Maximum dig radius	14 ft 8 in (4 480 mm)
P. Dig radius at groundline	14 ft 3 in (4 340 mm)
Q. Maximum dig depth	7 ft 11 in (2 420 mm)
R. Vertical straight wall dig depth	4 ft 10 in (1 460 mm)
S. Dump height	9 ft 7 in (2 930 mm)
T. Overall reach height	13 ft 7 in (4 150 mm)
U. Bucket rotation	168°
Arm digging force – ISO	3,280 lbf (1 490 kgf/14.6 kN)
Bucket digging force – ISO	4,740 lbf (2 150 kgf/21.1 kN)



## LIFT CAPACITIES

**6 ft 5 in (1.9 m) Boom, 3 ft 8 in (1.12 m) Arm, Dozer Blade Down** Canopy unit equipped with 0.07 m<sup>3</sup> (SAE heaped) bucket, 10 in (250 mm) rubber track and 258 lb (117 kg) counterweight.

Load/Lift Point Height	LOAD RADIUS												MAXIMUM REACH		
	3 ft (1.0 m)		5 ft (1.5 m)		7 ft (2.0 m)		8 ft (2.5 m)		10 ft (3.0 m)		11 ft (3.5 m)		REACH	CAPACITY	
	END	SIDE	END	SIDE	END	SIDE	END	SIDE	END	SIDE	END	SIDE		END	SIDE
+10 ft (3.0 m)									1,290 lb* (580 kg)*	800 lb (360 kg)			10 ft 4 in (3.16 m)	1,350 lb* (610 kg)*	720 lb (330 kg)
+8 ft (2.5 m)									1,280 lb* (580 kg)*	800 lb (360 kg)	1,350 lb* (610 kg)*	590 lb (270 kg)	11 ft 7 in (3.52 m)	1,300 lb* (590 kg)*	580 lb (260 kg)
+7 ft (2.0 m)							1,450 lb* (660 kg)*	1,080 lb (490 kg)	1,420 lb* (650 kg)*	780 lb (350 kg)	1,410 lb* (640 kg)*	580 lb (260 kg)	12 ft 4 in (3.75 m)	1,290 lb* (590 kg)*	510 lb (230 kg)
+5 ft (1.5 m)					2,570 lb* (1,160 kg)*	1,500 lb (680 kg)	1,950 lb* (880 kg)*	1,020 lb (460 kg)	1,670 lb* (760 kg)*	750 lb (340 kg)	1,530 lb* (690 kg)*	570 lb (260 kg)	12 ft 9 in (3.88 m)	1,340 lb* (610 kg)*	470 lb (210 kg)
+3 ft (1.0 m)					3,830 lb* (1,740 kg)*	1,380 lb (620 kg)	2,500 lb* (1,140 kg)*	960 lb (440 kg)	1,960 lb* (890 kg)*	710 lb (320 kg)	1,680 lb* (760 kg)*	550 lb (250 kg)	12 ft 10 in (3.92 m)	1,430 lb* (650 kg)*	450 lb (200 kg)
+2 ft (0.5 m)					3,600 lb* (1,630 kg)*	1,300 lb (590 kg)	2,930 lb* (1,330 kg)*	920 lb (420 kg)	2,200 lb* (1,000 kg)*	690 lb (310 kg)	1,810 lb* (820 kg)*	530 lb (240 kg)	12 ft 9 in (3.88 m)	1,580 lb* (720 kg)*	440 lb (200 kg)
Groundline	1,840 lb* (830 kg)*	1,840 lb* (830 kg)*	2,130 lb* (970 kg)*	2,130 lb* (970 kg)*	4,080 lb* (1,850 kg)*	1,280 lb (580 kg)	3,130 lb* (1,420 kg)*	890 lb (400 kg)	2,340 lb* (1,060 kg)*	670 lb (300 kg)	1,870 lb* (850 kg)*	520 lb (240 kg)	12 ft 4 in (3.75 m)	1,690 lb* (770 kg)*	460 lb (210 kg)
-2 ft (-0.5 m)	2,690 lb* (1,220 kg)*	2,690 lb* (1,220 kg)*	3,260 lb* (1,480 kg)*	2,190 lb (990 kg)	4,470 lb* (2,030 kg)*	1,280 lb (580 kg)	3,110 lb* (1,410 kg)*	880 lb (400 kg)	2,330 lb* (1,060 kg)*	660 lb (300 kg)	1,810 lb* (820 kg)*	520 lb (230 kg)	11 ft 7 in (3.52 m)	1,790 lb* (810 kg)*	510 lb (230 kg)
-3 ft (-1.0 m)	3,720 lb* (1,690 kg)*	3,720 lb* (1,690 kg)*	4,650 lb* (2,110 kg)*	2,210 lb (1,000 kg)	4,000 lb* (1,810 kg)*	1,290 lb (580 kg)	2,840 lb* (1,290 kg)*	890 lb (400 kg)	2,110 lb* (960 kg)*	660 lb (300 kg)			10 ft 5 in (3.17 m)	1,900 lb* (860 kg)*	810 lb (280 kg)
-5 ft (-1.5 m)	4,970 lb* (2,260 kg)*	4,970 lb* (2,260 kg)*	4,810 lb* (2,180 kg)*	2,270 lb (1,030 kg)	3,110 lb* (1,410 kg)*	1,320 lb (600 kg)	2,190 lb* (990 kg)*	910 lb (410 kg)					8 ft 6 in (2.60 m)	2,020 lb* (920 kg)*	860 lb (390 kg)

NOTE: Lifting capacity are based on ISO 10567.

Lifting capacity does not exceed 75% of tipping load with the machine on firm, level ground or 87% of full hydraulic capacity.

The lift point is a hook located on the back of the bucket.

\*indicates load limited by hydraulic capacity.

**6 ft 5 in (1.9 m) Boom, 4 ft 5 in (1.35 m) Arm, Dozer Blade Down** Canopy unit equipped with 0.07 m<sup>3</sup> (SAE heaped) bucket, 10 in (250 mm) rubber track and 545 lb (247 kg) counterweight.

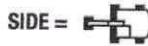
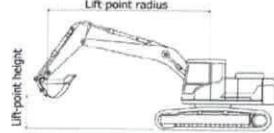
Load/Lift Point Height	LOAD RADIUS												MAXIMUM REACH				
	3 ft (1.0 m)		5 ft (1.5 m)		7 ft (2.0 m)		8 ft (2.5 m)		10 ft (3.0 m)		12 ft (3.5 m)		13 ft (4.0 m)		REACH	CAPACITY	
	END	SIDE	END	SIDE	END	SIDE	END	SIDE	END	SIDE	END	SIDE	END	SIDE		END	SIDE
+10 ft (3.0 m)															11 ft 3 in (3.43 m)	1,100 lb* (500 kg)*	740 lb (330 kg)
+8 ft (2.5 m)											1,170 lb* (530 kg)*	710 lb (320 kg)			12 ft 4 in (3.76 m)	1,060 lb* (480 kg)*	820 lb (380 kg)
+7 ft (2.0 m)									1,210 lb* (550 kg)*	930 lb (420 kg)	1,240 lb* (560 kg)*	700 lb (320 kg)			13 ft 0 in (3.97 m)	1,060 lb* (480 kg)*	550 lb (250 kg)
+5 ft (1.5 m)						1,620 lb* (740 kg)*	1,220 lb (550 kg)	1,470 lb* (670 kg)*	900 lb (410 kg)	1,380 lb* (630 kg)*	680 lb (310 kg)	1,340 lb* (610 kg)*	530 lb (240 kg)	13 ft 5 in (4.09 m)	1,090 lb* (490 kg)*	510 lb (230 kg)	
+3 ft (1.0 m)					3,240 lb* (1,470 kg)*	1,660 lb (750 kg)	2,220 lb* (1,010 kg)*	1,160 lb (520 kg)	1,790 lb* (810 kg)*	880 lb (390 kg)	1,560 lb* (710 kg)*	660 lb (300 kg)	1,420 lb* (650 kg)*	520 lb (240 kg)	13 ft 7 in (4.13 m)	1,150 lb* (520 kg)*	490 lb (220 kg)
+2 ft (0.5 m)					4,210 lb* (1,910 kg)*	1,560 lb (710 kg)	2,730 lb* (1,240 kg)*	1,100 lb (500 kg)	2,070 lb* (940 kg)*	820 lb (370 kg)	1,720 lb* (780 kg)*	840 lb (370 kg)	1,500 lb* (680 kg)*	510 lb (230 kg)	13 ft 5 in (4.09 m)	1,260 lb* (570 kg)*	490 lb (220 kg)
Groundline	1,550 lb* (700 kg)*	1,550 lb* (700 kg)*	2,050 lb* (930 kg)*	2,050 lb* (930 kg)*	4,180 lb* (1,890 kg)*	1,510 lb (690 kg)	3,040 lb* (1,380 kg)*	1,080 lb (480 kg)	2,270 lb* (1,030 kg)*	800 lb (360 kg)	1,830 lb* (830 kg)*	630 lb (280 kg)			13 ft 1 in (3.98 m)	1,440 lb* (650 kg)*	510 lb (250 kg)
-2 ft (-0.5 m)	2,280 lb* (1,030 kg)*	2,280 lb* (1,030 kg)*	2,900 lb* (1,320 kg)*	2,530 lb (1,150 kg)	4,590 lb* (2,080 kg)*	1,500 lb (680 kg)	3,130 lb* (1,420 kg)*	1,040 lb (470 kg)	2,340 lb* (1,060 kg)*	780 lb (360 kg)	1,850 lb* (840 kg)*	620 lb (280 kg)			12 ft 4 in (3.77 m)	1,640 lb* (740 kg)*	550 lb (230 kg)
-3 ft (-1.0 m)	3,100 lb* (1,410 kg)*	3,100 lb* (1,410 kg)*	3,950 lb* (1,790 kg)*	2,550 lb (1,160 kg)	4,280 lb* (1,940 kg)*	1,500 lb (680 kg)	2,990 lb* (1,360 kg)*	1,040 lb (470 kg)	2,240 lb* (1,020 kg)*	780 lb (360 kg)					11 ft 3 in (3.44 m)	1,750 lb* (790 kg)*	840 lb (390 kg)
-5 ft (-1.5 m)	4,080 lb* (1,850 kg)*	4,080 lb* (1,850 kg)*	5,350 lb* (2,430 kg)*	2,600 lb (1,180 kg)	3,620 lb* (1,640 kg)*	1,530 lb (690 kg)	2,560 lb* (1,160 kg)*	1,060 lb (480 kg)							9 ft 9 in (2.96 m)	1,890 lb* (860 kg)*	820 lb (370 kg)
-7 ft (-2.0 m)					3,620 lb* (1,640 kg)*	2,680 lb (1,220 kg)	2,310 lb* (1,050 kg)*	1,580 lb (720 kg)							7 ft 0 in (2.12 m)	2,090 lb* (950 kg)*	1,430 lb (650 kg)

NOTE: Lifting capacity are based on ISO 10567.

Lifting capacity does not exceed 75% of tipping load with the machine on firm, level ground or 87% of full hydraulic capacity.

The lift point is a hook located on the back of the bucket.

\*indicates load limited by hydraulic capacity.



## STANDARD EQUIPMENT

### ENGINE

Kubota D1305 diesel  
Engine access under rear hood  
Glow plug starting aid  
Dry type air cleaner with restriction indicator

### ELECTRICAL

12-volt electrical starting system  
Heavy-duty battery  
Battery Master Switch  
Key Start  
Anti-Theft-Engine starting passwords  
Front working light  
12 V power outlet  
Horn  
Pre-wired – Telematics ready

### HYDRAULICS

Auxiliary hydraulics – single/bi-directional – and plumbing to arm  
Large hydraulic oil cooler  
Control pattern selector valve  
Cylinder rod protection covers – Dozer, Boom

### TRACK DRIVE

Rubber belt tracks  
Automatic 2-speed travel  
Fully hydrostatic drive system  
Sealed and lubricated track rollers  
Track tension adjustment – grease type

### UPPER STRUCTURE

Zero tail swing  
Standard arm: 3 ft 8 in (1.12 m)  
Bucket linkage with lifting hook

### OPERATOR ENVIRONMENT

See page 1

### OTHER

Swing boom – 75° left/50° right  
Hydraulic backfill blade

### WARRANTY

Base warranty coverage: 2-Year/3,000-Hour  
Full Machine Limited Warranty

## OPTIONAL EQUIPMENT

### OPERATOR ENVIRONMENT

Cab with Heat and Radio with USB  
and 2 speakers  
Travel alarm

### OTHER

Additional counterweight adds 286 lb (130 kg)  
Optional long arm: 4 ft 5 in (1.35 m)  
Thumb bracket  
Hydraulic quick coupler provision  
Hydraulic coupler  
Klac coupler  
Mechanical coupler  
Hydraulic hammer  
Beacon  
2nd auxiliary circuit  
Hydraulic thumb

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Form No. CCE201709CX26C  
Replaces Form No. CCE201708CX26C

**CX26C**

IMPORTANT: CASE Construction Equipment Inc. reserves the right to change these specifications without notice and without incurring any obligation relating to such change. Availability of some models and equipment builds vary according to the country in which the equipment is used. The illustrations and text may include optional equipment and accessories and may not include all standard equipment. Your CASE dealer/distributor will be able to give you details of the products and their specifications available in your area.



CASE Construction Equipment is biodiesel-friendly. NOTE: All engines meet current EPA emissions regulations. All specifications are stated in accordance with SAE Standards or Recommended Practices, where applicable.



Always read the Operator's Manual before operating any equipment. Inspect equipment before using it, and be sure it is operating properly. Follow the product safety signs and use any safety features provided.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration, and possible action on Resolution 23-1981, A Resolution receiving a list of publicly owned properties.

**Request:** Business Item

**Legal Document:** Resolution

**Legal Review:**

### **EXECUTIVE SUMMARY:**

On April 11, 2022, a Memorandum of Understanding (MOU) between the City of Lago Vista and the Lago Vista Property Owner Association was executed. This MOU noted two items:

1. City agrees to evaluate and document the public use/public purpose of each property it currently owns, where applicable, and will provide this information to the LVPOA by April 30, 2022.
2. Following the evaluation of the properties in question a solution will be researched and implemented that will be beneficial to both the City and POA.

On January 5, 2023, the City Council was presented a resolution that listed city owned properties and directed the City Manager to contract with a real estate broker for the sale of 21106 National Drive. Due to the City's recent discovery of two (2) utility lines located on the National Drive property, the City has added this address to the listed city owned properties deemed for public use and will not be selling National Drive until the lines are re-routed off the property.

A resolution listing all the public owned properties for public use is included in the packet.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action on Resolution 23-1981, A Resolution receiving a list of publicly owned properties.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 13:25:21 -06'00'

RESOLUTION NO. 23-1981

A RESOLUTION RECEIVING A LIST OF PROPERTIES OWNED BY THE CITY OF LAGO VISTA AND THE ASSOCIATED USES OR PLANNED USES OF SUCH PROPERTIES.

WHEREAS, on March 17, 2022, the Council of the City of Lago Vista, Texas (the “Council”), approved a Memorandum of Understanding (the “MOU”) with the Lago Vista Property Owners’ Association (the “LVPOA”), under which the City of Lago Vista (the “City”) agreed to evaluate and document the public use/public purpose of each applicable property that the City currently owns and provide that information to the LVPOA, and

WHEREAS, City staff, under the direction of the City Manager, have compiled a list of publicly owned property and the public use or purpose of each such property, attached to this Resolution as Exhibit A, and

WHEREAS, City staff, under the direction of the City Manager, identified the property located at 21106 National Drive to be a candidate for sale by the City under the procedures listed in Section 253.014 of the Texas Local Government Code, but City infrastructure located underneath such property could make the property unmarketable, and

WHEREAS, under the MOU the City and the LVPOA have agreed to research and implement a solution that will be beneficial to both the City and the LVPOA, now

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:**

SECTION 1. The Council hereby receives the attached list of publicly owned real property and the public use or purpose of each. Council hereby directs the City Manager to provide such list to the LVPOA as required under the MOU.

*[Signatures are included on the following page]*

PASSED AND APPROVED this the 19th day of January, 2023.

---

Ed Tidwell, Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

## EXHIBIT A

Property Address	Current or Anticipated Public Use
3703 Allegiance Ave	Water Infrastructure
9103 Bar K Ranch Rd	Future Airport Parking or FBO
9107 Bar K Ranch Rd	Pilots Lounge
1 Boggy Ford Rd	Bowden Point
3401 Boone Dr	Lift Station
3609 Boone Dr	Lift Station
8321 Bramble Bush Cir	Water Infrastructure
8405 Briarwood Cir	Water Infrastructure
8504 Bronco Ln	Brahma Trail Road- Public Right of Way
8310 Bronco Ln	Water Infrastructure
8121 Chantilly Trl	Potential Park Space for expansion of current park system
8101 Chestnut Cv	Pool Parking Lot
8103 Chestnut Cv	Pool Parking Lot
8129 Chestnut Cv	Green Center
8131 Chestnut Cv	Green Center
8201 Chestnut Cv	Green Center
4704 Country Club Dr	Golf Course Maintenance Barn
5200 Country Club Dr	Wastewater Treatment Plant
5202 Country Club Dr	Wastewater Treatment Plant
2 Dawn Dr	City Hall area
3 Dawn Dr	City Hall area
4 Dawn Dr	City Hall area
5 Dawn Dr	City Hall area
6 Dawn Dr	City Hall area
9 Dawn Dr	City Hall area
20507 Dawn Dr	Temporary City Hall
20509 Dawn Dr	Temporary City Hall
20601 Dawn Dr	Veterans Park
20603 Dawn Dr	Veterans Park
21003 Dawn Dr	Old WTP2 Property
20503 Earhart Ln	Potential open space/pocket park
8037 Foothill Cv	Wastewater Infrastructure
8102 Foothill Cv	anticipated parkland/trail/trailhead
8109 Foothill Cv	anticipated parkland/trail/trailhead
8115 Foothill Cv	anticipated parkland/trail/trailhead
8117 Foothill Cv	anticipated parkland/trail/trailhead
8119 Foothill Cv	anticipated parkland/trail/trailhead
8121 Foothill Cv	anticipated parkland/trail/trailhead
8122 Foothill Cv	Anticipated future water connection
8128 Foothill Cv	anticipated parkland/trail/trailhead
8130 Foothill Cv	anticipated parkland/trail/trailhead
8133 Foothill Cv	anticipated parkland/trail/trailhead
8135 Foothill Cv	anticipated parkland/trail/trailhead
8137 Foothill Cv	anticipated parkland/trail/trailhead
21200 Green Shore Cv	Wastewater Infrastructure

21201 Green Shore Cv	Wastewater Infrastructure
5007 Green Shore Cir	Wastewater Infrastructure
21647 High Dr	Lift Station parking
21651 High Dr	Lift Station
21409 Lakefront Dr	Lift Station
21106 National Dr	Water Infrastructure
21305 Park Cir	Golf Course Drainage Pond and access road
21307 Park Cir	Golf Course Drainage Pond
9303 Rolling Hill Trl	Airport Infrastructure (AWOS Station)
9405 Rolling Hill Cv	Potential utility infrastructure
21203 Santa Carlo Ave	Lift Station



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Consider approval of the concession services agreement for the Bunker and Grill at the Lago Vista Golf Course.

**Request:** Business Item

**Legal Document:** Contract

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Last December, the City Council approved a second amendment to the Concession Services Agreement between the City of Lago Vista and the Dugout Group, LLC. This agreement was amended to update hours of operation, dress attire for personnel and net sales reporting.

It has recently come to the City's attention via social media that the licensee will soon merge operations from the Highland Lakes Grille restaurant with the operations at the Bunker. This merge includes some additional operations such as live music, karaoke, bingo and poker night. Since these activities could have some impact on permitting, licensing and Pro Shop operations, staff felt it appropriate to bring back to Council for discussion.

City Council discussed the aforementioned items at the December 1, 2022, and January 5, 2023, City Council Meeting. The City Attorney has made revisions to the second amendment according to the Council's discussion.

A third amendment is included with this staff summary.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration and possible action regarding the concession services agreement for the Bunker and Grill at the Lago Vista Golf Course.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 13:28:38 -06'00'

## THIRD AMENDED CONCESSION SERVICES CONTRACT AND LICENSE TO USE

### CITY FACILITIES AT LAGO VISTA MUNICIPAL GOLF COURSE

This Third Amended Concession Services Contract (the "Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_, 2023, by the City of Lago Vista, Texas (hereafter referred to as the "City") and Dustin and Chelsea Martin, owners of The Dugout Group LLC, doing business as The Bunker Bar and Grille (hereafter referred to as the "Company").

Whereas, the City of Lago Vista is the owner of the Lago Vista Municipal Golf Course ("Golf Course") located at 4616 Rimrock Drive, Lago Vista, Texas; and

Whereas, Company has provided kitchen concession, restaurant, bar lounge and associated catering/dining facility maintenance services at the Golf Course and Club House; and

Whereas, the City of Lago Vista and Company entered into a Concession Services Agreement in November 2020 for an initial one-year term set to expire on November 6, 2021 (the "Original Agreement"); and

Whereas, on November 4, 2021, the City Council agreed to amend the agreement to extend the term for thirty (30) days (the "First Amended Agreement") to allow for additional contract negotiations; and

Whereas, the City and the Company entered into a Second Amended Agreement on or around the 6<sup>th</sup> of December, 2021 making certain changes to the First Amended Agreement (the "Second Amended Agreement"); and

Whereas the parties desire to revise the terms of the Second Amended Agreement for continuation of Concession Services at the Golf Course, to address certain live events held at the Golf Course Premises by the concessionaire and to make the other changes contained herein; and

Whereas the parties intend that this Agreement shall supersede the prior agreements and shall constitute a services agreement with regard to the Company continuing to provide Concession Services, the Company's continued use of City property, equipment, and facilities and continuation of the license to enter and use certain city facilities located at the Golf Course, on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

- SERVICES TO BE PROVIDED.** Company agrees to provide the Concession Services as further described in Sections 7 and 8 of this Agreement at the Golf Course and Club House (collectively "Golf Course Premises") which shall include access to and use of the kitchen, restaurant, and club house, bar lounge, and associated catering/dining facility areas for the Golf Course Premises.
- TERM.** The term of this Agreement shall be for the three (3) year period commencing on 6 December 2021 and ending 6 December 2024. Provided that the Company is not in default

under this Agreement ninety (90) days prior to the expiration date herein. Subject to approval by City Council, the parties may extend by mutual written agreement for two (2) additional one (1) year terms. Either party shall notify the other in writing of its intent to not renew this Agreement at least sixty (60) days prior to the expiration of this Agreement. If the term is extended, the parties may consider increasing the amount of Compensation by the Consumer Price Index for urban areas, CPI-U, beginning on the anniversary date of this Agreement and if the cost of utilities under Section 14 increases more than twenty percent, (20%), then the Monthly Payment could be adjusted to cover such utility costs. The parties may consider additional terms for the extension of the Agreement by mutual agreement.

**3. CONSIDERATION.** Compensation during the term of this Agreement shall be in the form of monthly payments ("Monthly Payment").

- a. The Monthly Payment due to the City under this Agreement shall be \$2,850 per month. Monthly Payments are due on the first (1<sup>st</sup>) day of each month. A \$50.00 late fee shall be assessed upon each Monthly Payment not received by the City by the tenth (10<sup>th</sup>) day of the month.

**4. FINANCES AND REPORTING.** All revenue derived from the sale of food, beverage, on-site catering and other Concession Services by the Company as further described in Sections 7 and 8 of this Agreement shall belong exclusively to the Company.

- a. The City shall not be responsible whatsoever for any of the revenues of the Company derived from the services provided under this Agreement.
- b. Company agrees to keep records of monthly Net Sales and remit Reports thereof to the City on or before the last day of the month, detailing the total Net Sales for the month prior. The first report is due on or before January 31, 2021, for the period beginning on the effective date of the Second Amended Agreement and ending on December 31, 2021.
- c. "**Gross Sales**" means the actual sales or price of all food, liquor, dining services, private events, catering, carry-out food service, food delivery services, goods, wares, and merchandise sold, leased, rented, licensed, or delivered, and the actual charges for all food and liquor sold and services performed by Company in, at, from, or arising out of the use of the Premises, whether cash, credit, exchange, or otherwise. Gross Sales shall include, without limitation, sales, rentals, and services: (i) when the order for any of the foregoing originates in, at, from, or arising out of the use of the Premises, whether delivery or performance is made from the Premises or from some other place; (ii) made or performed by mail, telephone, telegraph, electronic mail, text, app, video, internet, electronic video, computer orders, and/or future technological means; (iii) made or performed by mechanical or other vending devices in the Premises; and/or (iv) that Company in the normal and customary course of its business would credit or attribute to its operations in any part of the Premises. Any deposit that is not refunded shall be included in Gross Sales. Gross Sales shall not be reduced by any franchise, occupancy, capital stock, income, or similar tax based on income or profits.

**Deleted:** The City may, upon ten business days' notice to Company, inspect such records and perform an audit, using, if desired by the City, a third-party accounting company. To the extent that any such audit reveals an underreporting of Gross Sales by seven percent (7%) or more, then, in addition to the amounts due for such underpayment, Company shall pay all of the City's costs incurred in the performance of such audit....

d. The definition of "Gross Sales" shall **exclude** the following:

1. tips or gratuities;
2. municipal, city, county, State, or federal sales, use, gross receipts, liquor, restaurant, or excise taxes on sales or services rendered from the Premises where such taxes are added to the price, are stated separately in the bill, and are paid by Company directly to the applicable governmental agency;
3. any exchange of food stocks, inventory, produce, ingredients, raw stocks, produce, fresh or frozen fruits and vegetables, dry groceries, meat, poultry, seafood, goods, and/or merchandise between the restaurants of Company where such exchange of the foregoing is made solely for the convenient operation of the business of Company and not for the purpose of consummating a sale which has theretofore been made in, on, or from the Premises, or for the purpose of depriving Landlord of the benefit of a sale which otherwise would be made in, at, from, or arising out of the use of the Premises;
4. the amount of returns to shippers, vendors, suppliers, and/or manufacturers;
5. receipts from vending machines installed for the use of Company's employees;
6. gift certificates or vouchers until the time that the foregoing have been redeemed;
7. insurance proceeds or credits received for the settlement of damage, accident, loss, or destruction to Company's Personal Property, food stocks, inventory, produce, ingredients, raw stocks, produce, fresh or frozen fruits and vegetables, dry groceries, meat, poultry, seafood, goods, and/or merchandise;
8. condemnation proceeds;
9. bulk sales not in the ordinary course of Tenant's business;
10. sales at a discount or non-cash donations to non-profit, charitable, or religious organizations, but any profit that Tenant receives from the foregoing shall be included in Gross Sales;
11. any promotional sales to third parties;
12. the amount of any cash or credit refund made upon any sale or service;
13. sales by Company of machinery, furniture, equipment, Personal Property, fixed assets, and/or trade fixtures;

14. discounts to employees for employee meals;
15. the amount of any cash or credit refund made upon any sale in, at, from, or arising out of the Premises previously included in Gross Sales hereunder, not to exceed the sum so previously included, where the meal or merchandise sold is thereafter returned by the customer or refunded to the customer and accepted by Company;
16. all sums received by Company for lost, spoiled, and damaged products, including but not limited to food stocks, inventory, produce, liquor, ingredients, raw stocks, fresh or frozen fruits and vegetables, dry groceries, meat, poultry, seafood, goods, and/or merchandise;
17. withholding taxes collected from employees;
18. appreciation of Company's property;
19. loans received by Company;
20. the sale, transfer, or exchange of the business of Company;
21. bad debts of Company;
22. off-site operations or catering revenues for food that is not prepared and provided to customers at the Premises;
23. complimentary meals or samples offered for promotional purposes;
24. rent or fees paid to Tenant by a subtenant, licensee, or concessionaire;
25. shipping and delivery charges;
26. fees and/or charges paid directly to credit card issuers;
27. fees paid by Company to banks in connection with the acceptance of customers' ATM or debit cards;
28. the net amount of any discounts or rewards allowed to any organization or to any customer pursuant to any customary and reasonable policy adopted by Tenant; and
29. discounts for children's meals.

"Net Sales" means Gross Sales minus customer discounts, minus customer refunds.

5. **FACILITIES/LICENSE TO ENTER.** Concession Services under this Agreement shall be provided at the facilities shown in Exhibit A and located at the Golf Course and Club House located at 4616 Rimrock Drive, Lago Vista, Texas (the "Concession Facilities"). For purposes of this Agreement, the "Concession Facilities" shall include non-exclusive access to (1) the bathrooms adjacent to the restaurant area shown in Exhibit A, and (2) the concrete patio area adjacent to the Golf Course and Club House (the "Back Patio Area"). The Company's maintenance obligations shall apply to the Concession Facilities, but

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patrons of the golf course who are not customers of the Company may access and use these areas at all times on a non-exclusive basis, and the City may, upon reasonable prior notice to the Company, restrict the use of the Back Patio Area to accommodate golf tournaments or other events held at the golf course. The Company agrees that the Concession Facilities reflected in Exhibit A attached hereto and as further described herein are provided for the Company's use under this Agreement in 'as is' condition and no improvements shall be made to such facilities by either City or Company unless agreed to in writing by the Company and the City Manager. Any improvements to such facilities shall be performed at the sole cost of the Company. In addition to all other obligations in this Agreement, the Company agrees to build any soundproofing between the Concession Facilities and other parts of the Golf Course and Golf Course Premises that the City reasonably determines to be necessary or advisable. To this end, and in addition to any other improvements that the City may reasonably deem necessary, the Company agrees to construct soundproofing improvements to the wall between the Concession Facilities and the adjacent pro shop promptly following the Effective Date of this Agreement.

Subject to the terms of the prior paragraph, the Concession Facilities reflected in Exhibit A shall be made available for Company's use for its exclusive occupation, management and operation under this Agreement and includes the area reflected in Exhibit A and as further described below:

- a. Restaurant area, club house bar, lounge, kitchen, and storage areas, together with all equipment, fixtures, and furniture therein.
- b. Kitchen cooking, preparation and utensil area
- c. Kitchen food service, presentation, and beverage service counters
- d. Kitchen concession sales receipts and customer service area
- e. Kitchen dry goods, frozen goods, shelving and refrigerator storage area
- f. Related dining areas

In addition, the Company shall have non-exclusive access to the entire Golf Course Premises, including the Back Patio Area, for the purpose of selling food, snacks, sandwiches, soft drinks, alcoholic and non-alcoholic beverages, and to all common areas, including driveways, parking, delivery areas and restrooms under the management and control of the City in each case as allowed by State law. Except as specified in Section 9 below, the City hereby grants an exclusive license to Company to access, enter, use, occupy, manage, maintain and operate in the Golf Course Premises for the Concession Services as further defined in Sections 7 and 8 of this Agreement. The area consisting of and including the Pro Shop and Pro Shop Office are expressly excluded from the Golf Course Premises that Company may use and not covered under or be a part of this Agreement.

**6. FACILITIES 'AS-IS' ONLY, NO WARRANTIES. THE CITY OF LAGO VISTA EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH**

City of Lago Vista

Third Amended Concession Services Contract - Golf Course

Page 5 of 17

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RESPECT TO THE FACILITIES, INCLUDING BUT NOT LIMITED TO, THE FACILITIES' CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. THIS WAIVER INCLUDES, BUT IS NOT LIMITED TO, ANY CONDITION CAUSED BY THE NEGLIGENCE OF THE CITY.

**7. SCOPE OF SERVICES TO BE PROVIDED UNDER THIS AGREEMENT.** The scope of Concession Services provided by the Company shall, at a minimum, include and provide for the following:

- a. Healthy culinary products, meals, and beverages for the restaurant, bar, lounge, and onsite catering service for the golfing community and the general public at a reasonable price and in sufficient quantity.
- b. ~~A system of product and service delivery and associated sanitary disposal that~~ **Deleted:** ~~.....Section Break (Next Page).....~~  
meets or exceeds customer expectations.
- c. An atmosphere of product and service delivery, and related sanitary disposal that meets or exceeds customer expectations.
- d. A clean, sanitary, and healthy system of physical plant maintenance and operations which conforms to all City, County, State, and Federal building, food service, restaurant operations, malt beverage/liquor dispensing regulations and health codes.
- e. A food, beverage, and concession service level which services the patronage of the golfing community and general public including continued marketing efforts to increase patronage.
- f. Experienced and professional management staff who can perform all required Concession Services, including, but not limited to, order, purchase, dispense, inventory, track, control, and handle waste stream of all products, materials, and supplies in the Golf Course Premises and perform the related maintenance functions. The Company shall designate an on-site manager to be the point of contact for daily operations of the Concession Services provided under this Agreement.
- g. An operation which maximizes revenues to both the Company and the City of Lago Vista.

The Company may, in addition to those Concession Services required to be provided hereunder, conduct weekly events from the Concession Facilities (but not from the Back Patio Area nor anywhere outside of the Concession Facilities) including (i) karaoke, and, (ii) if properly licensed by the Texas Lottery Commission and only in accordance with such license, bingo activities. Company shall conduct all such events strictly in accordance with state law and local ordinances, and Company shall take all necessary precautions to prevent any excessive noise or other nuisance caused by such events. If the City Manager determines, in her sole discretion, that unreasonable noise, smells, or other nuisances are caused by such events, the City Manager may prohibit any further events until the City Council reviews the nature of such nuisance, and after a hearing, decides whether to continue allowing all or any

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of such events. If the City Council determines, after such hearing, that one or more of the events causes a nuisance that is unlikely to be mitigated by future actions of the Company, the City Council may prohibit all or any of such future events.

8. **SALE OF ALCOHOLIC BEVERAGES.** The Company shall maintain its own Beer and Wine or Mixed Beverage License through the Texas Alcoholic Beverage Commission for the duration of the Agreement. All alcohol purchases, taxes, reports, and accountability shall be under the control of and the sole responsibility of the Company.
9. **EXCLUSIVE CONCESSION RIGHTS.** Except as otherwise provided for in this Agreement, Company shall have the exclusive right to use the Concession Facilities as specified in this Agreement for the purpose of providing food and beverage concession services at the Golf Course Premises. The Company agrees that Special Event Permit holders shall use the back-patio area (as shown in Exhibit A) as allowed by the Special Event Permit and may use outside caterers for the event.
10. **CITY-OWNED PROPERTY AND FACILITIES.** Unless otherwise provided in this Agreement, the City maintains ownership of the Concession Facilities and equipment as described in Exhibit B attached hereto. The Company shall have no ownership, claim, or interest in the Concession Facilities at any time or any insurance proceeds received by the City from damage, destruction, theft or loss of any Facilities due to any cause.
  - a. The Company shall provide all equipment, supplies, personnel and other goods and services necessary to provide the Concession Services and standard concession operations at its sole expense as required by this Agreement, except as otherwise explicitly provided in this Agreement. The signs and advertising used by the Company shall be approved by the City, at their reasonable discretion, prior to the installation or distribution.
  - b. The City shall provide the Concession Facilities in an 'as is' condition unless otherwise specified, along with all existing equipment and fixtures, including, but not limited to, kitchen fixtures and furnishings, cooking utensils, cooking space, serving utensils, service space, office space, dry good storage space, frozen food storage space, dining tables, dining seats, and dining chairs. Existing food and beverage inventory, if any, may be purchased from the City at cost if the Company is able to use such inventory in its planned menu offering.
  - c. The Company shall use City-owned property and concession equipment only for providing authorized services as set forth in this Agreement.
  - d. The major repair or replacement of any City-owned concession equipment, fixtures, facilities or personal or real property at the Golf Course Premises, and the Concession Facilities, shall be done at the City's discretion and at City's cost. Notwithstanding the foregoing, the Company shall not suffer, allow, or permit the concession equipment or City-owned property to be damaged and shall promptly pay the City for repair or replacement costs of all damage to City-owned concession equipment and property resulting from the Company's use of such concession equipment and property, except for reasonable wear and tear, upon written notice by the City. Further notwithstanding

the foregoing, Company agrees to build any soundproofing between the Concession Facilities and other parts of the Golf Course and Golf Course Premises that the City reasonably determines to be necessary or advisable.

- e. The Company shall maintain and perform minor repairs to all Concession Facilities and equipment, fixtures, facilities or other personal property located at the Concession Facilities at its sole cost in a clean, sanitary, and orderly condition, free of debris, litter, filth, and offensive material, and in strict compliance with applicable laws, ordinances, and rules and the regulations of any health authority. Should the company fail to maintain or perform minor repairs as stated above, the City, may in its sole discretion, perform such maintenance or repair and, within thirty days after written demand, the Company shall pay to the City all costs incurred by the City in the performance thereof.
- f. All City-owned property shall remain City-owned and any and all equipment or property purchased by the Company shall remain Company owned unless otherwise specified herein or by separate agreement executed by the parties.

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**11. QUALITY OF SERVICE.** The Company agrees that the concession services rendered shall be in compliance with this Agreement. All food, drinks, confectionery and the like sold or kept for sale shall be wholesome and pure and shall conform in all respects to the federal, state, and municipal food and other laws and regulations, including all applicable food handling and service safety regulations and requirements. No imitation, adulterated or misbranded item shall be sold or kept for sale. All merchandise kept for sale shall be stored and handled with due regard for condition and sanitation.

**12. MAINTENANCE OF FACILITIES.** Company shall clean and maintain the Concession Facilities as reflected in Exhibit A attached hereto, and including the attached restrooms and Back Patio Area at Company's sole expense. Company shall adopt and maintain a maintenance and cleaning schedule for such facilities.

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**13. PERSONNEL.**

- a. The Company shall provide an adequate number of trained personnel to staff and operate the Concession Facilities and to provide the services as set forth under this Agreement at all times the Concession Facilities are open. Company's failure to provide adequate staffing as the parties have agreed, or in the absence of an agreement, in the City's reasonable discretion and trained personnel as required herein shall constitute a default of this Agreement.
- b. Company shall ensure that all employees, personnel, or contractors under Company's control are adequately trained in food safety and handling procedures. All personnel shall have a valid Texas Food Handler Card and TABC Certification, and shall otherwise comply with state and federal law. Company shall also ensure that its employees do not use or possess any alcoholic beverages or other intoxicating beverages, illegal drugs, or controlled substances at the Concession Facilities.
- c. Personnel shall treat all patrons, City representatives and all other persons in a

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respectful and professional manner.

- d. All Company employees, personnel, or contractors under Company's control shall be professional in appearance, dressed in neat and clean clothing, free of holes, tears or other signs of wear. Attire should include displaying the Company logo or insignia on a shirt or name tag and slacks, khakis, jeans or hemmed shorts.
- e. Company shall comply with all federal, state, and local laws, including but not limited to, federal and state wage and hour laws requirements and obligations, such as working hours and conditions, leave time, overtime, payment of all applicable taxes, unemployment and workers compensation coverage, compliance with immigration documentation, and deductions from employee pay.

**14. UTILITIES.** The City shall provide the Concession Facilities with water, electricity, garbage pickup, and sewer service. These utilities shall only be used in the provision of Concession Services, or as otherwise explicitly allowed under this Agreement. The Company shall take all action necessary to ensure that these utilities are being used at the most cost-effective means possible, and that no waste occurs. In the event, the cost of these utility services increases more than twenty percent (20%), the parties shall agree to meet to consider an adjustment in the Monthly Payment for the utility increase. Company shall be responsible for and shall pay for any necessary natural or propane service or supplies, as well as all telephone and internet services and any other utilities for the Concession Facilities not expressly paid by the City in this Agreement.

**15. HOURS OF OPERATION.** At a minimum the Company shall ensure that the Concession Facilities are open for business and are available to customers seven (7) days a week as follows:

Monday- Wednesday: 9:00 a.m. to 4:00 p.m.

Thursday - Sunday: 7:30 a.m. to 4:00 p.m.

Holidays: 7:30 a.m. to 4:00 p.m.

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Notwithstanding the foregoing, Concession Facilities are not required to be open on any Monday that the Golf Course is closed. Any change in hours shall be coordinated with the Golf Course Director and shall be clearly posted on the clubhouse doors for patrons to see. Company's failure to observe and maintain the minimum agreed upon operating hours and conditions shall constitute a default of this Agreement.

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**16. COMPLIANCE WITH LOCAL, STATE, AND FEDERAL RULES AND REGULATIONS.** Company and its officers, agents and employees shall at all times comply with all local, state, and federal rules, regulations, and requirements, codes, and laws. Company must obtain and maintain all required operational permits, licenses, fees, and taxes. Payment of any required governmental fees, licenses, and taxes shall be the obligation and

responsibility of the Company.

**17. NONDISCRIMINATION.** The Company and its officers, agents and employees shall not discriminate against any person because of race, sex, age, creed, color, religion, or national origin or any other person in a federally protected class.

**18. INSURANCE.** The Company shall maintain insurance in the following amounts:

General Liability Insurance	\$500,000 per claim or occurrence	\$1,000,000 for all claims arising out of a single transaction or per occurrence
Property Damage Insurance	\$250,000 per occurrence	
Workers Compensation Insurance	In the amounts that meet the requirements as set forth by State law	

Company also agrees to furnish comprehensive general liability coverage providing bodily injury, personal injury, property damages including products liability and complete operation coverage against any and all claims and losses arising out of any operations of the Company, including occupancy of the premises, sale, gift, serving, handling, or dispensing of any product.

Company shall provide the City with certificates evidencing such insurance coverage and the City shall be listed as an additional insured. Such certificate shall provide the City with thirty (30) days advance notice of any cancellation, material change, reduction of coverage, or nonrenewal. The City shall be provided with a copy of the appropriate riders evidencing that the City is included as an additional insured to the above required policies.

**19. TERMINATION.**

- a. *Termination for Cause.* This Agreement may be terminated if the Company fails to provide the compensation and other consideration to the City as provided in Section 3 of this Agreement.
- b. *Defaults with Opportunity for Cure.* Should Company default in the performance of this Agreement in a manner stated below, City shall deliver written notice of said default specifying such matter(s) in default.
  1. In the event of an act of default due to a failure to provide adequate personnel to operate the Concession Facilities as required under Section 13, or due to a failure to maintain agreed hours of operation as required under Section 15, Company shall have no more than five (5) business days to cure such default.
  2. For all other acts of default, Company shall have ten (10) business days after

receipt of the written notice, in accordance with Section 23.

3. If Company fails to cure the default within the specified cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Company to complete the work required in this Agreement.
- c. *Termination By Law.* If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.
- d. *Termination not sole remedy.* In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Company for any default hereunder or other action.

**20. INDEMNITY.** The Company agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City and its past, present and future officers, directors, agents, employees, and representatives (the "City Parties") from and against all liability for any and all claims, suits, demands, and/or actions arising from or based upon the acts or omissions on the part of the Company, its officers, directors, agents, representatives, employees, members, visitors, invitees, contractors and subcontractors which may arise out of or result from the Company's occupancy or use of the facilities, concession equipment, and City-owned property and/or activities conducted in connection with or incidental to this Agreement. The Company shall also indemnify the City Parties against any and all mechanic's and materialmen's liens or any other types of liens imposed upon City-owned property arising as a result of the Company's conduct or activity. This indemnity provision shall apply regardless of the nature of the injury or harm alleged, whether for injury or death to persons or damage to property, or whether such claims are alleged as common law, statutory or constitutional claims, or otherwise. This indemnity provision shall apply whether the basis for claims, suit, demand, and/or action may be attributable in whole or in part to the Company, or to any of its agents, representatives, employees, members, visitors, contractors, and subcontractors, or to anyone directly or indirectly employed by any of them. **THE INDEMNITY INCLUDED IN THIS AGREEMENT SHALL APPLY REGARDLESS OF WHETHER THE BASIS FOR CLAIM, SUIT, DEMAND, AND/OR ACTION MAY BE ATTRIBUTABLE IN WHOLE OR IN PART TO THE SIMPLE NEGLIGENCE OF THE CITY PARTIES.**

**21. GOVERNMENTAL IMMUNITY.** Nothing in this agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either the City or its employees, nor to create any legal rights or claims on behalf of any third party. Neither the City, nor its employees waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

**22. INDEPENDENT CONTRACTOR.** The Company expressly agrees that during the term of this Agreement, neither the Company nor any of its employees, personnel, or any of its contractors, is nor shall ever be considered an employee of the City; the Company is an independent contractor, and in this regard the Company, its employees, personnel, or any

contractors will not be within the protection of the coverage of the City's Workers Compensation coverage or other Insurance.

23. **NOTICES.** Any notice required or desired to be given under this Agreement shall be in writing with copies directed as indicated and shall be personally delivered or given by mail. Any notice given shall be deemed to have been given when hand delivered or, if mailed, as of seventy-two (72) hours from the time when notice was deposited in the United States mails (certified or registered, return receipt requested, postage prepaid), addressed to the party to be served with a copy as indicated herein. Either party may change its address for purposes of notice by giving notice of such change of address to the other party in accordance with the provisions of this section.

#### POINT OF CONTACT FOR CITY

City Manager  
5803 Thunderbird  
Lago Vista, TX 78645  
tracie.hlavinka@Lago-Vista.org  
512-267-1170

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#### POINT OF CONTACT FOR COMPANY

The Dugout Group LLC  
Dustin Martin, Owner  
20602 Hoover Cove  
Lago Vista, TX 78645  
Dustinm61@gmai.com  
512-673-9940

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#### ON-SITE MANAGER/DAILY OPERATIONS POINT OF CONTACT

Dustin Martin  
Owner  
Dustinm61@gmail.com  
512-673-9940

Any changes to the On-site Manager/Daily Operations Point of Contact must be sent to the City Manager in writing within 48 hours of the change.

24. **AMENDMENTS AND CHANGES.** No alteration, addition, or amendment to the terms of this Agreement shall be made except by a formal written amendment hereto, executed by both the Company and the City.

25. **WAIVERS.** No waiver of any provision hereof shall be implied from the conduct of the parties. Failure of the City to enforce any and all violations of ordinances or this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach or the same or a different provision or ordinance. Any such waiver must be in writing and must be signed by the party against which such waiver is sought to be enforced. The consent by the

City to any matter or event requiring such consent shall not constitute a waiver of the necessity for such consent to any subsequent matter or event.

**26. ORAL AND WRITTEN AGREEMENTS.** Any and all agreements heretofore made, if any, between the parties regarding the subject matter of this Agreement have been reduced to writing and are contained herein. This Agreement states the sole and exclusive terms of agreement between the parties regarding the subject matter of this Agreement, and any and all prior agreements, regarding such subject matter, not set forth herein are null and void.

**27. TEXAS LAW GOVERNS.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall lie exclusively in Travis County, Texas.

**28. TRANSFERABILITY OF AGREEMENT.** No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or in part by the Company without express written consent of the City. Deleted: assignment

**29. SEVERABILITY.** In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

**30. THIRD PARTY BENEFICIARIES.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to the City nor to create any legal rights or claims, contractual or otherwise, on behalf of any third party. Deleted: Section Break (Next Page)

**31. JOINT VENTURE.** This Agreement shall not be construed to establish a partnership, joint venture, agency, or joint enterprise, express or implied, nor any employer-employee or b01rnwed servant relationship by and among the parties hereto. Nor shall this agreement be construed to create or grant rights, contractual or otherwise, to any other person or entity not a party to this Agreement. Each party shall remain solely responsible for the proper direction of its employees and an employee of one shall not be deemed an employee or borrowed servant of the other for any reason. Deleted: bonowed

**32. EFFECTIVE DATE.** This Contract shall be effective upon execution of this Agreement.

**33. WAIVER OF CITY LIABILITY.** City shall not be liable to the Company for any loss, damage or injury of any kind or character to any person or property (a) arising from any use and/or condition and extent of the property, or any part thereof including, without limitation, environmental contamination, (b) caused by any defect in the equipment, Golf Course Premises, or Concession Facilities located therein, (c) caused by or arising from any act or omission of Company, or any of its agents, employees, licensees or invitees, (d) arising from or in connection with the conduct of any Concession Services or any other conduct by Company performed on the Golf Course Premises or Concession Facilities, (e) arising from any accident on the Golf Course Premises or any fire or casualty thereon, (f) occasioned by the failure of Company to maintain the Concession Facilities in a safe condition, or (g) arising from any other cause whatsoever, except as occasioned by the gross negligence, intentional misconduct or violation of this Lease by the City Parties

occurring after the date of this Agreement. Company, as a material part of the consideration of this Agreement, hereby waives, on its behalf, all claims and damages against City for any such loss, damage or injury to Company, INCLUDING BUT NOT LIMITED TO THOSE CAUSED BY THE SIMPLE NEGLIGENCE OF ONE OR MORE CITY PARTIES.

**IN WITNESS WHEREOF**, the parties have executed and attested this Agreement by their officers thereunto duly authorized as of the date herein first written.

*(Signature Pages to Follow)*

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CITY OF LAGO VISTA \_\_\_\_\_

By: \_\_\_\_\_

Tracie Hlavinka, City Manager

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

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City of Lago Vista Page 14 of 17¶

**COMPANY:** The Bunker Bar & Grille

By: \_\_\_\_\_

Printed Name: Dustin Martin

Title: Owner

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

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City of Lago Vista  
Third Amended Concession Services Contract - Golf Course

Page 17 of 17

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Exhibit A  
CONCESSION FACILITIES

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Exhibit B

2021 INVENTORY OF CITY-OWNED EQUIPMENT AND GOODS

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City of Lago Vista¶

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### LAGO VISTA GC GRILL INVENTORY 2021

TY	COLOR	DESCRIPTION	MFG.
stainless		Beer keg cooler, 3 taps, 2 doors, true	BEVERAGE AIR
red		Beverage cooler, 1 door	Coke Cola
stainless		chaffing dish-stainless pan holders	various types
stainless		Coffee/tea maker, missing decanter	BLOOMFIELD
gray		Folding chairs	
stainless		Fountain Drink Dispenser-Property of	Coke Cola
stainless		Fryer single	VULCAN
wood		High Chair for child	
stainless		Ice tea maker/dispenser	BUNN
Black		Microwave	Panasonic
stainless		Pot, bean - heavy duty with lid	
stainless		Prep table, 2 shelves	
stainless		Prep table, 2 shelves	
TY	COLOR	DESCRIPTION	MFG.
stainless		Prep tables, 2 shelves	
white		Rack, wire, 3 shelves used for chips	
green		Rack, storage, 3 shelves	
stainless		Racks, storage, 4 shelves	
stainless		Rack, storage, 4 shelves inside walk-in	
stainless		Rack, storage, 4 shelves inside walk-in	
stainless		Rack, storage, 3 shelves	
stainless		Rack, storage, 5 shelves	
stainless		Refrigerator, 2 door w lock	TRUE
stainless		Refrigerated Prep table 2 doors	Maxx Cold
stainless		refrigerator, for glasses/pitchers	TRUE
stainless		Refrigerator/freezer, walk-in	KOOLCO
stainless		Rotisserie, electric for hotdogs	SEAL-MAX
stainless		shelf hanging on wall over dishwasher	
wood		Shelves, hanging over counter	
stainless		Stove-oven (6 eye, double oven	
White / plastic		Tables, folding	
stainless		Tray jacks	
black		TV's, flat screen	Emerson

Trumann Tufted Club Chair	Brown Leather	Charlton Home
Bruno Coffee Table	Wood	Foundry Select
Table and Seating - Bar height	Mahogany	Lancaster
Table and Seating -	Mahogany Finish	Lancaster
Laminate Table Top	Mahogany/Black	Attco
Metal Table base	metal	Ace Mart
Metal Table base	metal	Ace Mart
30" Round Table Top	Mahogany/Black	Ace Mart
Coctail Table Base Column	metal	Ace Mart
Metal Table base	METAL	Ace Mart
Hydraulic table glides		Ace Mart
80 piece felt furnitute pads	felt	Wayfair
Flat Grill	Metal	Ace Mart
Grill Table	Metal	Ace Mart
Plates (Large)	Black	IKEA
Plates (Small)	Black	IKEA
Sandwich Prep Table	Stainless	
Ice maker commerical	Stainless	
Beer cooler behind bar	Black	

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Trumann Tufted Club Chair	Brown
Bruno Coffee Table	Wood
Table and Seating - Bar height	Mahogany
Table and Seating -	Mahogany
Laminate Table Top	Mahogany
Metal Table base	metal
Metal Table base	metal
30" Round Table Top	Mahogany
Coctail Table Base Column	metal
Metal Table base	METAL
Hydraulic table glides	
80 piece felt furnitute pads	felt
Flat Grill	Metal
Grill Table	Metal
Plates (Large)	Black
Plates (Small)	Black
Sandwich Prep Table	Stainless
Ice maker commercial	Stainless
Beer cooler behind bar	Black

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## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** 19 January, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing the zoning district for the approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, commonly referred to as being located at 21504 Boggy Ford Road from the C-1C ("Professional, Business Office, Low Density Retail") district to P-1B ("Developed Park District, Active").

**Request:** Public Hearing

**Legal Document:** Ordinance

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Following this cover sheet and a draft version of the ordinance recommended by the Planning and Zoning Commission, is a series of staff reports presented in reverse chronological order. Those staff reports attempt to explain the lengthy process that was required to amend the current Comprehensive Plan (the Future Land Use Map) as it relates to all the inappropriately designated property owned by the LVPOA. When it was determined that a separate amendment to the Comprehensive Plan was preferred as a prerequisite to the original zoning change request, the owner determined that it was prudent to attempt to identify all the property they owned which was designated in a manner inconsistent with their current or future intended use.

The change to the designation of this property from "low-density residential" to "POA Park" was part of Ordinance No. 22-10-11-01. As such, the depiction of the Future Land Use Map generated by the GIS staff that is in the original packet presented to the Planning and Zoning Commission is no longer accurate. Nonetheless, the following packet includes the entirety of the packet that was the basis of their December 9, 2021 recommendation.

Notwithstanding their discussion about the accuracy of the Comprehensive Plan regarding this specific location, the Planning and Zoning Commission unanimously recommended approval of the zoning change at that meeting. Six of the seven members were present at the meeting and participated in the recommendation.

**Impact if Approved:**

The Lago Vista POA will be able to pursue whatever plans they have for the property that would require the requested zoning change.

**Impact if Denied:**

The Lago Vista POA can use the property for facilities permitted by the current zoning, such as a Community Center or Fitness Center like the one they operate on the opposite corner (2601 American Drive). They could also sell the property for development allowed by the existing zoning designation ("Professional, Business Office, Low Density Retail"), although the ordinance currently permits several uses that are not consistent with that description.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Enact Ordinance  N/A -  N/A -  N/A

**Motion to**  Deny Ordinance  N/A -  N/A -  N/A

**Motion to**  Table Ordinance  N/A -  N/A -  N/A

**Known as:**

Future Lago Vista POA facility (park).

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 17:40:37 -06'00'

## **ORDINANCE NO. 23-01-19-01**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE ZONING DISTRICT FOR THE APPROXIMATELY 1.026-ACRE TRACT KNOWN AS ABSTRACT 2152, SURVEY 35 OF THE H & O.B. RAILROAD COMPANY, COMMONLY REFERRED TO AS BEING LOCATED AT 21504 BOGGY FORD ROAD FROM THE C-1C (“PROFESSIONAL, BUSINESS OFFICE, LOW DENSITY RETAIL”) DISTRICT TO P-1B (“DEVELOPED PARK DISTRICT, ACTIVE”); AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the owners of the approximately 1.0226-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, commonly referred to as being located at 21504 Boggy Ford Road have filed an application requesting the change in zoning of this property from the C-1C (“Professional, Business Office, Low Density Retail”) district to P-1B (“Developed Park District, Active”); and

**WHEREAS**, the Property currently resides within the corporate limits of the City of Lago Vista;

**WHEREAS**, after giving ten (10) days written notice to the owners of land in and within 200-feet of the area being rezoned, as well as having published notice to the public at least fifteen (15) days prior to the date of such hearings, the Planning and Zoning Commission and City Council each held separate public hearings on the proposed rezoning of the Property included in this Ordinance; and

**WHEREAS**, the Planning and Zoning Commission at its public hearing held on December 9, 2021 and the City Council at its public hearing held on January 19, 2023, have both reviewed the request and the circumstances of the Property, and find that a substantial change in the circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired; and

**WHEREAS**, the City, by and through its legislative discretion, has adopted a comprehensive plan for the City of Lago Vista, and having considered and reviewed such comprehensive plan, the City Council finds the rezoning approved herein is consistent with the comprehensive plan which shall not be interpreted as inconsistent with this rezoning; and

**WHEREAS**, the City desires that development within its corporate limits occur in an orderly manner in order to protect the health, safety, and welfare of its present and future citizens, protect property values and provide for the growth of the City’s tax base; and

**WHEREAS**, the City desires to control the development standards for the Property, protect third party property owners in the City, and to ensure the benefits of planned development and an enhanced tax base that are achieved through rezoning the Property; and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property; and

**WHEREAS**, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Lago Vista to adopt this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact. The Planning and Zoning Commission and City Council find that this Ordinance satisfies the requirements of Section 13 of the City of Lago Vista Zoning Ordinance, codified under Ordinance No. 98-04-27-03, as amended (the “Zoning Code”).

**Section 2. Enactment.** The Zoning Ordinance and the Official Zoning Map and other applicable ordinances are hereby modified and amended by rezoning the approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, commonly referred to as being located at 21504 Boggy Ford Road from the C1-C (“Professional, Business Office, Low Density Retail”) district to P-1B (“Developed Park District, Active”) zoning district.

**Section 3. Repealer.** All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern.

**Section 4. Severability.** Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

**Section 5. Penalty.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances, Section 1.109 General Penalty for Violations of Code; Continuing Violations of the City of Lago Vista, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

**Section 6. Publication Clause.** The City Secretary of the City of Lago Vista is hereby directed to publish in the Official Newspaper of the City of Lago Vista the Caption, and Effective Date Clause of this Ordinance as required by Section 52.013 of the *Texas Local Government Code*.

**Section 7. Effective Date.** This Ordinance shall be in force and effect from and after its passage on the date shown below in accordance with the provisions of the *Texas Local Government Code* and the City's Charter.

**Section 8. Change of Zoning Map.** The City Manager is hereby authorized to and shall promptly note the zoning change on the official Zoning Map of the City of Lago Vista, Texas.

**Section 9. Proper Notice and Meeting.** 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, *Chapter 551, Texas Local Government Code*.

**AND IT IS SO ORDERED.**

**PASSED AND APPROVED** this 19th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

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Sandra Barton, City Secretary

On a motion by Councilman \_\_\_\_\_, seconded by Councilman \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

**LAGO VISTA CITY COUNCIL**  
**STAFF LAND USE REPORT – JANUARY 19, 2023**



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<b>P&amp;Z CASE NO:</b>	<b>21-1964-R-REZ:</b> 21504 Boggy Ford Road
<b>APPLICANT:</b>	Teresa Cathleen Petross, Manager
<b>LANDOWNER:</b>	Lago Vista Property Owners' Association
<b>LOCATION:</b>	Northwest corner of Boggy Ford Road & American Drive
<b>ZONING:</b>	C1-C to P-1B ("Developed Park District, Active")
<b>PROPOSED USE:</b>	Park with unspecified amenities

---

**UPDATE:**

- This initial request was advertised for the recommendation of the Planning and Zoning Commission to be considered at the January 6, 2022, City Council meeting, which was subsequently cancelled.
- The Development Services staff was thereafter instructed to wait for a request from the Lago Vista Property Owners' Association to amend the current Comprehensive Plan (the Future Land Use Map) regarding all their property that is not appropriately designated. Following some delays to generate an accurate and complete list, that request was approved by the Lago Vista City Council in Ordinance No. 22-10-22-01, following a recommendation of the Planning and Zoning Commission.
- There was no apparent reason to remand the zoning change request back to the Planning and Zoning Commission as their unanimous recommendation for approval remained valid. However, any change in the date of the public hearing originally scheduled for January 6, 2022, mandated a new and corrected advertisement in the official legal journal. In the hope of a less crowded agenda, January 19, 2023, was targeted.

**POTENTIAL ALTERNATIVE DECISIONS:**

- A. Approve a zoning change to P-1B ("Developed Park District, Active").
- B. Approve a zoning change to the P-1A ("Undeveloped Park, Active") district.
- C. Deny any zoning change.

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**LAGO VISTA CITY COUNCIL**  
**STAFF LAND USE REPORT – JANUARY 6, 2022**



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<b>P&amp;Z CASE NO:</b>	<b>21-1964-R-REZ:</b> 21504 Boggy Ford Road
<b>APPLICANT:</b>	Teresa Cathleen Petross, Manager
<b>LANDOWNER:</b>	Lago Vista Property Owners' Association
<b>LOCATION:</b>	Northwest corner of Boggy Ford Road & American Drive
<b>ZONING:</b>	C1-C to P-1B ("Developed Park District, Active")
<b>PROPOSED USE:</b>	Park with unspecified amenities

---

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

- While discussed in the context of this application, in many ways the primary focus of that same relatively lengthy discussion was on various potential future improvements to the zoning ordinance requirements. The general desirability of the requested zoning change was seemingly never seriously in question. Even the potential for outdoor activity related to a "developed park" (as opposed to an "undeveloped park") would presumably be less impactful on adjacent residential property than some of the commercial uses (such as convenience stores) currently permitted by the ordinance in the existing zoning district.
- Moreover, the staff made sure to point out that the intent of the land use report as it relates to those issues was to bring them to the attention of the Commission for possible future ordinance amendment recommendations to the City Council. It was not to imply that these desired improvements were in any way the responsibility of the applicant. That was particularly emphasized regarding the Future Land Use Map and associated land use recommendations contained within the current adopted Comprehensive Plan.
- Notwithstanding the discussion about the benefit of future relatively minor zoning ordinance changes, by far the bulk of the deliberation discussion involved the very carefully crafted language that the Commission members felt would justify the findings required in Section 13.20(d). All three elements were discussed in significant detail and included as part of the successful motion. That motion to recommend approval of the change to the P-1B zoning district was unanimously approved by all six of the Commission members in attendance at the meeting.

**POTENTIAL ALTERNATIVE DECISIONS:**

- A. Approve a zoning change to P-1B ("Developed Park District, Active").
- B. Approve a zoning change to the P-1A ("Undeveloped Park, Active") district.
- C. Deny any zoning change because it is inconsistent with the current Comprehensive Plan as indicated on the Future Land Use Map.

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**LAGO VISTA PLANNING AND ZONING COMMISSION  
STAFF LAND USE REPORT – DECEMBER 9, 2021**



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<b>P&amp;Z CASE NO:</b>	<b>21-1964-R-REZ:</b> 21504 Boggy Ford Road
<b>APPLICANT:</b>	Teresa Cathleen Petross, Manager
<b>LANDOWNER:</b>	Lago Vista Property Owners' Association
<b>LOCATION:</b>	Northwest corner of Boggy Ford Road & American Drive
<b>ZONING:</b>	C1-C to P-1B ("Developed Park District, Active")
<b>PROPOSED USE:</b>	Park with unspecified amenities

---

**GENERAL INFORMATION / LOCATION:**

- The subject property is the relatively large (1.026-acre), vacant tract of land directly opposite American Drive from the "Activity Center," one of the many facilities owned operated by the Lago Vista POA. The Development Services Department staff is not aware of any improvements on the subject property other than what appears to be a path cleared for temporary or intermittent access. It runs between Patton Drive and Boggy Ford Road near the center of the property.
- According to the application form, the requested change from the existing C1-C ("Professional, Business Office, Low Density Retail") commercial district to the P-1B ("Developed Park District, Active") is to "change the use to that of a Park, allowing construction of all desired amenities." While it is common for an applicant to be more explicit or specific about the intended use, the ordinance does not preclude a "speculative" zoning district change to any of the four park districts, as opposed to a requested change to a multifamily or commercial district.
- The zoning ordinance would limit these "desired amenities" to the following uses: picnic shelters with associated improvements such as barbecue pits; game courts, playing fields or swimming pools with bath houses, restrooms, locker rooms, equipment rental or snack shops; and a community center. However, a community center is also a permitted use in the C-1C district, so there is presumably an intent to provide something more than an expansion of the existing "Activity Center" that is located across the street. A marina is a permitted use that is presumably not relevant to the subject property. The zoning ordinance would also permit administrative offices to support the operation of the park or POA. It would also allow an on-site residence for a park manager in accordance with the R-1A or R-1M development standards.

**SITE PLAN / CONTEXT CONSIDERATIONS:**

- Given the broad range of potential uses permitted by the zoning ordinance that has not been limited by the application, contextual compatibility might be a more difficult determination had the existing zoning designation been one of the single-family residential districts. However, the vast majority of the property on any corner of this same intersection is currently in the C1-C or R-4 zoning districts.
- However, both adjacent vacant properties on Thurber Lane are in the R-1B, single-family residential zoning district. The adjacent property at 21506 Boggy Ford Road that includes an existing residence is also in the R-1B zoning district. Nonetheless and as mentioned above, the current ordinance does not require design review approval for a zoning change to any of the park districts, regardless of the level of activity that might ultimately result from the specific use. Instead, restrictions will be limited those specified in the ordinance or adopted design criteria and identified by the staff during the required site development plan review.
- The current commercial zoning designation does not preclude the Planning and Zoning Commission from considering the compatibility between adjacent single-family residential uses and the relatively active outdoor activities that would be permitted following approval of the proposed request. The nature of the C-1 commercial district uses (as opposed to C-2, C-6 or LI districts) is that they are typically contained within the confines of a building. It was not long ago that a property owner objected to the prospect of a public trail being constructed and dedicated adjacent to his existing residence at a City Council meeting.

- Perhaps the most significant assurance of compatibility is that the property is not large enough to accommodate the most intense uses that would be allowed in the requested zoning district. While 1.026 acres is relatively large compared to the typical single-family residential uses in the surrounding area, it is not really large enough for the type of uses that might disturb an adjacent residence, such as a large commercial swimming pool or sports complex.
- Because of that, there is a tendency to question why one of the other park districts was not considered. While the P-2 “Park and Greenbelt District (Passive)” would be limited to benches, trails and playground equipment, the P-1A “Undeveloped Park (Active)” district would seemingly accommodate every likely use not already accommodated by the C-1C district except for swimming pools and playing fields.
- For comparison purposes, “Hancock Park” and “Greenshore Park” are currently within the P-1A “Undeveloped Park (Active)” zoning district and located within two miles of the subject property. Within one mile of the subject property, “Little Emerald Park” and “Heather Park” are largely unimproved but also within the P-1A zoning district.
- “Cody Park” and “Emerald Park” are currently within the P-1A “Undeveloped Park (Active)” zoning district and located within 1.5 miles of the subject property. However, it is questionable whether the boat ramps included at these two locations are permitted by that zoning district or whether that use is instead a component of a “marina” required by the P-1B district, an issue not relevant to the current application. “Marina View Park,” also within the P-1A zoning district and approximately 3 miles from the subject property includes a marina that is clearly precluded by the zoning ordinance. A zoning district change should be sought by the POA to address these likely violations.
- While the POA campground is within the P-1C zoning district specifically intended for that use, it is not particularly analogous to the subject property or the current application. Instead, the only comparable POA facilities that currently share the zoning district designation sought by this application are “Bar-K Park” and the “K-Oaks Clubhouse.” “Bar-K Park” consists of approximately 11 acres while the “K-Oaks Clubhouse” includes approximately 17.6 acres.

#### **RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:**

- Before any privately owned improvements can be permitted, the property must be platted which requires the owner to demonstrate its ability to be served by all essential utilities. Although the Development Services Department will need to obtain written confirmation from the Public Works Department at the time of the plat application, it seems likely that both municipal water and wastewater services are currently available at the subject property. Pending the identification of any needed “public” drainage improvements (determined by the earlier of a “site development plan” or a “subdivision construction plan” review), the property would qualify for plat approval following completion or bonding of any such components and the dedication of required easements.
- The development standards for any structures in the desired new zoning district would not change from the current C-1C zoning district. That would include the maximum height of any structures which would remain at 28 feet above the high point of the lot, after the lot is created by the required plat. However, it is less clear what the maximum height of a structure would be in the P-1A district notwithstanding the limitation on the types of structures allowed.
- Perhaps this should be considered in a future amendment along with a requirement for design review for any P-1B development and the elimination of the ability for a park manager’s residence to be constructed to the R-1M standards which allows manufactured homes and other forms of industrialized housing without compliance with the otherwise applicable standards. I suspect that the adjacent and nearby property owners would be unpleasantly surprised to learn that either the City or the POA could locate a manufactured home within the P-1B zoning district without some restrictions or controls on its appearance.

- Section 13.20(b)(1) of Chapter 14 includes a list of material to be submitted with a zoning change request that were not provided by this applicant. However, it has long been the practice for the City staff, specifically the GIS Manager, to provide most items on that list rather than the applicants. I strongly suspect that relying on the applicants to provide this material historically left the Planning and Zoning Commission members without a quality representation of this critically important information and compromised their ability to make accurate determinations.
- However, by far the most significant issue that relates to the zoning ordinance and the Comprehensive Plan is one that is frequently identified by the staff as problematic and in urgent need of attention. It seems incontrovertible that the community would welcome any appropriate type of park at this location rather than a commercial development permitted by the current zoning district. Unfortunately, if Section 13.20(d) of Chapter 14 is strictly interpreted and applied, this change cannot be approved by the City Council or recommended by the Planning and Zoning Commission. Unlike the more typical commercial corridors within the jurisdiction where the anticipated future trends or development patterns upon which the Future Land Use Map is unknown or unclear, the intent in the present instance is unambiguous.
- The Future Land Use Map designates this property as “low density residential” to ensure compatibility with the viable “low density residential” property that it is located immediately adjacent to. Moreover, this designation is consistent with the segregation of dissimilar uses or rational transitions that are typical for this area on the Future Land Use Map. While there are a number of future parks, including POA parks identified on the Future Land Use Map and the Future Parks and Trails Map within the Comprehensive Plan, this property is not one of them.
- As such, the findings required by Section 13.20(d) are difficult to rationalize. While you might theoretically argue that since the POA is currently unable to sell the property, that it is therefore unlikely to be used for “low-density residential” development. However, that presupposes that their bylaws or Charter can never be amended and simultaneously ignores that all three findings are required. Unlike other areas within the City, there has been very little development in this vicinity that might be interpreted as a failure for an anticipated pattern to be realized or even a “manifest error” in the Comprehensive Plan, despite the failure of the local ordinance to specifically recognize a “manifest error” as an equivalent finding. The only seemingly permissible rationalization is the failure of the Future Land Use Map to specifically recognize that any P-1A park use is compatible with single-family residential development. However, that rationalization would be difficult to assert regarding the more intense uses permitted in the P-1B district. It is critically important that the Planning and Zoning Commission address this issue in the future by putting it back on the agenda.

---

#### **POTENTIAL ALTERNATIVE RECOMMENDATIONS:**

- A. Recommend approval of a zoning change to P-1A (“Undeveloped Park, Active”) district.
- B. Recommend approval of a zoning change to P-1B (“Developed Park District, Active”).
- C. Recommend denial of the application for a zoning change because it is inconsistent with the current Comprehensive Plan as indicated on the Future Land Use Map.

---

21-1964-R-REZ

21504 Boggy Ford Road

Attachment 1

Application



**CITY OF LAGO VISTA • DEVELOPMENT SERVICES  
5803 THUNDERBIRD STREET • P.O. BOX 4727 • LAGO VISTA, TX 78645**

LAGO VISTA  
TEXAS

Tel. (512) 267-5259

Fax (512) 267-5265

**NOTE:** Applicants should seek legal advice concerning the applicability of any existing private covenants or deed restrictions and their ability to be enforced or waived by other specific property owners.

**APPLICATION FOR ZONING DISTRICT CHANGE**

**Contact Person:** Teresa Cathleen Petross, Manager      **Fee:** See Ordinance Appendix A (non-refundable)  
**Contact Phone:** 512-267-2895      **Contact Email:** gm@lvpoa.org  
**Property Owner(s):\*** Lago Vista Property Owners' Association  
**Owner's mailing address:** PO Box 4766, Lago Vista, TX 78645

**COMPLETE LEGAL DESCRIPTION OF SUBJECT PROPERTY**

**Subdivision, Section and Lot Number(s) if platted. Attach metes & bounds or equal description otherwise\***

ABS 2152 SUR 35 H & O B R R CO ACR 1.026

Parcel Identification Number = 166814      Address = 21504 Boggy Ford

**Municipal Address(es)\* if applicable:** 21504 Boggy Ford Rd.

**NATURE OF REQUEST**

**Current Zoning District(s):** C-1      **Requested District:** P-1B

**Purpose or Basis of Request\* (if PDD, include whether concept and/or detail plan approval is sought):**

To change use to that of a Park, allowing construction of all desired amenities.

**Additional individual(s) authorized to act on behalf of the property owner(s)\* regarding this application:**

**Name of Agent:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**NOTE:** Applications must be complete including all applicable portions of this form, payment of fees and all required drawings or documentation. All applications are accepted provisionally pending a completion review. PLEASE TAKE SPECIFIC NOTICE AND INCORPORATE OR ADDRESS ALL LOCAL ORDINANCE REQUIREMENTS IN YOUR APPLICATION.

**Property Owner's signature(s)\***

**Date**

**\*Attach additional sheets as required**

21-1964-R-REZ

21504 Boggy Ford Road

Attachment 2

Site Plan (none submitted)

21-1964-R-REZ

21504 Boggy Ford Road

Attachment 3

Maps



0 15 30 60 90 120

1 in = 100 ft

**21504 BOGGY FORD RD**

Request Type	Zoning Change	Project	21-1964-R-REZ
Change Requested	C-1 to P-1B	Date	11/23/2021
Map Purpose	Aerial & Topo Map	Drawn By	cmartinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

## Contours

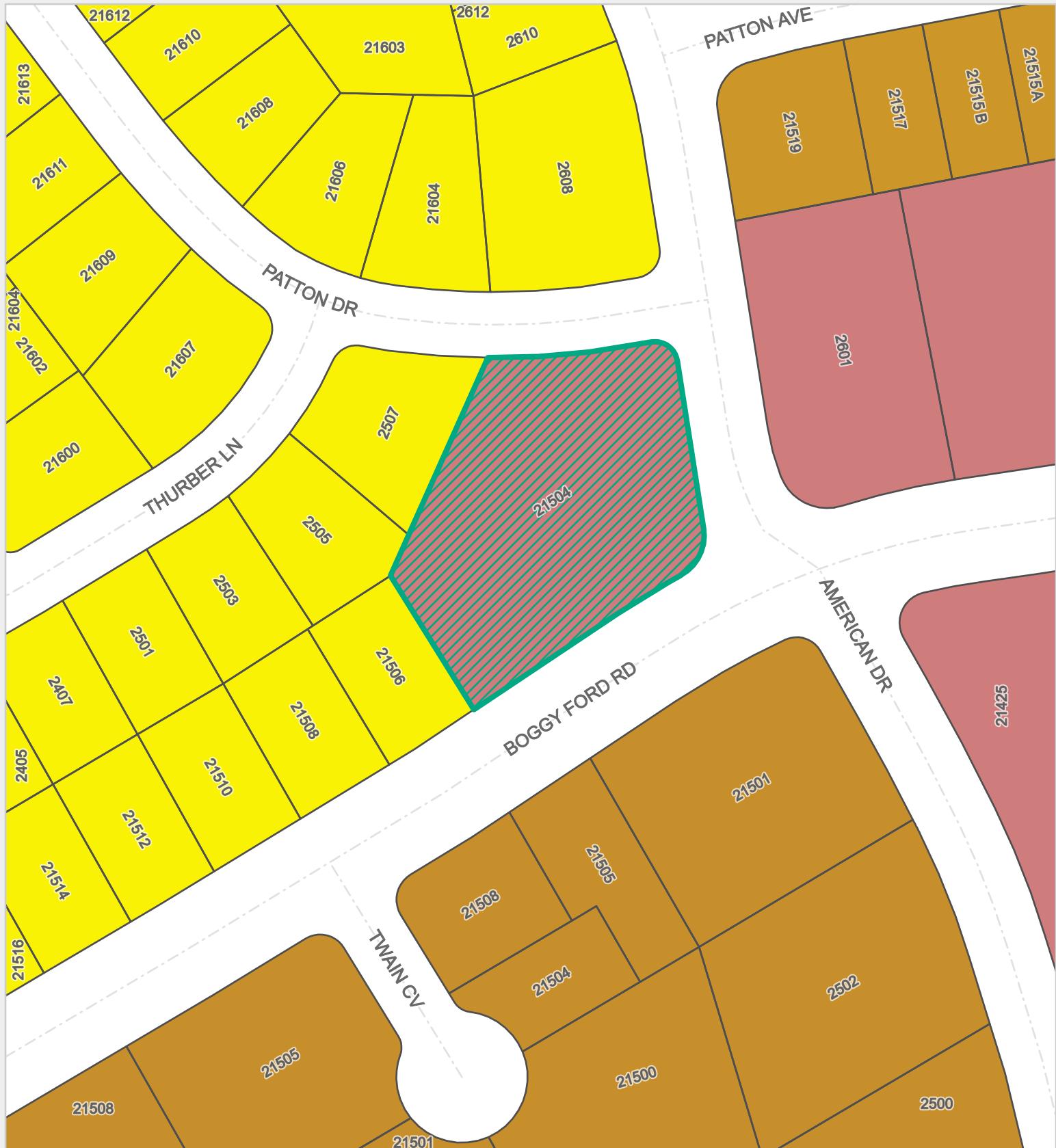
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— 50 ft

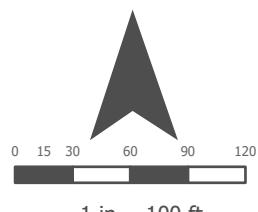
— — — Street

## Project Area

87 TaxParcel



N



## 21504 BOGGY FORD RD

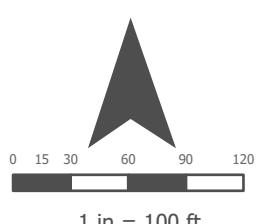
Request Type	Zoning Change	Project	21-1964-R-REZ
Change Requested	C-1 to P-1B	Date	11/23/2021
Map Purpose	Zoning Map	Drawn By	cmartinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Street				
Project Area				
TaxParcel				
Zoning Districts				
<table border="1"> <tr> <td>C-1C</td> </tr> <tr> <td>R-1B</td> </tr> <tr> <td>R-2</td> </tr> <tr> <td>R-4</td> </tr> </table>	C-1C	R-1B	R-2	R-4
C-1C				
R-1B				
R-2				
R-4				



N



## 21504 BOGGY FORD RD

Request Type	Zoning Change	Project	21-1964-R-REZ
Change Requested	C-1 to P-1B	Date	11/23/2021
Map Purpose	Future Land Use Map	Drawn By	cmartinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



21-1964-R-REZ

21504 Boggy Ford Road

Attachment 4

Notice Comments



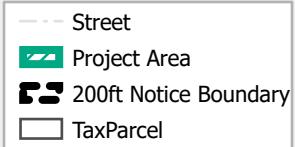
0 15 30 60 90 120

$$1 \text{ in} = 100 \text{ ft}$$

**21504 BOGGY FORD RD**

Request Type	Zoning Change	Project	21-1964-R-REZ
Change Requested	C-1 to P-1B	Date	11/23/2021
Map Purpose	Notification Boundary Map	Drawn By	cmartinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.





## Notice of Public Hearing

CITY OF  
**LAGO VISTA**  
TEXAS

Project #: **21-1964-R-REZ**

**Hearing Date and Time:** Thursday, December 9, 2021, at 7:00 P.M. in the Council Chambers at City Hall, 5803 Thunderbird St., Lago Vista, Texas

**Project Property Location:** 21504 Boggy Ford Road (an approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H. & O.B. Railroad Company)

**200' Notification Mailing ID:** 6

November 24, 2021

GRIMES KENNETH M & BRENDA A  
BRENDA A GRIMES  
21506 BOGGY FORD RD  
LAGO VISTA, TX 78645

The Planning and Zoning Commission will make a consideration of a recommendation regarding a zoning change request to amend approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H. & O.B. Railroad Company commonly referred to as being located at 21504 Boggy Ford Road from the C-1 ("Professional, Business Office, Low Density Retail") district to the P-1B ("Developed Park District, Active") district.

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: [development@lago-vista.org](mailto:development@lago-vista.org)  
Phone Number: 512-267-5259

Please return your comments as soon as possible. **Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above.** Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. **Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.**

In Favor;  Opposed

Comments:

Our house is very close to the property line next to that POA lot, we would love to see a nice, quiet area with benches. The lot is not very large and there are some beautiful oak trees that we would love to see remain. A P-2 rating would protect the peacefulness of that area.

Signed: Kenneth M. Grimes

Brenda A. Grimes

This whole page may be returned as follows:

E-mail: [development@lago-vista.org](mailto:development@lago-vista.org)  
Postal Address: City of Lago Vista, Development Services Dept., P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645  
In Person at Front Counter: Development Services Dept., Lago Vista City Hall 5803 Thunderbird St.



## Notice of Public Hearing

CITY OF  
LAGO VISTA  
TEXAS

Project #: 20-1964-B-387

Hearing Date and Time: Thursday, December 9, 2021, at 7:00 P.M. in the Council Chambers at City Hall, 5805 Thunderbird St., Lago Vista, Texas.

Project Property Location: 21514 Buggy Ford Road (an approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H. & O.B. Railroad Company)

200' Notification Mailing List: 17

November 24, 2021

TORRES ABRAMSON & MARY CO  
9218 SILVER PINE CIR  
AUSTIN, TX 78733

The Planning and Zoning Commission will make a consideration of a recommendation regarding zoning change request to amend approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H. & O.B. Railroad Company commonly referred to as being located at 21514 Buggy Ford Road from the C-1 ("Professional, Business Office, Low Density Retail") district to the P-1B ("Developed Park District, Active") district.

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: [development@lago-vista.org](mailto:development@lago-vista.org)  
Phone Number: 512-267-5259

Please return your comments as soon as possible. Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.

In Favor  Opposed

Comments:

We would much rather see a park here instead of a business with more families moving there earlier are important.

Sign: Deb Jones

This whole page may be returned as follows:

E-mail: [development@lago-vista.org](mailto:development@lago-vista.org)  
Postal Address: City of Lago Vista, Development Services Dept., P.O. Box 4727, Lago Vista, TX (U.S.A.) 78645  
In Person at Front Counter: Development Services Dept., Lago Vista City Hall  
5805 Thunderbird St.



CITY OF  
**LAGO VISTA**  
TEXAS

## Notice of Public Hearing

Project #: 21-1964-R-REZ

**Hearing Date and Time:** Thursday, December 9, 2021, at 7:00 P.M. in the Council Chambers at City Hall, 5803 Thunderbird St., Lago Vista, Texas

**Project Property Location:** 21504 Boggy Ford Road (an approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H. & O.B. Railroad Company)

**200' Notification Mailing ID:** 21, 23, 24

November 24, 2021

LAGO VISTA PROPERTY OWNERS ASSOCIATION  
PO BOX 4766  
LAGO VISTA, TX 78645

The Planning and Zoning Commission will make a consideration of a recommendation regarding a zoning change request to amend approximately 1.026-acre tract known as Abstract 2152, Survey 35 of the H. & O.B. Railroad Company commonly referred to as being located at 21504 Boggy Ford Road from the C-1 ("Professional, Business Office, Low Density Retail") district to the P-1B ("Developed Park District, Active") district.

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: [development@lago-vista.org](mailto:development@lago-vista.org)  
Phone Number: 512-267-5259

Please return your comments as soon as possible. Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.



In Favor;



Opposed

Comments:

---

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Signed:

This whole page may be returned as follows:

E-mail: [development@lago-vista.org](mailto:development@lago-vista.org)  
Postal Address: City of Lago Vista, Development Services Dept., P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645  
In Person at Front Counter: Development Services Dept., Lago Vista City Hall 5803 Thunderbird St.



**AGENDA ITEM**

**City of Lago Vista**

**To:**

**Council Meeting:**

**From:**

**Subject:**

**Request:**

**Legal Document:**

**Legal Review:**

**EXECUTIVE SUMMARY:**

**Impact if Approved:**

**Impact if Denied:**

**Is Funding Required?**      Yes      No      **If Yes, Is it Budgeted?**      Yes      No      N/A

**Indicate Funding Source:**

**Suggested Motion/Recommendation/Action**

**Motion to**      -      -

**Motion to**      -      -

**Motion to**      -      -

**Known as:**

**Agenda Item Approved by City Manager**

---

## **ORDINANCE NO. 23-01-19-02**

### **AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING SECTIONS 11.60 AND 13.40 OF CHAPTER 14 OF THE LAGO VISTA CODE OF ORDINANCES REGARDING PROCEDURES FOR SPECIAL EXCEPTION APPROVALS FOR INCREASED HEIGHT, INCLUDING REQUESTS INVOLVING PROPERTY WITHIN THE 100-YEAR FLOODPLAIN; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously specified the procedures for the approval of special exceptions to increase the maximum height of a building within the jurisdiction in Chapter 14, the Zoning Ordinance; and

**WHEREAS**, those procedures included approval standards within Section 11.60(b) that limited applications, including those within the 100-year floodplain, to those that would not exceed a maximum height of thirty-five feet above the ground when measured from the geometric center of the proposed foundation; and

**WHEREAS**, it was subsequently discovered that the precise wording of this provision would preclude a special exception application for some properties within the City of Lago Vista; and

**WHEREAS**, the potential unintended consequence of this provision might be zoning variance applications for additional height at any location within the jurisdiction that might instead be approved without the benefit of the intended standards and procedures within Chapter 14; and

**WHEREAS**, it was also determined that having all current and future special exception requests considered by the Board of Adjustment rather than the Planning and Zoning Commission would be more efficient and consistent with the intent of the *Texas Local Government Code*; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista has undertaken a review of those regulations and conducted a public hearing at their meetings between June 9, 2022, and September 8, 2022, and again on December 8, 2022; and

**WHEREAS**, the proposed changes should yield results that are more aligned with the expectations of the residents and property owners of the City of Lago Vista; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista forwarded a recommendation to the City Council to amend those requirements contained within Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances as described below; and

**WHEREAS**, the City Council at its public hearing to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted.

**WHEREAS**, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**SECTION 1. FINDINGS OF FACT.** All the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances as shown in Exhibit “A.”

**SECTION 3. REPEALER.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**SECTION 6. 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, Chapter 551 of the *Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 19th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

On a motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

**EXHIBIT “A”**

**CHAPTER 14**

**ZONING**

\*\*\*\*\*

**11.60 Special Exception Approvals**

- (a) **Purpose.** Except as specifically described elsewhere herein, these land use regulations are based upon the division of the City of Lago Vista into zoning districts, within which the treatment of land and improvements is substantially uniform. It is recognized, however, that there are certain improvements that, because of their unique characteristics or circumstances, must be considered individually to address the impact on neighboring land and the community while considering a specific need at a particular location. As such, the Board of Adjustment may approve a special exception in accordance with the various specific procedures described in this section. Such approval, with or without conditions, shall be based on the standards described below.
- (b) **Generally.**
  - (1) **Application and Fee.** An application for a special exception approval in accordance with the provisions of this chapter shall be made in writing to the City using a form prescribed by the City Manager or their designee and shall be accompanied by the application fee prescribed by ordinance. Applications shall also include all documents required to describe relevant aspects of the proposed construction and additional information as may be requested to facilitate a proper and complete evaluation. Such information shall include, but not be limited to site plans, surveys of existing improvements and protected trees, topographic information, and accurate building plans drawn to scale.
  - (2) **Public Hearing.** The Board of Adjustment shall hold a public hearing prior to consideration of any special exception application.
    - (A) Notice requirements for a public hearing by the Board of Adjustment for a special exception approval shall meet the standards in Section 13.40.
    - (B) The public hearing to consider a special exception application shall be held at a regularly scheduled Board of Adjustment meeting. The Board may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.
    - (C) Board of Adjustment members shall adequately prepare to make the required determinations, including studying the application material and visiting the site, subject to compliance with the City’s ethics policy and in the absence of a disability. Board members who have not adequately prepared may not vote on the consideration of a special exception application.

- (3) Appeal. Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court provided under state law.
- (4) Term. As opposed to a variance approval, a special exception approval shall expire in one calendar year if not incorporated in a building permit. However, the City Manager of their designee may approve a maximum of two extensions of one year each upon a showing of hardship received prior to the expiration. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. A new special exception application and approval is required for any approval that has expired or for extensions beyond a term of three years.

(c) Special Exception to Height Standards.

- (1) Approval Standards. Provided the applicant has fully complied with all requirements, the Board of Adjustment may approve an increase to the maximum height of a principal building, an accessory building, or an addition to a principal or accessory building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall it allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the lowest proposed foundation or for more than two stories, outside of the 100-year floodplain. Within the 100-year floodplain, the maximum height above the ground measured from the geometric center of the lowest proposed foundation shall be 45 feet with no more than one floor level above the floodplain. Approvals for a height greater than 35 feet from the geometric center of the lowest proposed foundation shall also be required to demonstrate an “unnecessary hardship” as defined in Section 11.20 and 11.30 above.

(2) Process.

- (A) Ridgepole. Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum “building height” and the maximum “building height” allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum “building height.” Required height indication markings shall be the top edge of a minimum 2-inch-wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property.

The proposed maximum “building height” shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum “building height” allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100-year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100-year floodplain shall be indicated on the ridgepole by a yellow mark.

The ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Board of Adjustments may require additional ridgepoles and that a registered professional land surveyor certify the location and heights of all ridgepoles and markings in a stamped report.

All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed because of pending or anticipated litigation, the ridgepoles shall be removed no later than two weeks after the final decision by the Board of Adjustments.

(B) Other Application Requirements. In addition to the form referenced in Section 11.60(b)(1) above, the application package shall include the following:

- (i) Site Plan. Accurately scaled drawings that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights.
- (ii) Depiction of proposed height. Requirements include some form of accurate scaled depiction, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the lowest proposed foundation. The depiction shall include all ancillary information relevant to the evaluation such as relevant finish grade elevations, finish floor elevations, ceiling heights, framing depth and the proposed pitch of any sloped roof.

\*\*\*\*\*

#### **13.40 Procedures for Public Hearings**

The Council and Commission shall hold at least one (1) public hearing on all proposed zoning classification changes, special uses, conditional uses, amendments to the comprehensive plan, and general amendments to this chapter. The Board shall hold a public hearing on all appeals and requests for a variance or special exception to this chapter.

(a) Notice.

(1) Written Notice to Property Owners.

(A) Written notice of a proposed zoning change, comprehensive plan amendment, special use, conditional use, special exception, or variance request shall be given by the City to owners of real property located within two hundred feet (200') of the boundaries of the property included within the request. Such notice shall be mailed, first class, not less than ten (10) days prior to the date set for Commission, Council and Board hearings to all property owners who appear on the last approved Travis County Tax Rolls. The notice shall state that a request is pending and shall include the date, time,

and place of the Commission or Board meeting and a description of the matter under consideration. However, in accordance with Section 13.20(e)(3)(B)(iii) above, only the written protests received from the owners of property within the municipal limits will be considered in determining whether the affirmative vote of at least three-fourths of all members of the governing body shall be required for a proposed zoning change.

- (B) A copy of the notice may be delivered to the person to be served, or to his duly authorized agent either in person or by mail to his last known address, or it may be given in such other manner reasonably calculated to give notice and approved by the City.
- (C) The City shall complete and mail the individual notices.

(2) By Publication. The City shall publish at least one notice of a proposed Commission, Board, or Council hearing in the official City newspaper or in a newspaper of general circulation in Lago Vista, Texas, at least fifteen (15) days prior to the date on which the hearing is to occur. The notice shall include the date, time, and place of the Council, Commission or Board meeting and a description of the matter under consideration.

(b) Signs Required for Proposed Change. At least fifteen (15) days prior to the date on which the hearing is to occur, the City shall place signs on the property easily visible to the public. Signs shall meet the following requirements:

- (1) Each sign shall be erected on the property for which an application has been filed. For the purposes of this requirement, separate contiguous tracts or lots that are part of the same application shall be considered a single property. The sign shall be placed at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to pedestrians and motorists. A sign shall be placed on each non-contiguous street frontage that cannot be seen from a single vantage point. Additional signs shall be placed at approximately equal intervals along the street frontage of large properties to help ensure visibility. However, only one (1) sign shall be required for any frontage less than or equal to three hundred feet in length and no more than three (3) signs shall be required for any contiguous property frontage that is part of an application.
- (2) All required signs shall remain on the property until final disposition of the action is determined.

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Note: the text in green below are changes recommended by the City Attorney, amended by the changes in blue requested by the Council on 1/5/2023.

## CHAPTER 14

### ZONING

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#### **11.60 Special Exception Approvals**

- (a) Purpose. Except as specifically described elsewhere herein, these land use regulations are based upon the division of the City of Lago Vista into zoning districts, within which the treatment of land and improvements is substantially uniform. It is recognized, however, that there are certain improvements that, because of their unique characteristics or circumstances, must be considered individually to address the impact on neighboring land and the community while considering a specific need at a particular location. As such, the Board of Adjustment may approve a special exception in accordance with the various specific procedures described in this section. Such approval, with or without conditions, shall be based on the standards described below.
- (b) Generally.
  - (1) Application and Fee. An application for a special exception approval in accordance with the provisions of this chapter shall be made in writing to the City using a form prescribed by the City Manager or their designee and shall be accompanied by the application fee prescribed by ordinance. Applications shall also include all documents required to describe relevant aspects of the proposed construction and additional information as may be requested to facilitate a proper and complete evaluation. Such information shall include, but not be limited to site plans, surveys of existing improvements and protected trees, topographic information, and accurate building plans drawn to scale.
  - (2) Public Hearing. The Board of Adjustment shall hold a public hearing prior to consideration of any special exception application.
    - (A) Notice requirements for a public hearing by the Board of Adjustment for a special exception approval shall meet the standards in Section 13.40.
    - (B) The public hearing to consider a special exception application shall be held at a regularly scheduled Board of Adjustment meeting. The Commission Board may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.
    - (C) Board of Adjustment members should shall adequately prepare to make the required determinations, including studying the application material and visiting the site, subject to compliance with the City's ethics policy and in the absence of a disability. Board members who have not visited the site adequately prepared may not vote on the consideration of a special exception application.

- (3) Appeal. Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court ~~of record for review provided under state law~~.
- (4) Term. As opposed to a variance approval, a special exception approval shall expire in one calendar year if not incorporated in a building permit. However, the City Manager of their designee may approve a maximum of two extensions ~~of one year each pursuant to a formal written request alleging upon a showing of~~ hardship received prior to the expiration. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. A new special exception application and approval is required for any approval that has expired or for extensions beyond a term of three years.

(c) Special Exception to Height Standards.

- (1) Approval Standards. Provided the applicant has fully complied with all requirements, the Board of Adjustment may approve an increase to the maximum height of a principal building, an accessory building, or an addition to a principal or accessory building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall an approval allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the lowest proposed foundation or for more than two stories, outside of the 100-year floodplain. Within the 100-year floodplain, the maximum height above the ground measured from the geometric center of the lowest proposed foundation shall be 45 feet with no more than ~~three~~ one floor levels above the floodplain. Approvals for a height greater than 35 feet from the geometric center of the lowest proposed foundation shall also be required to demonstrate an “unnecessary hardship” as defined in Section 11.20 and 11.30 above.

(2) Process.

- (A) Ridgepole. Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum “building height” and the maximum “building height” allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum “building height.” Required height indication markings shall be the top edge of a minimum 2-inch-wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property.

The proposed maximum “building height” shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum “building height” allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100-year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100-year floodplain shall be indicated on the ridgepole by a yellow mark.

The **primary** ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Board of Adjustments may require additional ridgepoles and that a registered professional land surveyor certify the location and heights of all ridgepoles and markings in a stamped report.

All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed because of pending or anticipated litigation, the ridgepoles shall be removed no later than two weeks after the final decision by the Board of Adjustments.

(B) Other Application Requirements. In addition to the form referenced in Section 11.60(b)(1) above, the application package shall include the following:

- (i) Site Plan. Accurately scaled drawings that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights.
- (ii) Depiction of proposed height. Requirements include some form of accurate scaled depiction, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the lowest proposed foundation. The depiction shall include all ancillary information relevant to the evaluation such as relevant finish grade elevations, finish floor elevations, ceiling heights, framing depth and the proposed pitch of any sloped roof.

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### **13.40 Procedures for Public Hearings**

The Council and Commission shall hold at least one (1) public hearing on all proposed zoning classification changes, special uses, conditional uses, amendments to the comprehensive plan, and general amendments to this chapter. The Board shall hold a public hearing on all appeals and requests for a variance or special exception to this chapter.

(a) Notice.

(1) Written Notice to Property Owners.

(A) Written notice of a proposed zoning change, comprehensive plan amendment, special use, conditional use, special exception, or variance request shall be given by the City to owners of real property located within two hundred feet (200') of the boundaries of the property included within the request. Such notice shall be mailed, first class, not less than ten (10) days prior to the date set for Commission, Council and Board hearings to all property owners who appear on the last approved Travis County Tax Rolls. The notice shall state that a request is pending and shall include the date, time, and place of the Commission or Board meeting and a description of the matter under consideration.

However, in accordance with Section 13.20(e)(3)(B)(iii) above, only the written protests received from the owners of property within the municipal limits will be considered in determining whether the affirmative vote of at least three-fourths of all members of the governing body shall be required for a proposed zoning change.

- (B) A copy of the notice may be delivered to the person to be served, or to his duly authorized agent either in person or by mail to his last known address, or it may be given in such other manner reasonably calculated to give notice and approved by the City.
- (C) The City shall complete and mail the individual notices.

(2) By Publication. The City shall publish at least one notice of a proposed Commission, Board, or Council hearing in the official City newspaper or in a newspaper of general circulation in Lago Vista, Texas, at least fifteen (15) days prior to the date on which the hearing is to occur. The notice shall include the date, time, and place of the Council, Commission or Board meeting and a description of the matter under consideration.

(b) Signs Required for Proposed Change. At least fifteen (15) days prior to the date on which the hearing is to occur, the City shall place signs on the property easily visible to the public. Signs shall meet the following requirements:

- (1) Each sign shall be erected on the property for which an application has been filed. For the purposes of this requirement, separate contiguous tracts or lots that are part of the same application shall be considered a single property. The sign shall be placed at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to pedestrians and motorists. A sign shall be placed on each non-contiguous street frontage that cannot be seen from a single vantage point. Additional signs shall be placed at approximately equal intervals along the street frontage of large properties to help ensure visibility. However, only one (1) sign shall be required for any frontage less than or equal to three hundred feet in length and no more than three (3) signs shall be required for any contiguous property frontage that is part of an application.
- (2) All required signs shall remain on the property until final disposition of the action is determined.

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# CHAPTER 14

## ZONING

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### **11.60 Special Exceptions To Height Standards Approvals**

(a) **Purpose.** Except as specifically described elsewhere herein, these land use regulations are based upon the division of the City of Lago Vista into zoning districts, within which the treatment of land and improvements is substantially uniform. It is recognized, however, that there are certain improvements ~~or uses~~ that, because of their unique characteristics or circumstances, must be considered individually to address the impact on neighboring land and the community while considering a specific need at a particular location. As such, ~~the Planning and Zoning Commission, or the Board of Adjustment upon appeal, may approve an increase in the maximum “building height” as defined in Section 2.10 and established in the development standards for each zoning district~~ a special exception in accordance with the various specific procedures described in this section. Such approval, with or without conditions, shall be based on the standards described below.

(b) **Approval Standards Generally.** ~~Provided the applicant has fully complied with all requirements, the Planning and Zoning Commission, or the Board of Adjustment upon appeal, may approve an increase to the maximum height of a principal building or an addition to a principal building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall it allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the proposed foundation or for more than two stories.~~

(1) **Application and Fee.** An application for a special exception approval in accordance with the provisions of this chapter shall be made in writing to the City using a form prescribed by the City Manager or their designee and shall be accompanied by the application fee prescribed by ordinance. Applications shall also include all documents required to describe relevant aspects of the proposed construction and additional information as may be requested to facilitate a proper and complete evaluation. Such information shall include, but not be limited to site plans, surveys of existing improvements and protected trees, topographic information, and accurate building plans drawn to scale.

(2) **Public Hearing.** The Board of Adjustment shall hold a public hearing prior to consideration of any special exception application.

(A) Notice requirements for a public hearing by the Board of Adjustment for a special exception approval shall meet the standards in Section 13.40.

(B) The public hearing to consider a special exception application shall be held at a regularly scheduled Board of Adjustment meeting. The Board may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.

(C) Board of Adjustment members shall adequately prepare to make the required determinations, including studying the application material and visiting the site, subject

to compliance with the City's ethics policy and in the absence of a disability. Board members who have not adequately prepared may not vote on the consideration of a special exception application.

- (3) Appeal. Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court provided under state law.
- (4) Term. As opposed to a variance approval, a special exception approval shall expire in one calendar year if not incorporated in a building permit. However, the City Manager of their designee may approve a maximum of two extensions of one year each upon a showing of hardship received prior to the expiration. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. A new special exception application and approval is required for any approval that has expired or for extensions beyond a term of three years.

(c) Process Special Exception to Height Standards.

- (1) Ridgepole Approval Standards. ~~Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum "building height" and the maximum "building height" allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum "building height." Required height indication markings shall be the top edge of a minimum 2 inch wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property.~~ Provided the applicant has fully complied with all requirements, the Board of Adjustment may approve an increase to the maximum height of a principal building, an accessory building, or an addition to a principal or accessory building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall it allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the lowest proposed foundation or for more than two stories, outside of the 100-year floodplain. Within the 100-year floodplain, the maximum height above the ground measured from the geometric center of the lowest proposed foundation shall be 45 feet with no more than one floor level above the floodplain. Approvals for a height greater than 35 feet from the geometric center of the lowest proposed foundation shall also be required to demonstrate an "unnecessary hardship" as defined in Section 11.20 and 11.30 above.

~~The proposed maximum "building height" shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum "building height" allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100 year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100 year floodplain shall be indicated on the ridgepole by a yellow mark.~~

~~The primary ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Planning~~

~~and Zoning Commission or the Board of Adjustments on appeal, may require additional ridgepoles and that a licensed surveyor certify the location and heights of all ridgepoles and markings in a stamped report.~~

~~All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed, the ridgepoles shall be removed no later than two weeks after the final decision by the Planning and Zoning Commission or the Board of Adjustments, upon appeal.~~

(2) ~~Application Process. Applications shall be made on a form provided by the city and are accepted provisionally, pending an inspection of all required ridgepoles. In addition to the form, the application package shall include the following:~~

(A) ~~Site Plan Ridgepole. Drawings preferably sealed, that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both of these heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights. Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum “building height” and the maximum “building height” allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum “building height.” Required height indication markings shall be the top edge of a minimum 2-inch-wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property.~~

The proposed maximum “building height” shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum “building height” allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100-year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100-year floodplain shall be indicated on the ridgepole by a yellow mark.

The ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Board of Adjustments may require additional ridgepoles and that a registered professional land surveyor certify the location and heights of all ridgepoles and markings in a stamped report.

All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed because of pending or anticipated litigation, the ridgepoles shall be removed no later than two weeks after the final decision by the Board of Adjustments.

(B) ~~Depiction of proposed height Other Application Requirements. Some form of accurate depiction is required, typically building elevations, indicating the proposed maximum~~

~~“building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the proposed foundation.~~ In addition to the form referenced in Section 11.60(b)(1) above, the application package shall include the following:

- (i) Site Plan. Accurately scaled drawings that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights.
- (ii) Depiction of proposed height. Requirements include some form of accurate scaled depiction, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the lowest proposed foundation. The depiction shall include all ancillary information relevant to the evaluation such as relevant finish grade elevations, finish floor elevations, ceiling heights, framing depth and the proposed pitch of any sloped roof.

(C) ~~Fee. Fees shall be the same as for a variance to the zoning ordinance.~~

(3) ~~Public Hearing. The Planning and Zoning Commission shall hold a public hearing prior to consideration of any special exception application.~~

(A) ~~Notice requirements for a public hearing by the Planning and Zoning Commission shall meet the standards in Section 13.40.~~

(B) ~~The public hearing to consider a special exception application shall be held at a regularly scheduled Planning and Zoning Commission meeting. The Commission may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.~~

(C) ~~Commissioners should visit the site. If the Commission’s decision is appealed in accordance with the requirements included herein, the Board of Adjustments members should visit the site. Commissioners or Board members who have not visited the site may not vote on the consideration of a special exception application.~~

(4) ~~Appeal. An applicant or any aggrieved person, as defined in section 2.10, may appeal the final decision of the Planning and Zoning Commissions to the Board of Adjustments in accordance with the requirements of section 11.50.~~

(5) ~~Term. Absent a formal written request alleging hardship to the City Manager or his designee for an extension, a special exception approval shall expire in one calendar year if not incorporated in a building permit. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. Extensions beyond a term of three years would require a new special exception application and approval.~~

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#### 13.40 Procedures for Public Hearings Conducted By The Council, Commission Or Board

The Council and Commission shall hold at least one (1) public hearing on all proposed zoning classification changes, **special uses, conditional uses, amendments to the comprehensive plan**, and general amendments to this chapter. The Board shall hold a public hearing on all **appeals and** requests for a variance or special exception to this chapter.

(a) Notice.

(1) Written Notice to Property Owners.

- (A) Written notice of a proposed zoning change, **comprehensive plan amendment, special use, conditional use, special exception**, or variance request shall be given by the City to owners of real property located within two hundred feet (200') of the boundaries of the property **to-be-developed, zoned, or rezoned included within the request**. Such notice shall be mailed, first class, not less than ten (10) days prior to the date set for Commission, Council and Board hearings to all property owners who appear on the last approved Travis County Tax Rolls. The notice shall state that a **zoning change proposal or variance** request is pending and shall include the date, time, and place of the Commission or Board meeting and a description of the matter under consideration. However, in accordance with Section 13.20(e)(3)(B)(iii) above, only the written protests received from the owners of property within the municipal limits will be considered in determining whether the affirmative vote of at least three-fourths of all members of the governing body shall be required for a proposed zoning change.
- (B) A copy of the notice may be delivered to the person to be served, or to his duly authorized agent either in person or by mail to his last known address, or it may be given in such other manner reasonably calculated to give notice and approved by the City.
- (C) The City shall complete and mail the individual notices.

(2) By Publication. The City shall publish at least one notice of a proposed Commission, Board, or Council hearing in the official City newspaper or in a newspaper of general circulation in Lago Vista, Texas, at least fifteen (15) days prior to the date on which the hearing is to occur. The notice shall include the date, time, and place of the Council, Commission or Board meeting and a description of the matter under consideration.

(b) Signs Required for Proposed **Zoning** Change. At least fifteen (15) days prior to the date on which the hearing is to occur, the City shall place signs on the property easily visible to the public. Signs shall meet the following requirements:

- (1) Each sign shall be erected on the property for which **a zoning change or variance** an application has been filed. For the purposes of this requirement, separate contiguous tracts or lots that are part of the same application shall be considered a single property. The sign shall be placed at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to pedestrians and motorists. A sign shall be placed on each non-contiguous street frontage that cannot be seen from a single vantage point. Additional signs shall be placed at approximately equal intervals along the street frontage of large properties to help ensure visibility. However, only one (1) sign shall be required for any frontage less than or equal to three hundred feet in length and no more than three (3) signs shall be required for any contiguous property frontage that is part of an application.
- (2) All required signs shall remain on the property until final disposition of the action is determined.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** 19 January, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Section 13.20(d) of Chapter 14 and Article 7.000 of Appendix A of the Lago Vista Code of Ordinances adding procedural and substantive requirements to amend the Future Land Use Map or other components of the adopted Comprehensive Plan for any reason, including accommodation of a subsequent zoning change request; and providing for related matters.

**Request:** Public Hearing

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The need to address this issue was originally raised by the City Council's Comprehensive Master Plan subcommittee in 2020. It was subsequently added to the agenda of the Planning and Zoning Commission for discussion at their June 11, 2020 meeting. For a variety of reasons including the pandemic, this effort was abandoned until recently. One of the primary reasons for it again becoming a priority is the need for consistent and explicit requirements, including approval standards that address each distinct basis for change that might be alleged. Otherwise the staff resources will continue to be burdened by zoning change requests that inaccurately assert consistency with the Comprehensive Plan.

Currently we have no sound basis for rejecting such an application. Even when the staff is successful in convincing the property owner to first seek an amendment to the Comprehensive Plan, the cost of the request is being subsidized because of the lack of a required application procedure and fee. Council Member Prince suggested something similar as a policy at the Council Meeting on November 3, 2022. The Development Services Department staff agrees, but thinks it would be even more effective with the procedures and approval standards explicitly established in the zoning ordinance.

However, additional comments seem warranted regarding the procedures and approval standards. The staff did research on the provisions employed by other jurisdictions that similarly require amendments to their comprehensive plan to be separate from zoning change applications. Some like Cedar Park employed policies, while others like Baton Rouge adopted ordinances. While the recommended amendment is not very similar to any of those, we attempted to borrow the best language from each which occasionally was found on application forms. The exception involves the approval standards for an amendment based on a significant and unanticipated change, which is identical to the current ordinance with the exception of a request by the Planning and Zoning Commission to remove one adjective.

There were no public comments in 2022 regarding this potential recommendation. Six of the Planning and Zoning Commission members were present for this portion of the meeting on December 8, 2022. The recommendation for approval of the amendment was unanimous.

**Impact if Approved:**

An orderly and specifically prescribed set of procedures and approval standards for any amendment to the adopted Comprehensive Plan will be incorporated into the zoning ordinance, including an application form, fee and opportunity to appeal the determination that an amendment is required.

**Impact if Denied:**

The current lack of rigidly defined requirements and procedures will continue, requiring the expenditure of ample staff resources expended in relation to these requests (including those seemingly required by a zoning change application) without an existing application fee.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Enact Ordinance  N/A -  N/A -  N/A

**Motion to**  Deny Ordinance  N/A -  N/A -  N/A

**Motion to**  Table Ordinance  N/A -  N/A -  N/A

**Known as:**

Ordinance prescribed procedures and approval standards for amendments to the Comprehensive Plan (for any reason).

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 17:34:18 -06'00'

## **ORDINANCE NO. 23-01-19-03**

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS,  
AMENDING SECTION 13.20(d) OF CHAPTER 14 AND ARTICLE 7.000 OF  
APPENDIX A OF THE LAGO VISTA CODE OF ORDINANCES ADDING  
PROCEDURAL AND SUBSTANTIVE REQUIREMENTS TO AMEND THE  
FUTURE LAND USE MAP OR OTHER COMPONENTS OF THE ADOPTED  
COMPREHENSIVE PLAN FOR ANY REASON, INCLUDING  
ACCOMODATION OF A SUBSEQUENT ZONING CHANGE REQUEST;  
AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously established requirements within Chapter 14, the Zoning Ordinance, for zoning changes to be consistent with the current comprehensive plan; and

**WHEREAS**, the staff, the Planning and Zoning Commission and the Lago Vista City Council have been confronted with increasing volumes of zoning change requests that seem inconsistent with the current comprehensive plan despite the very persistent assertions of the applicants or property owners to the contrary; and

**WHEREAS**, on the occasions when the applicants and property owners seeking a zoning change that is inconsistent with the current comprehensive agree to first seek an amendment to that plan, the Lago Vista Code of Ordinances does not include an explicit process to be followed or approval standards to be met, beyond amendments that are needed because of a significant and unanticipated change; and

**WHEREAS**, the result is that inordinate public resources are currently being expended that might be avoided by a more explicit and defined process included in the Lago Vista Code of Ordinances; and

**WHEREAS**, the Planning and Zoning Commission has undertaken an extensive review of those existing regulations as well as the methods employed by other cities; and

**WHEREAS**, the Planning and Zoning Commission has forwarded a recommendation to the City Council to amend the provisions of Section 13.20(d) of Chapter 14 of the Lago Vista Code of Ordinances to establish explicit procedural requirements and approval standards for amendments to the current comprehensive plan, including provisions that preclude a simultaneous zoning change request; and

**WHEREAS**, the Development Services Department staff has recommended amendments to Article 7.000 of Appendix A of the Lago Vista Code of Ordinances to establish an application fee for property owners to request amendments to the current comprehensive plan to offset some of the required administrative and notification costs that is commensurate with existing fees for similar requests; and

**WHEREAS**, the City Council at its public hearing to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted.

**WHEREAS**, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**Section 1. Findings.** All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**Section 2. Amendment.** The City Council of the City of Lago Vista, Texas, does hereby amend Section 13.20(d) of Chapter 14 of the Lago Vista Code of Ordinances as shown in Exhibit "A" and Article 7.000 of Appendix A of the Lago Vista Code of Ordinances as shown in Exhibit "B."

**Section 3. Repealer.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**Section 4. Severability.** If any section, subsection, article, paragraph, sentence, clause, phrase, or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**Section 5. Publication and Codification.** The City Secretary is hereby directed to publish the caption of this ordinance, including the penalty, in accordance with City Charter Section 3.17 and record the attached regulation in the City's Code of Ordinances as authorized in Section 52.001 of the *Texas Local Government Code*.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**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, Chapter 551 of the *Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 19th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

**EXHIBIT “A”**

**CHAPTER 14**

**ZONING**

\*\*\*\*\*

**13.20 Procedure for a Change of Zoning Classification of a Parcel of Land**

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(d) **Required Conformance to Master Plan.** The adopted Comprehensive Plan documents the current land use policy recommendations applicable within the municipality and serves as a guideline for future zoning decisions that will yield a balanced, diversified, and compatible pattern of development consistent with the vision of its citizens. While it does not establish zoning regulations or establish zoning district boundaries, no zoning application deemed to be inconsistent with the Comprehensive Plan shall be considered without first successfully seeking an amendment, in accordance with the provisions below, that eliminates that inconsistency.

(1) An application for an amendment to the Comprehensive Plan shall be required prior to the approval of a zoning change application whenever the City Manager or their designee determines that the proposed zoning change is otherwise inconsistent with the adopted Comprehensive Plan. An appeal of that determination shall comply with the procedures outlined in Section 11.50 of this chapter.

(2) An amendment to either the text of the Comprehensive Plan or any of its various components, including but not limited to the Future Land Use Plan or Map, shall be requested using the required form available from the Development Services Department and include the fee specified in Appendix A.

(3) The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan. That amendment shall require the affirmative vote of at least three-fourths (3/4) of all members of the governing body for adoption.

(4) Notwithstanding anything in this subsection 13.20(d) to the contrary, the City Council maintains full discretion to adopt a Comprehensive Plan and define the content and design of such Comprehensive Plan. A complete application for the amendment of the Comprehensive Plan shall in no way bind the City Council to amend the Comprehensive Plan. An application for an amendment shall not be considered unless one of the following is shown:

(A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an

impactful facility, and disinvestment or deterioration of a development, neighborhood, or area;

- (B) a demonstrable error, oversight, or omission; or
- (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.

(5) An application for an amendment to the Comprehensive Plan based on significant and unanticipated change under subsection 4(A), above must show the following:

- (A) that the significant and unanticipated change to the area that includes the impacted property occurred after the adoption of the Comprehensive Plan;
- (B) the property is unlikely to be developed in accordance with the land use designation, policies, or recommendations in the current Comprehensive Plan; and
- (C) that the proposed change is the most appropriate designation for both the property and the surrounding area.

(6) An application for an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission under subsection 4(B), above must identify specific and tangible items such as inaccurate, contradictory, or inconsistent information or recommendations, rather than generalities or unsupported conclusions.

(7) An application for an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes under subsection 4(C), above must show the following:

- (A) that the proposed change does not require an evaluation that is broader or more comprehensive in scope;
- (B) that the proposed change maintains or increases compatibility with existing land use patterns or designated future land uses;
- (C) that the proposed change would result in benefits, advantages or other similar favorable impacts to the adjacent property or area; and
- (D) that the property is physically capable of accommodating the proposed change (size, shape, topography, etc.).

\*\*\*\*\*

**EXHIBIT “B”**

**APPENDIX A**

**FEE SCHEDULE**

\*\*\*\*\*

**ARTICLE 7.000 ZONING AND ANNEXATION FEES**

- (a) Rezoning request (except for PDD), one acre or less: \$250.00.
- (b) Rezoning request (except for PDD), for more than 1 acre: \$250.00 plus \$50.00 per acre.
- (c) PDD rezoning request
  - (1) Concept Plan only: \$250.00 plus \$50.00 per acre (\$1,000.00 minimum).
  - (2) Detail Plan only: \$500.00 plus \$50.00 per acre (\$2,000.00 minimum).
  - (3) Combined Concept and Detail Plan: \$500.00 plus \$50.00 per acre (\$2,500.00 minimum).
- (d) Annexation and zoning request (including PDD): No charge.
- (e) Disannexation request: \$150.00.
- (f) Special use permit application fee: same as rezoning request.
- (g) Conditional use approval: \$250.00.
- (h) Short-term occupancy permit: \$50.00.
- (i) Zoning Ordinance Variance and Special Exception Requests: \$250.00.
- (j) Protected tree replacement fee: \$250.00 per inch, with a maximum of \$10,000 for one or two-family residential properties.
- (k) Home-based business
  - (1) Permit: \$50.00.
  - (2) Permit renewal (every 2 years): \$50.00.
  - (3) Conditional use permit or appeal of denial of permit: \$250.00.

- (l) Zoning Verification Letter: \$75.00.
- (m) Predevelopment Meeting: \$500.00 for first two hours, \$100.00 for each additional hour (a credit of 50 percent of fee will apply to application fee when submitted).
- (n) Comprehensive Plan amendment request
  - (1) Future Land Use Map, 1 acre or less and any other plan component: \$250.00.
  - (2) Future Land Use Map, for more than 1 acre: \$250 plus \$50 per acre.
- (o) Appeal request (administrative determination): \$250 plus professional cost plus 15% (\$1,000 initial escrow deposit required).

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Note: the text in green below are changes recommended by the City Attorney, amended by the changes in blue requested by the Council on 1/5/2023.

## CHAPTER 14

### ZONING

\*\*\*\*\*

#### 13.20 Procedure for a Change of Zoning Classification of a Parcel of Land

\*\*\*\*\*

(d) Required Conformance to Master Plan. The adopted Comprehensive Plan documents the current land use policy recommendations applicable within the municipality and serves as a guideline for future zoning decisions that will yield a balanced, diversified, and compatible pattern of development consistent with the vision of its citizens. While it does not establish zoning regulations or establish zoning district boundaries, no zoning application deemed to be inconsistent with the Comprehensive Plan shall be considered without first successfully seeking an amendment, in accordance with the provisions below, that eliminates that inconsistency.

(1) An application for an amendment to the Comprehensive Plan shall be required prior to the approval of a zoning change application whenever the City Manager or their designee determines that the application proposed zoning change is otherwise inconsistent with the adopted Comprehensive Plan. An appeal of that determination shall comply with the procedures outlined in Section 11.50 of this chapter.

(2) An amendment to either the text of the Comprehensive Plan or any of its various components, including but not limited to the Future Land Use Plan or Map, shall be requested using the required form available from the Development Services Department and include the fee specified in Appendix A.

(3) The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan. That amendment shall require the affirmative vote of at least three-fourths (3/4) of all members of the governing body for adoption.

(4) Notwithstanding anything in this subsection 13.20(d) to the contrary, the City Council maintains full discretion to adopt a Comprehensive Plan and define the content and design of such Comprehensive Plan. A complete application for the amendment of the Comprehensive Plan shall in no way bind the City Council to amend the Comprehensive Plan. An application ~~is required regardless of the alleged source of the proposed amendment, including those that originate from~~ for an amendment shall not be considered unless one of the following is shown:

(A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an

impactful facility, and disinvestment or deterioration of a development, neighborhood, or area;

- (B) a demonstrable error, oversight, or omission; or
- (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.

(5) **Approval of An application for** an amendment to the Comprehensive Plan based on significant and unanticipated change **under subsection 4(A), above shall include but not be limited to must show** the following **requirements**:

- (A) that the **significant and unanticipated** change to the area that includes the impacted property occurred after the adoption of the Comprehensive Plan;
- (B) the property is unlikely to be developed in accordance with the land use designation, policies, or recommendations in the current Comprehensive Plan; and
- (C) that the proposed change is **an** the most appropriate designation for both the property and the surrounding area.

(6) **Approval of An application for** an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission **under subsection 4(B), above must shall include identification of identify** specific and tangible items **such as inaccurate, contradictory, or inconsistent information or recommendations**, rather than generalities or unsupported conclusions.

(7) **Approval of An application for** an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes **under subsection 4(C), above shall include but not be limited to the following requirements** must show the following:

- (A) that the proposed change does not require an evaluation that is broader or more comprehensive in scope;
- (B) that the proposed change maintains or increases compatibility with existing land use patterns or designated future land uses;
- (C) that the proposed change would result in benefits, advantages or other similar favorable impacts to the adjacent property or area; and
- (D) that the property is physically capable of accommodating the proposed change (size, shape, topography, etc.).

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# APPENDIX A

## FEE SCHEDULE

\*\*\*\*\*

### **ARTICLE 7.000 ZONING AND ANNEXATION FEES**

- (a) Rezoning request (except for PDD), one acre or less: \$250.00.
- (b) Rezoning request (except for PDD), for more than 1 acre: \$250.00 plus \$50.00 per acre.
- (c) PDD rezoning request
  - (1) Concept Plan only: \$250.00 plus \$50.00 per acre (\$1,000.00 minimum).
  - (2) Detail Plan only: \$500.00 plus \$50.00 per acre (\$2,000.00 minimum).
  - (3) Combined Concept and Detail Plan: \$500.00 plus \$50.00 per acre (\$2,500.00 minimum).
- (d) Annexation and zoning request (including PDD): No charge.
- (e) Disannexation request: \$150.00.
- (f) Special use permit application fee: same as rezoning request.
- (g) Conditional use approval: \$250.00.
- (h) Short-term occupancy permit: \$50.00.
- (i) Zoning Ordinance Variance and Special Exception Requests: \$250.00.
- (j) Protected tree replacement fee: \$250.00 per inch, with a maximum of \$10,000 for one or two-family residential properties.
- (k) Home-based business
  - (1) Permit: \$50.00.
  - (2) Permit renewal (every 2 years): \$50.00.
  - (3) Conditional use permit or appeal of denial of permit: \$250.00.
- (l) Zoning Verification Letter: \$75.00.

- (m) Predevelopment Meeting: \$500.00 for first two hours, \$100.00 for each additional hour (a credit of 50 percent of fee will apply to application fee when submitted).
- (n) Comprehensive Plan amendment request
  - (1) Future Land Use Map, 1 acre or less and any other plan component: \$250.00.
  - (2) Future Land Use Map, for more than 1 acre: \$250 plus \$50 per acre.
- (o) Appeal request (administrative determination): \$250 plus professional cost plus 15% (\$1,000 initial escrow deposit required).

\*\*\*\*\*

## CHAPTER 14

### ZONING

\*\*\*\*\*

#### 13.20 Procedure for a Change of Zoning Classification of a Parcel of Land

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(d) Parcel Change Does Not Required Conformance to Master Plan. A change of zoning proposed by the owner of the parcel affected may be recommended for enactment, even though such proposed change does not conform to the land use map in the City's Master Plan provided that: The adopted Comprehensive Plan documents the current land use policy recommendations applicable within the municipality and serves as a guideline for future zoning decisions that will yield a balanced, diversified, and compatible pattern of development consistent with the vision of its citizens. While it does not establish zoning regulations or establish zoning district boundaries, no zoning application deemed to be inconsistent with the Comprehensive Plan shall be considered without first successfully seeking an amendment, in accordance with the provisions below, that eliminates that inconsistency.

(1) The Commission finds significant and unanticipated changes have occurred in the area of the affected parcel since the classification on the land use map was adopted. An application for an amendment to the Comprehensive Plan shall be required prior to the approval of a zoning change application whenever the City Manager or their designee determines that the proposed change is otherwise inconsistent with the adopted Comprehensive Plan. An appeal of that determination shall comply with the procedures outlined in Section 11.50 of this chapter.

(2) It is unlikely that the parcel will be developed or used for any use permitted under the zoning classification indicated in the City's Master Plan. An amendment to either the text of the Comprehensive Plan or any of its various components, including but not limited to the Future Land Use Plan or Map, shall be requested using the required form available from the Development Services Department and include the fee specified in Appendix A.

(3) The Commission finds that the requested zoning classification is the most appropriate classification for the area affected. The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan. That amendment shall require the affirmative vote of at least three-fourths (3/4) of all members of the governing body for adoption.

(4) Notwithstanding anything in this subsection 13.20(d) to the contrary, the City Council maintains full discretion to adopt a Comprehensive Plan and define the content and design of such Comprehensive Plan. A complete application for the amendment of the Comprehensive Plan shall in no way bind the City Council to amend the Comprehensive Plan. An application for an amendment shall not be considered unless one of the following is shown:

(A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an

impactful facility, and disinvestment or deterioration of a development, neighborhood, or area;

- (B) a demonstrable error, oversight, or omission; or
- (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.

(5) An application for an amendment to the Comprehensive Plan based on significant and unanticipated change under subsection 4(A), above must show the following:

- (A) that the significant and unanticipated change to the area that includes the impacted property occurred after the adoption of the Comprehensive Plan;
- (B) the property is unlikely to be developed in accordance with the land use designation, policies, or recommendations in the current Comprehensive Plan; and
- (C) that the proposed change is the most appropriate designation for both the property and the surrounding area.

(6) An application for an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission under subsection 4(B), above must identify specific and tangible items such as inaccurate, contradictory, or inconsistent information or recommendations, rather than generalities or unsupported conclusions.

(7) An application for an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes under subsection 4(C), above must show the following:

- (A) that the proposed change does not require an evaluation that is broader or more comprehensive in scope;
- (B) that the proposed change maintains or increases compatibility with existing land use patterns or designated future land uses;
- (C) that the proposed change would result in benefits, advantages or other similar favorable impacts to the adjacent property or area; and
- (D) that the property is physically capable of accommodating the proposed change (size, shape, topography, etc.).

\*\*\*\*\*

# APPENDIX A

## FEE SCHEDULE

\*\*\*\*\*

### **ARTICLE 7.000 ZONING AND ANNEXATION FEES**

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- (c) PDD rezoning request:
  - (1) Concept Plan only: \$250.00 plus \$50.00 per acre (\$1,000.00 minimum).
  - (2) Detail Plan only: \$500.00 plus \$50.00 per acre (\$2,000.00 minimum).
  - (3) Combined Concept and Detail Plan: \$500.00 plus \$50.00 per acre (\$2,500.00 minimum).
- (d) Annexation and zoning request (including PDD): No charge.
- (e) Disannexation request: \$150.00.
- (f) Special use permit application fee: same as rezoning request.
- (g) Conditional use ~~permit approval~~: \$250.00.
- (h) Short-term occupancy permit: \$50.00.
- (i) Zoning Ordinance Variance ~~and Special Exception Requests~~: \$250.00.
- (j) Protected tree replacement fee: \$250.00~~4~~ per inch, with a maximum of \$10,000 for ~~one or two-family~~ residential properties.
- (k) Home-based business:
  - (1) Permit: \$50.00.
  - (2) Permit renewal (every 2 years): \$50.00.
  - (3) Conditional use permit or appeal of denial of permit: \$250.00.
- (l) Zoning Verification Letter: \$75.00.
- (m) Predevelopment Meeting: \$500.00 for first two hours, \$100.00 for each additional hour (a credit of 50 percent of fee will apply to application fee when submitted).

- (n) ~~Special Exception Request: \$250.00.~~ Comprehensive Plan amendment request
  - (1) Future Land Use Map, 1 acre or less and any other plan component: \$250.00.
  - (2) Future Land Use Map, for more than 1 acre: \$250 plus \$50 per acre.
- (o) Appeal request (administrative determination): \$250 ~~plus~~ professional cost ~~plus~~ 15% (\$1,000 initial escrow deposit required).

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## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Taylor Whichard (Public Works Director)

**Subject:** Consideration of a request by the owner of 9313 Rolling Hills Trail to waive the requirement to connect to the municipal wastewater system until an adequate connection to the municipal water system is available.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The owner of this property east of the Lago Vista Rusty Allen Airport is developing a building for lease by future tenants interested in leasing space for use as an office/warehouse. According to the International Building Code, Chapter 19 of Section 2902.2, both office or warehouse use require a toilet.

A municipal wastewater (sewer) main is located within 300 feet of the property. Chapter 13, Section 13.602 of the Code of Ordinances stipulates these owners are required to connect to the City sewer. However, there is no adequate municipal water main available within 300 feet to provide a reliable source of potable water. Our ordinances do not include a requirement for a well and the property owner intends to use harvested rainwater stored in a tank instead.

To avoid confusion and complications associated with metering the applicants harvested rain water for sewer usage, the Public Works Department would prefer that the property owner use a private wastewater (septic) system until a reliable potable water source is also available. The Director supports a waiver of Section 13.602 requirement to connect to the municipal wastewater system until an adequate size municipal water main is also available within 300 feet of the property. At that time, the property would be required to connect to both the municipal water and wastewater systems and pay all applicable fees.

**Impact if Approved:**

The property owner will be allowed to utilize a private water and wastewater system for the required improvements, but will be required to connect to the municipal system only when both are available within the prescribed maximum distances.

**Impact if Denied:**

The property owner will be required to connect to the municipal wastewater system, will utilizing a potentially unreliable potable water source (harvested rainwater).

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Approve Item  N/A -  N/A -  N/A

**Motion to**  Deny Item  N/A -  N/A -  N/A

**Motion to**  Table Item  N/A -  N/A -  N/A

**Known as:**

Waiver of requirement to connect to the municipal wastewater system at 9313 Rolling Hills Trail until an adequate connection to the municipal water system is available within 300 feet.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 14:02:39 -06'00'



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor and City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration and possible action regarding an archery range proposal at Sunset Park from David Snyder.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Mr. Snyder first approached the City of Lago Vista back in the spring of 2022 regarding an archery range at Sunset Park. Preliminary conversations consisted of making sure the position of the proposed archery range would not create an issue to spraying effluent at Cedar Breaks. Discussions continued with the former City Attorney and staff figuring out the logistics of this project. Mr. Snyder met with the Public Works Director, Parks and Recreation Director and Police Chief to address questions and concerns. A few major concerns have been discussed such as additional parking closer to the proposed archery site. This was not a consideration of the City Council when budgeting for the next phase of Sunset Park. The Police Chief felt confident the shoot range at the park would not be an issue, as it is positioned behind the direction of the archery range. Public Works also requested engineering drawings for the proposed range.

An agreement would be necessary should the City Council want to lease this property for an archery range purpose. Mr. Snyder has provided engineering site design drawings, rules and a presentation. He is available to make his presentation and answer any questions regarding the creating and operation of the venue.

**Impact if Approved:**

An agreement will be drafted to meet all the concerns and details for an archery range to function at Sunset Park.

**Impact if Denied:**

No agreement will be drafted and no archery range will exist at Sunset Park.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:**

This project should not be at the expense of the City of Lago Vista, just the allowance to use park property.

**Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration and possible action regarding an archery range proposal at Sunset Park from David Snyder.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 13:17:22 -06'00'

# Range Proposal – 19Jan23



# Vision

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Oak Ridge Archery is looking to develop a tournament ready outdoor range in the Central Texas Hill Country that will make Lago Vista a destination point for enthusiasts from all over. This range would meet all National Field Archery Association (NFAA) guidelines and will target those interested in this, time honored sport. With a USA Archery certified instructor and Chief Range Safety Officer on staff, we will cater to Competitive archery, Bow hunters, 4-H, FFA, UIL, Boy/Girl Scouts, Corporate events, etc. National Archery in the Schools Program (NASP), United States Collegiate Archery Association (USCA), and more. The range will also have multiple target stations that will meet accessibility requirements in the hopes of sponsoring events with the likes of Wounded Warriors and others. Events to include year round practice, leagues, tournaments, holiday shoots, team building, charity events and more.



# Benefits

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- \$0 direct or indirect cost to the city.
- Range will assume cost of improvements and maintenance of 30 +/- acres of vacant woods between Sunset Park and the water treatment plant.
- Brings a broader scope to the existing sports complex and will be accessible to the entire community.
- Is an opportunity to partner with the school district and other community organizations to enhance community engagement.
- Tournaments will draw outside resources and provide increased exposure to local businesses, restaurants, shops, etc.
- Sponsorship/Advertising opportunities for local businesses and organizations.



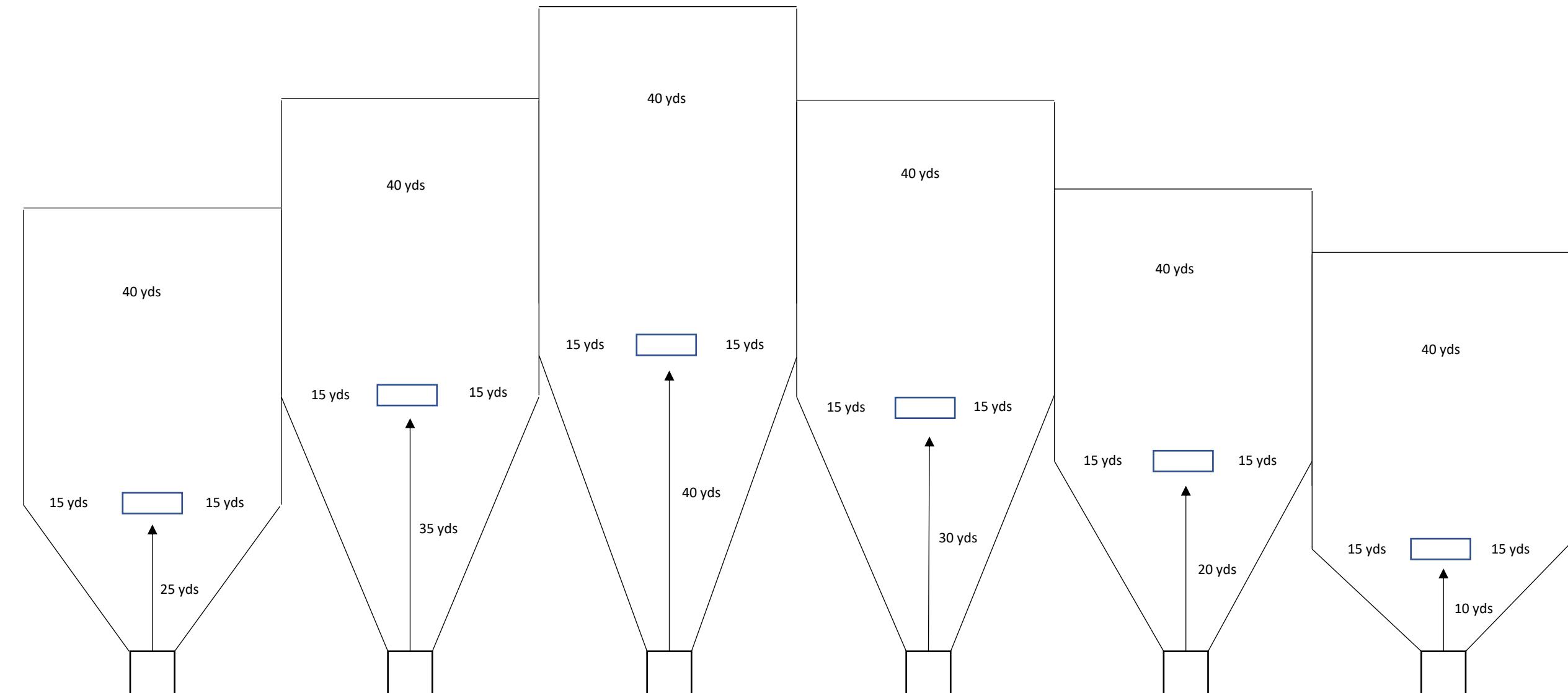
# Safety Protocol – Our Highest Priority

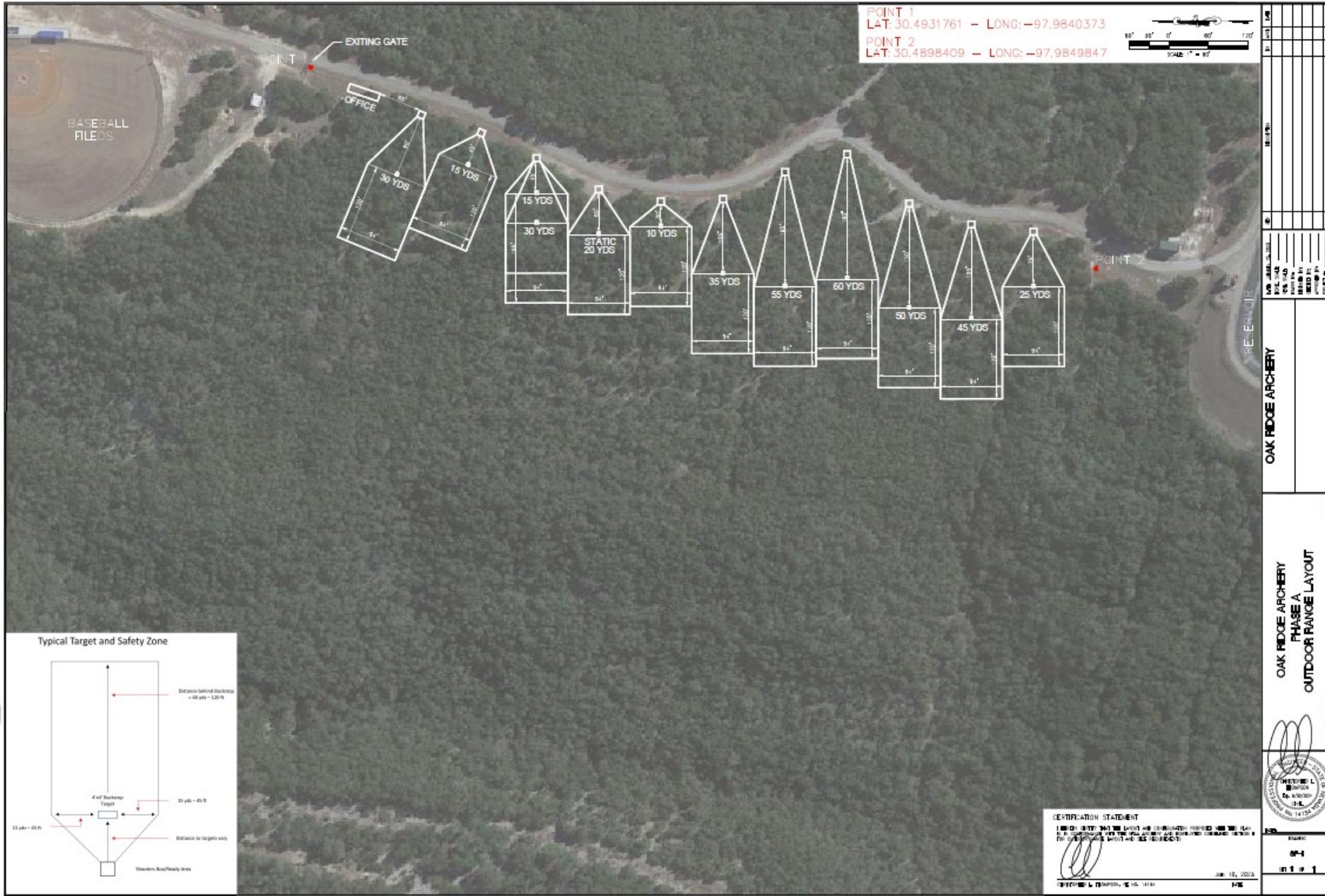
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- All target lanes will meet the National Field Archery Association (NFAA) range safety guidelines.
- A Chief Range Safety Officer and USA Archery certified instructor will be on staff.
- Archers will only have access to the range when there is staff present and on site.
- Each archer will be required to sign off on range rules as well as a liability waiver.
- Absolutely no broadhead tips and/or crossbows will be allowed. Field target tips only.
- Oak Ridge Archery, LLC will carry a \$1M liability insurance policy where the City of Lago Vista can be added as a rider.



# Target Station Typical Spacing



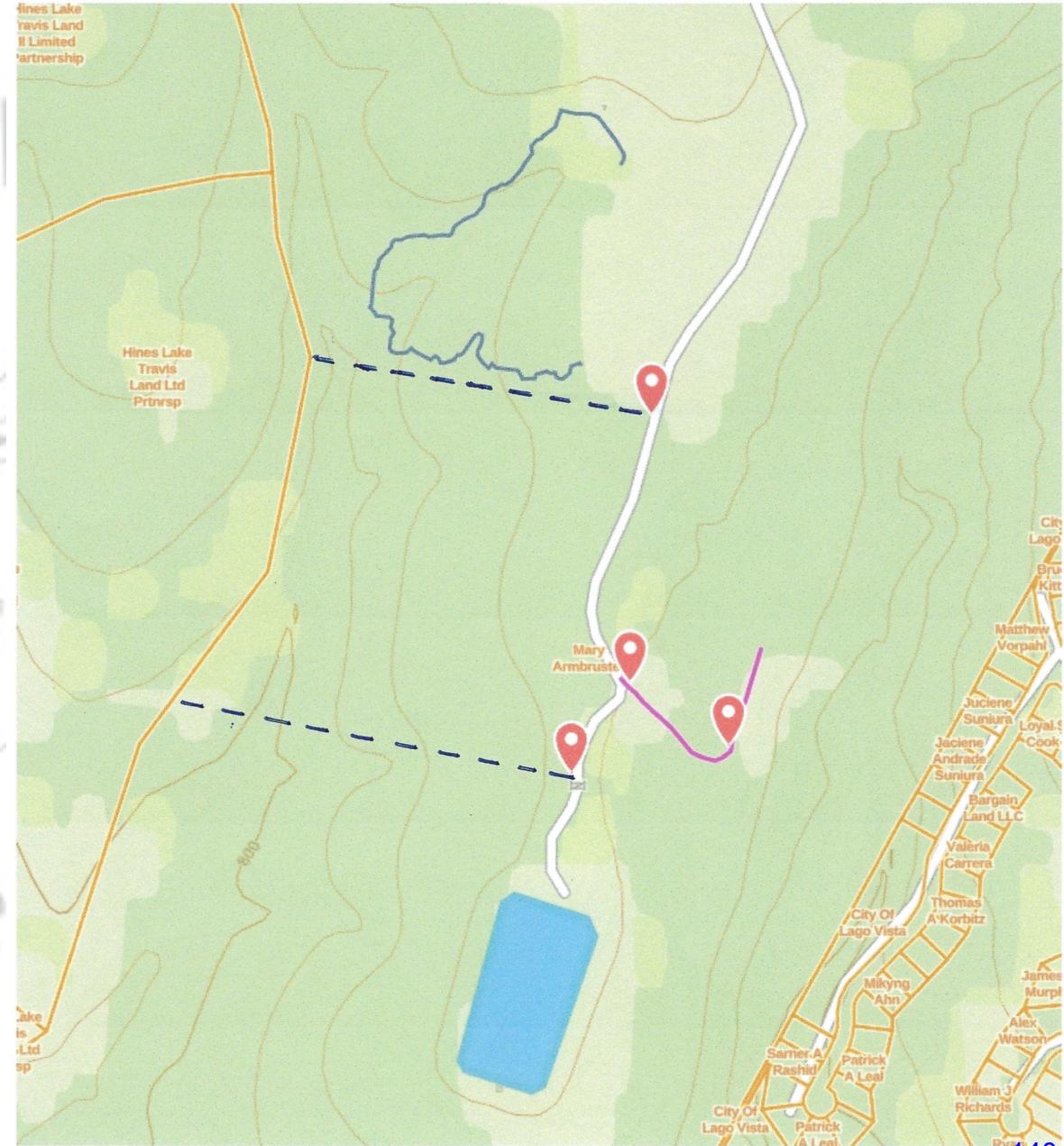


# Proposed Parking Areas



## City Controlled Access Gates

- Sunset Park South Boundary
- LVPD Shooting Range
- Public Works Treatment Facility

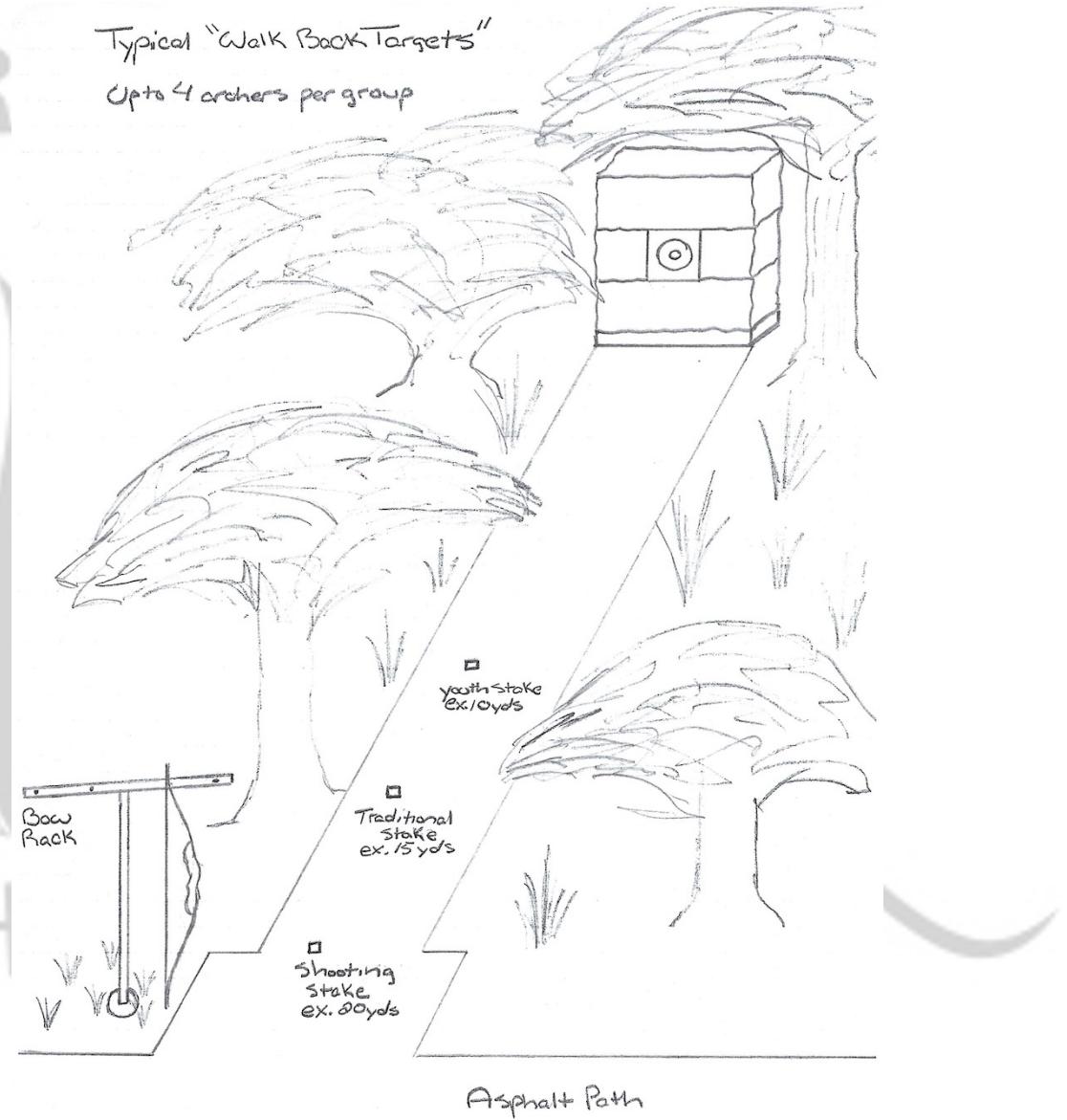


# Concept Drawing



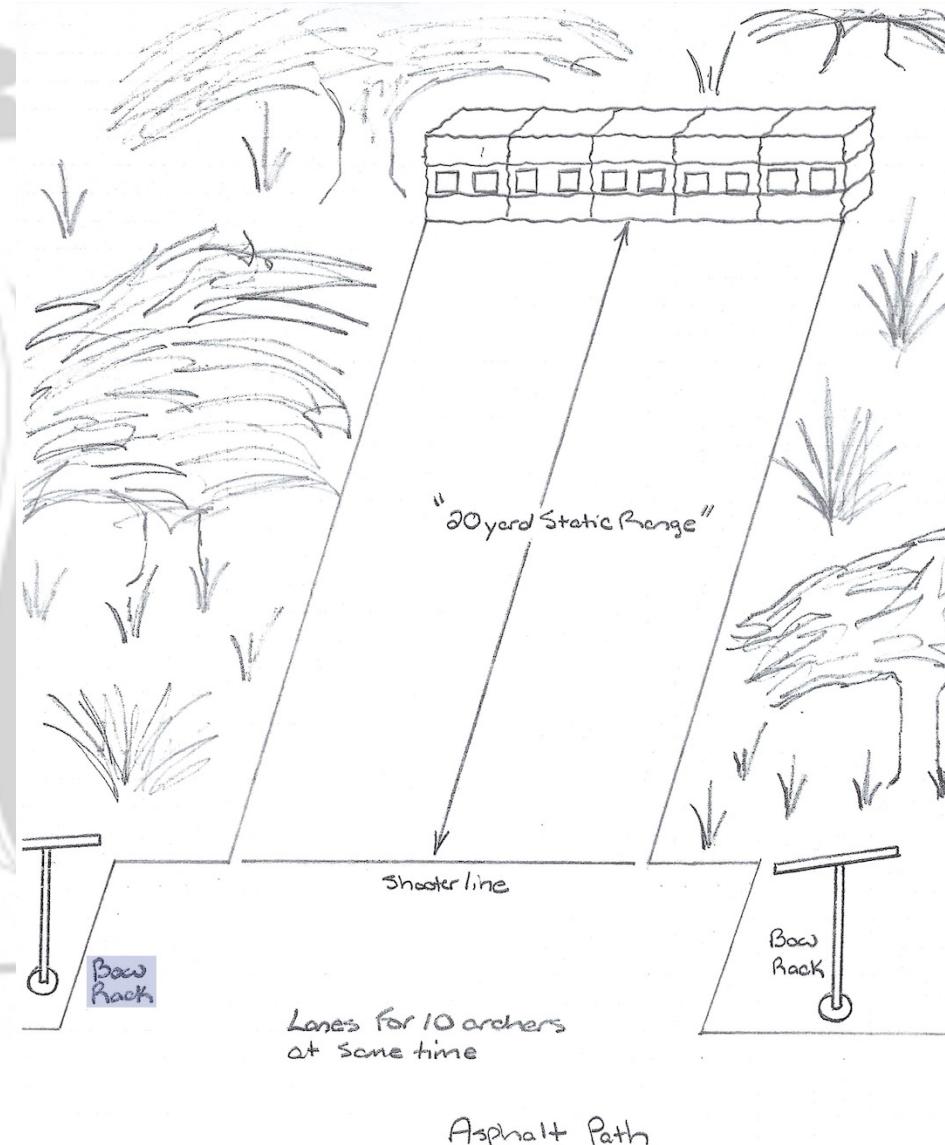
Typical "Walk Back Targets"

Up to 4 archers per group



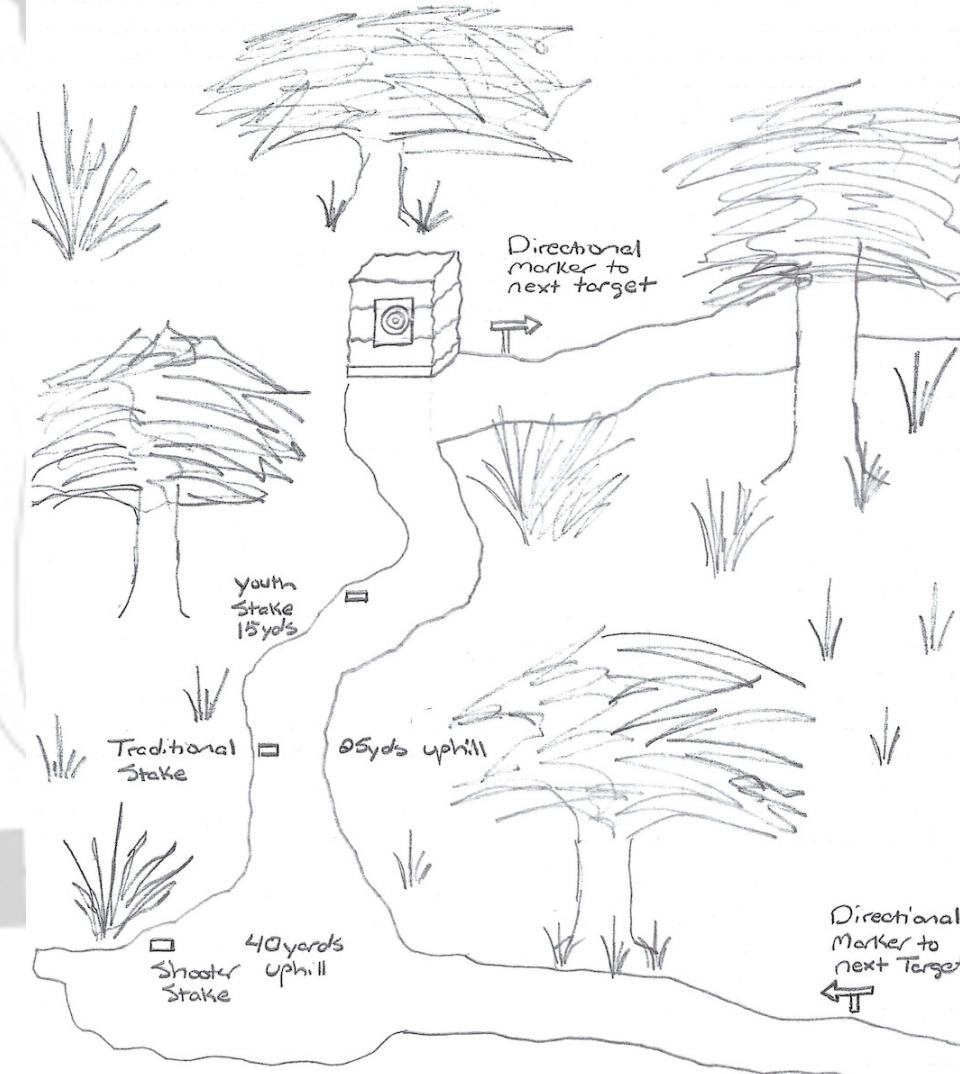
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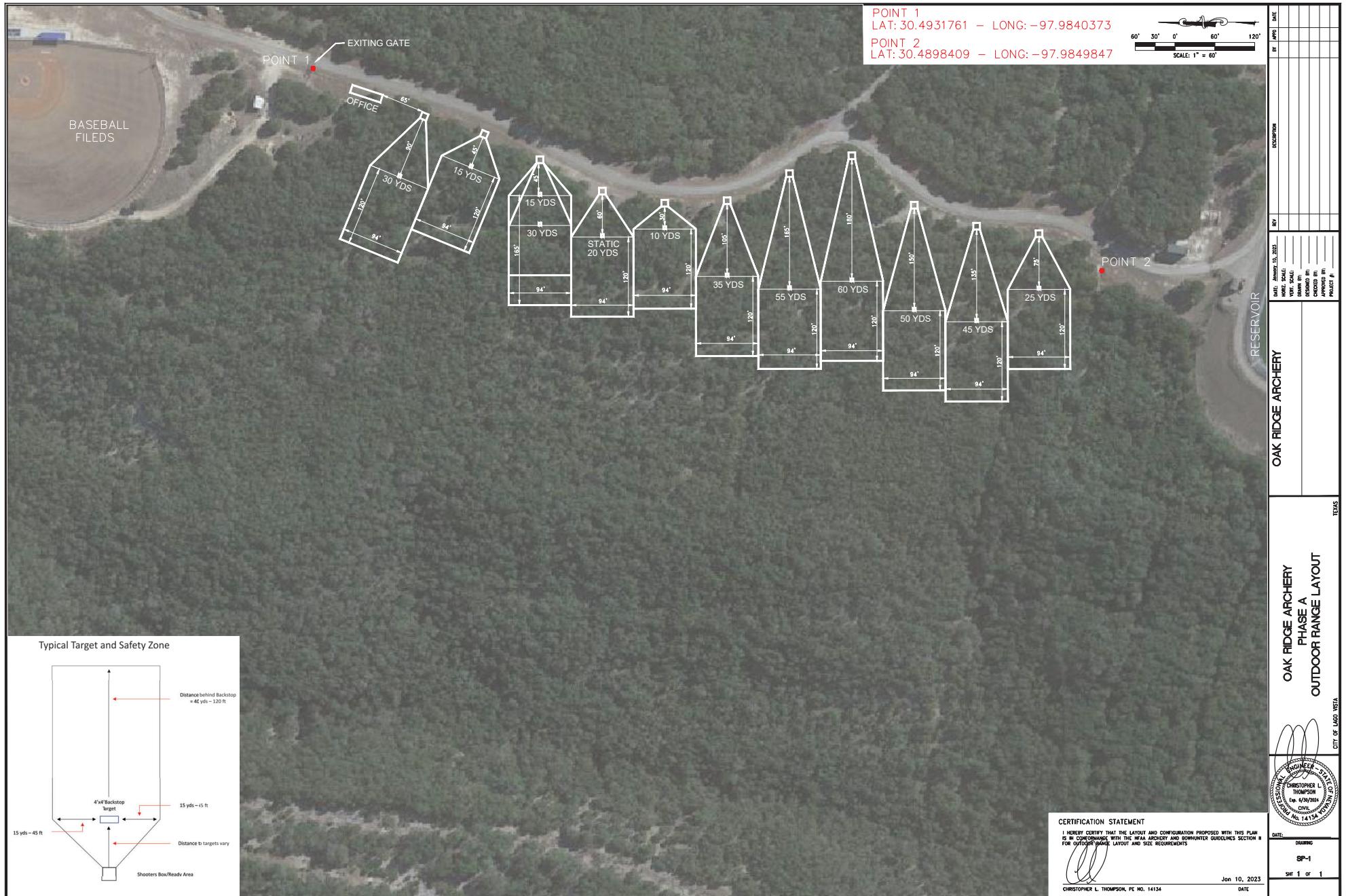
OAK R  
ARK  
ARC+



# Concept Drawing

Example of "Walking Trail Course"  
Terrain and Distances Vary for each shot!







## Range Rules

1. Oak Ridge Archery requires a release form prior to using the range.
2. Crossbows, firearms, air guns, paintball guns, and sling shots are strictly prohibited on the range... no exceptions.
3. No shooting at a target butt from outside the established target lane or shooting stake.
4. Broadheads or blunts are never to be shot into target butts or 3-D targets.
5. No littering or dumping on the range. All litter must be deposited into trash receptacles.
6. Alcoholic beverages are not allowed on the range.
7. Smoking is prohibited on the range.
8. To hunt, harass or discharge an arrow at any wildlife on the range is strictly prohibited.
9. Dogs shall be kept on leash or under control at all times.
10. Range privileges are revocable. If you do not comply with the rules of the range as posted, disciplinary actions may include suspension and/or expulsion from the range.

## Safety Rules

1. When looking for lost arrows, either place a bow in front of the target butt or have someone stand in front of the bale. Do not wander behind an adjoining target lane.
2. Never shoot an arrow you cannot see where it will land, and never shoot an arrow straight up into the air. NO SKYDRAWING on the range.
3. The walking range shall be shot in a sequential manner from Lower to Higher target number. No backtracking allowed.
4. Never shoot a broken or cracked arrow. Check your equipment regularly.
5. Arrows to only be shot at targets attached to backstops or 3-D targets.
6. Never string another person's bow or draw another person's bow without permission.
7. A bow and arrow when properly used can be a lot of fun, but can be dangerous when used irresponsibly.

**Waiver/Release**  
**ARCHERY RANGE WAIVER AND RELEASE OF LIABILITY**  
**READ BEFORE SIGNING**

In consideration of being allowed to participate in any way in Oak Ridge Archery, LLC events and activities, the undersigned acknowledges, appreciates, and agrees that:

- 1) The risk of injury from archery and other known and unknown events and activities and/or the use of the related buildings, structures, equipment, automobiles, weapons, ATV's, boats, tree stands, roads, bodies of water, land and all other real and personal property whether owned by Oak Ridge Archery, LLC or others is significant, including the potential for permanent paralysis and death, and while particular rules, equipment, and personal discipline may reduce this risk, the risk of serious injury does exist; and,
- 2) I acknowledge and agree that the use of archery equipment and other weapons by myself or others on premises or otherwise are inherently dangerous and high-risk activities whether such archery equipment or weapons are discharged by myself or others; and
- 3) I KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS, both known and unknown, EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES or others, and assume full responsibility for my participation; and,
- 4) I willingly agree to comply with the stated and customary terms and conditions for participation. If, however, I observe any unusual significant hazard during my presence or participation, I will remove myself from participation and bring such to the attention of the nearest official immediately; and,
- 5) I, for myself and on behalf of my heirs, assigns, personal representatives and next of kin, HEREBY RELEASE AND HOLD HARMLESS Oak Ridge Archery, LLC its officers, directors, officials, agents, employees, volunteers, members, guests, other participants, sponsoring agencies, sponsors, advertisers, and if applicable, owners and lessors of real property and personal property used to conduct the events and activities ("RELEASEES"), WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH, or loss or damage to person or property, WHETHER ARISING FROM THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE, TO THE FULLEST EXTENT PERMITTED BY LAW.

**I HAVE READ THIS RELEASE OF LIABILITY AND ASSUMPTION OF RISK AGREEMENT, FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND SIGN IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.**

---

Participant's Name

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

Participant's Signature

---

**FOR PARTICIPANTS OF MINORITY AGE  
(UNDER AGE 18 AT THE TIME OF PARTICIPATION)**

This is to certify that I, as parent/guardian with legal responsibility for this participant, do consent and agree to his/her release as provided above of all the Releasees, and for myself, my heirs, assigns, and next of kin, I release and agree to indemnify and hold harmless the Releasees from any and all liabilities incident to my minor child's involvement or participation in these events and activities and/or the use of related real and personal property as provided above, EVEN IF ARISING FROM THEIR NEGLIGENCE.

---

Name of Parent/Guardian

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

Parent/Guardian Signature

Emergency Phone Number: (\_\_\_\_\_) \_\_\_\_\_



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor and City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration and possible action regarding the selection of a new website design and hosting service for the City of Lago Vista website.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The City issued a request for proposal (RFP) to select a website design and hosting service to assist the City of Lago Vista with a new city website. The RFP was issued in early September with a submittal deadline of September 12, 2022. Eleven proposals were returned by the submittal deadline. Staff then evaluated the proposals according to criteria set forth in the RFP. The criteria consisted of purchase price, timeline for the project, functionality, reputation of the company, experience and reference checks.

Once staff narrowed the proposals down to three (3) hosting services, a stakeholder group comprised of one council member, four (4) residents and representatives from each department was initiated. The stakeholder group demoed all three (3) platforms and graded each based on the criteria listed above. Ultimately, CivicEngage was the website design and hosting service that scored the highest. CivicEngage is within the allocated budget for this project. The FY2022-2023 budget \$75,000 for Professional Services in the General Fund Information Technology Fund.

Staff recommends authorizing the City Manager to execute an agreement with CivicEngage not to exceed \$35,000 for website design and hosting.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:**

10-558-6100 Professional Services IT General Fund Account \$35,000

**Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration and possible action regarding the selection of a new website design and hosting service for the City of Lago Vista website.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.09 16:22:22 -06'00'

Proposal Evaluation Factors												
Vendor	Purchase Price	Timeline	Functionality	Reputation	Experience	References						
More Coffee	\$61,500	12-16 weeks	No licensing. Web-based, 5 phased process.	No references provided.								
	\$10		15	10	10	5	0		41	\$45		
vTech Solution	71200, \$67.00 per hour for technical support	5 Phases - 25 weeks		Founded in 2006, woman owned, minority owned.	Federal, state and commercial clients but no municipality.						\$50	8
	10 and 13	20 and 17	20 an 15	10 and 7	10 and 7	8 and 7		78	66	\$72	3	
Planeteria Media	\$37,050.00	30 weeks		23 years in developing websites	Municipal Experience							
	20 and 20	15 and 18	15 and 15	5 and 7	10 and 7	10 and 7		70	74	72	2	
Cheeky Monkey Media	47,500 with 7,500 per year	20 weeks										
	14 and 15	15 and15	10 and 5	2 5 and 2	3 and 5			49	44	46.5	7	
GovOffice	6500 plus an add on feature of \$4,996 annual subscription	Typically 12 weeks	Rotating photo banners, site search, social media interface, staff directory, URL redirect, unique department home pages.	20 years experience	Experience w/ municipalities							
	15 and 15	15 and 15	10 and 10	5 and 5	10 and 5	10 and 5		70	55	62.5	4	
Lab Information Technology	\$50,270.00	10-12 weeks	Video center for live streaming, website visitor profile, e-communication platform.	20 years in internet-based websites.	No municipal references. Commercial only.							
	10 and 10	5 and 10	8 and 8	3 and 5	10 and 2	0 and 2		36	37	36.5	12	
Niki Jones	\$91,385.61	7 months	Included mandatory and preferred features	23 years experience	Limited municipal references.							
	5 and 5	10 and 10	12 and 10	5 and 5	8 and 5	5 and 5		45	40	42.5	11	
Revize	46,300	16 to 21 weeks										
	10 and 10	10 and 15	10 and 15	5 and 7	8 and 7	5 and 7		48	61	54.5	6	
Civic Engage	\$34,886	26 weeks	FAQs, document management, dashboards	20 years experience	extensive municipal references							
	20 and 20	15 and 20	20 and 15	10 and 10	10 and 9	10 and 9		83	83	84	1	
GovUnity	\$17,400	15 weeks	Google analytics, FAQ, chatbot, language translator	Founded in 2009	municipal experience from the east coast							

JesseJames Creative	17 and 20 \$66,750	15 and 15 26-30 weeks	13 and 8 Emphasized calendar module, social media and reservations. Did not address all the other items requested in the RFP.	5 and 5 10+ years, been in marketing for 25+ years.	5 and 2 No municipal references, only provided case studies.	3 and 2 No municipal references, only provided case studies.	58	52	55	5
	10 and 10	25 and 5	11 and 8	5 5 and 5	0 and 2		56	32	44	9
Purchase Price 25 pts.										
CivicPlus		15	20	20			10	10		75
Planteria		20	20	15			7	10		72
GovOffice		25	15	5			3	10		58
		T								



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Mayor Tidwell

**Subject:** Discussion, consideration, and possible action regarding a Legislative Bill concerning CapMetro and the Texas Transportation Code.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Following the CapMetro election in 2016, the City Council sought to change the legislation pertaining to small city membership in the Capital Metropolitan Transportation Authority. Staff brought in Attorney Leonard Smith to write the Bill. The Bill was taken up by State Representative Paul Workman during the 2017 Legislative session. The Bill was sent to the Transportation Committee. Mayor Dale Mitchell championed the Bill in committee. It was amended and passed out of committee to the floor. It was due to be heard on the floor on Mother's Day 2017 but because of a protest, all Bills under the Local and Consent Agenda died on the House Floor. Both the filed Bill and the Bill that passed out of the Transportation Committee are included in the packet.

Attempts were made in 2019 and 2021 to file the Bill again. Our State Representative Vikki Goodwin chose not to file the Bill on our behalf.

We now have the opportunity to file with the Legislation once again. We have a new State Representative who may be willing to file the Bill on our behalf. The Council secured the assistance of Attorney Leonard Smith once again. Mr. Smith was asked to update the last legislative bill to present to Representative Troxclair.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action regarding a Legislative Bill concerning CapMetro and the Texas Transportation Code.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 15:33:41 -06'00'

## **BILL ANALYSIS**

H.B. XXXX  
By: *Insert sponsor*

### **BACKGROUND AND PURPOSE**

Sections 451.601 – 451.618, Transportation Code, provide for the withdrawal of a city or other political subdivision from the Capital Metropolitan Transportation Authority.

H.B. XXXX allows for a withdrawal election to occur not more frequently than annually and adjusts a withdrawn city's obligation to contribute to a commuter rail system that does not serve the withdrawn city.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. XXXX amends the Transportation Code to allow a withdrawal election to be held not more frequently than annually.

H.B. XXXX amends the Transportation Code to prescribe new ballot proposition language for a withdrawal election.

H.B. XXXX amends the Transportation Code to conform the election results with the new ballot proposition language.

H.B. XXXX amends the Transportation Code to provide that the Comptroller shall determine each element of the calculation for the financial obligations of a withdrawn city to the authority.

HB XXXX amends the Transportation Code to give the Comptroller discretion to determine a reasonable credit for a disparity in transit services, if any, provided by the authority to the withdrawn city.

HB XXXX amends the Transportation Code to exclude outstanding obligations related to rail service from the calculation for the financial obligations of a withdrawn city to the authority if the withdrawn city does not receive rail service from the authority.

HB XXXX amends the Transportation Code to require the authority to provide all information requested by the Comptroller and to allow the withdrawn city to provide information to the Comptroller.

HB XXXX amends the Transportation Code to require the authority to annually report a good faith estimate of each unit of election's net financial obligation.

H.B. XXXX amends the Transportation Code to provide that the Comptroller shall certify a withdrawn city's net financial obligation within 180 days after a withdrawal election.

**EFFECTIVE DATE**

September 1, 2023.

By: \_\_\_\_\_

H.B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT

relating to a unit of election's withdrawal from a metropolitan rapid transit authority.

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

SECTION 1. Section 451.603, Transportation Code, is amended to read as follows:

Sec. 451.603. WITHDRAWAL OF UNIT OF ELECTION.

(a) The governing body of a unit of election may order an election to withdraw the unit of election from an authority.

(b) On the determination by a governing body of a unit of election that a petition for withdrawal under this subchapter is valid, the governing body shall order an election to withdraw the unit of election from the authority.

(c) An election to withdraw may not be held [ordered, and a petition for an election to withdraw may not be accepted for filing, on or] before the first [fifth] anniversary after the date of a previous election in the unit to withdraw from the authority.

(d) An attempt by a unit of election to withdraw from an authority in a manner other than as provided by this subchapter is void.

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

(e) First anniversary means the uniform election date in the same month of the succeeding year after an election to withdraw a unit of election from an authority.

SECTION 2. Section 451.603, Transportation Code, is amended to read as follows:

Sec. 451.607. ELECTION.

(a) An election to withdraw from an authority ordered under this subchapter must be held on the first applicable uniform election date occurring after the expiration of 90 days after the date the governing body orders the election.

(b) The governing body shall give notice of the election to the board, the Texas Department of Transportation, and the comptroller immediately on calling the election.

(c) At the election the ballot shall be printed to provide for voting for or against the proposition: "Shall (name of unit of election) withdraw from the (name of authority)?" ["Shall the (name of authority) be continued in (name of unit of election)?" ]

(d) The election shall be held in the regular precincts and at the regular voting places.

SECTION 3. Section 451.608, Transportation Code, is amended to read as follows:

Sec. 451.608. RESULT OF WITHDRAWAL ELECTION.

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

(a) If a majority of the votes received on the measure in an election held under Section 451.607 favor the proposition, the unit of election withdraws from the authority, and the authority ceases in the unit of election on the day after the governing body canvasses day the election results [authority continues in the unit of election].

(b) If less than a majority of the votes received on the measure in the election favor the proposition, the authority continues [ceases] in the unit of election [on the day after the day the election returns are canvassed].

SECTION 4. Section 451.611, Transportation Code, is amended to read as follows:

Sec. 451.611. DETERMINATION OF TOTAL AMOUNT OF FINANCIAL OBLIGATIONS OF WITHDRAWN UNIT. (a) The net financial obligation of a withdrawn unit of election to the authority is an amount equal to:

(1) the gross financial obligations of the unit, which is the sum of:

(A) the unit's apportioned share of the authority's outstanding obligations; and

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

(B) the amount, not computed in Subdivision (1) (A), that is necessary and appropriate to allocate to the unit because of financial obligations of the authority that specifically relate to the unit; minus

(2) the unit's apportioned share of the unencumbered assets of the authority that consist of cash, cash deposits, certificates of deposit, and bonds, stocks, and other negotiable securities plus a reasonable credit, if any, determined by the comptroller for a disparity in transit services, if any, provided by the authority to the unit.

(b) An authority's outstanding obligations under Subsection (a) (1) (A) is the sum of:

(1) the obligations of the authority authorized in the budget of, and contracted for by, the authority;

(2) outstanding contractual obligations for capital or other expenditures, including expenditures for a subsequent year, the payment of which is not made or provided for from the proceeds of notes, bonds, or other obligations;

(3) payments due or to become due in a subsequent year on notes, bonds, or other securities or obligations for debt issued by the authority;

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, note or bond holders, or other creditors or contractors; and

(5) the amount necessary for the full and timely payment of the obligations of the authority, to avoid a default or impairment of those obligations, including contingent liabilities; minus

(6) the authority's outstanding obligations related to rail service if a unit of election does not receive rail service from the authority.

(c) The apportioned share of a unit's obligation or assets is the amount of the obligation or assets times a fraction, the numerator of which is the number of inhabitants of the withdrawing unit of election and the denominator of which is the number of inhabitants of the authority, including the number of inhabitants of the unit.

(d) The comptroller [board] shall determine the amount of each component of the computations required under this section, including the components of the unit of election's apportioned share and a reasonable credit, if any, determined by the

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

comptroller for a disparity in transit services provided by the authority to the unit of election as of the effective date of withdrawal. The number of inhabitants shall be determined according to the most recent and available applicable data of an agency of the United States.

(e) The authority shall provide all information requested by the comptroller to determine the amount of each component of the computations required under this section. The unit of election may provide information to the comptroller with respect to any component, including information about a disparity in transit services, if any, provided by the authority to the unit of election.

(f) The comptroller has discretion to determine a reasonable credit, if any, for a disparity in transit services provided by the authority to the unit of election.

(g) An authority shall make a good faith estimate of each unit of election's net financial obligation and shall annually report the good faith estimate to each unit of election no later than October 1<sup>st</sup>.

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

(h) A unit of election does not receive rail service from an authority if the authority does operate a commuter rail line within the unit of election's official boundaries.

SECTION 5. Section 451.612, Transportation Code, is amended to read as follows:

Sec. 451.612. CERTIFICATION OF NET FINANCIAL OBLIGATION OF UNIT.

(a) If a majority of the votes received on the measure in an election held under Section 451.607 favor the proposition, [The] the comptroller [board] shall certify to the governing body of a withdrawn unit of election and to the authority [comptroller] the net financial obligation of the withdrawn unit of election to the authority as determined under this subchapter.

(b) If [there is no net financial obligation of the] a withdrawn unit of election has no net financial obligation, the comptroller shall certify [certification must show] that fact to the governing body of a withdrawn unit of election and to the authority.

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

(c) The comptroller shall make a certification required under this section within 180 after an election held under Section 451.607.

SECTION 6. Section 451.617, Transportation Code, is amended to read as follows:

Sec. 451.617. WITHDRAWAL: ALTERNATIVE METHOD FOR CERTAIN AUTHORITIES.

(a) In an authority created before 1990 [1980] in which the principal municipality has a population of less than 1.9 million, a unit of election, other than the principal municipality, may withdraw from the authority, in addition to any other manner provided by law, by a vote of a majority of the registered voters of the unit of election voting at an election on the question of withdrawing from the authority.

(b) The governing body of a unit of election, other than the principal municipality, may order an election to withdraw the unit of election from an authority.

(c) The governing body of a unit of election in the authority, other than the principal municipality, shall call an election under this section in a unit of election if a petition requesting that an election to withdraw from the authority be

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

held is submitted to the governing body and is signed by at least 10 percent of the registered voters of the unit of election on the date the petition is submitted. To be counted for purposes of validating the petition, a signature on the petition must have been inscribed not earlier than the 120th day before the date the petition is submitted to the governing body.

(d) The governing body, before the 31st day after the date the petition is submitted to the governing body, shall determine whether a petition under this section is valid, and if the governing body fails to act on the petition before the expiration of that period, the petition is valid.

(d) Sections 451.601, 451.607, 451.608, 451.609, 451.611, 451.612 [+(a)], [and] 451.613, 451.614, and 451.615 apply to the withdrawal of a unit of election under this section.

(e) An election may not be held under this section on a date earlier than the first anniversary of the date of the most recent election held under this section.

(f) First anniversary means the uniform election date in the same month of the succeeding year after an election to withdraw a unit of election from an authority.

SECTION 7. The governing body of a unit of election may order an election to withdraw the unit of election from a

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***

metropolitan rapid transit authority under Chapter 451, Subchapter M, Transportation Code, to held on November 7, 2023, without complying with Sec. 451.607(a), Transportation Code, if the governing body orders the election to withdraw by September 7, 2023.

SECTION 8. This Act takes effect September 1, 2023.

**\*\*\* DRAFT FOR REVIEW AND DISCUSSION \*\*\***



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor and City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration, and possible action on Resolution 23-1986, A Resolution of the City Council of the City of Lago Vista authorizing support for Legislative changes relating to the authority of the Capital Metropolitan Transportation Authority.

**Request:** Business Item

**Legal Document:** Resolution

**Legal Review:**

### **EXECUTIVE SUMMARY:**

It has come to our attention that Representatives and Senators may be looking to file additional bills such as the City of Lago Vista's regarding CapMetro. The passing of this Resolution would show support for other initiatives regarding legislative action regarding CapMetro.

**Impact if Approved:**

Resolution of support approved

**Impact if Denied:**

Resolution of support denied

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action on Resolution 23-1986, A Resolution of the City Council of the City of Lago Vista authorizing support for Legislative changes relating to the authority of the Capital Metropolitan Transportation Authority.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 16:21:25 -06'00'

RESOLUTION NO. 23-1986

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA AUTHORIZING SUPPORT FOR LEGISLATIVE CHANGES RELATING TO THE AUTHORITY OF THE CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY.

WHEREAS, Capital Metropolitan Transportation Authority (the “Authority”) is currently entitled to a portion of the sales tax collected within the City of Lago Vista (the “City”) equal to one cent per dollar spent; and

WHEREAS, due to geographical limitations, the services provided to the City by the Authority are limited in proportion to the amount of sales tax foregone by the City under such arrangement; and

WHEREAS, the City may hold an election to withdraw from participation in the Authority, and did hold such election in 2016, and again in 2022; and

WHEREAS, the City supported state legislation in 2017, 2019, and 2021 which would allow a city to hold an election on the issue of withdrawal from the Authority more frequently than currently allowed under the Transportation Code, and which would change the method of calculation of the financial obligation owed by a withdrawn city to the Authority; and

WHEREAS, the City Council, at its December 15<sup>th</sup> meeting discussed the support of a bill similar to the bills proposed in the 2017, 2019, and 2021 legislative session; and

WHEREAS, the 2023 Texas Legislative Session has begun.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

SECTION 1. The City Council supports legislation authorizing the City to hold an election on the question of withdrawal from the Authority to occur more frequently than allowed under the current Texas Transportation Code, and amending the ballot proposition language for such election.

SECTION 2. The City Council supports legislation providing that the Texas Comptroller shall determine each element of the calculation for the financial obligations of a withdrawn city to the Authority.

SECTION 3. The City Council supports legislation giving the Comptroller discretion to determine a reasonable credit for a disparity in transit services provided by the Authority to a withdrawn city, including a credit reflecting a lack of rail service to a withdrawn city.

SECTION 4. The City Council supports legislation requiring that the Authority provide certain information to the Comptroller related to a unit's net financial obligation.

PASSED AND APPROVED this the 19th day of January, 2023.

---

Ed Tidwell , Mayor

ATTEST:

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Lucy Aldrich, City Secretary



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration and possible action allowing for the submission of a City facility naming application for Ann Murrow.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

A request was submitted to the City Council to honor one of the City of Lago Vista's most distinguished citizens. The Council discussed this request at the August 4th meeting. Council decided it would be more proper to establish a policy for these types of designation before honoring the request. The City Council approved the naming policy at the December 1, 2022, Council meeting.

A request was made by Councilor Paul Roberts to bring an agenda item forward for City Council consideration. According to the recently approved naming policy, members of the City Council may submit naming request applications for consideration at any time with no requirements of a petition. Councilmember requests to name/rename City Facilities, activities or programs must have a majority vote before submitting the application to the City Manager for review and evaluation.

**Impact if Approved:**

An application will be submitted and a public hearing will be scheduled according the naming policy.

**Impact if Denied:**

No application will be allowed to be submitted.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:**

N/A

**Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration and possible action allowing for the submission of a City facility naming application for Ann Murrow.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.09 13:57:15 -06'00'



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Rob Durbin, City Council

**Subject:** Discussion, consideration, and possible action regarding Resolution 23-1983; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member of the Airport Advisory Board.

**Request:** Business Item

**Legal Document:** Resolution

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The City Council will need to appoint another individual to the Airport Advisory Board due to the recent resignation of Shelby Palmer.

Councilor Durbin is the liaison to the Airport Advisory Board and has reviewed applicants from the most recent call for committee members back in December.

**Impact if Approved:**

A new AAB member will be appointed.

**Impact if Denied:**

The position on AAB will remain vacant.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action regarding Resolution 23-1983; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member of the Airport Advisory Board.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 14:23:20 -06'00'

**CITY OF LAGO VISTA, TEXAS**

**RESOLUTION 23-1983**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS  
APPOINTING AN INDIVIDUAL TO FILL UNEXPIRED VACANT TERM AS A  
MEMBER OF THE AIRPORT ADVISORY BOARD.**

**WHEREAS**, the Airport Advisory Board has one vacancy due to a recent resignation; and

**WHEREAS**, it is important to appoint individuals who are objective, knowledgeable and that have acquired relevant experience; and

**WHEREAS**, it is prudent to fill the vacancies on the Board to maximize opportunities for a quorum and conducting business.

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

**THAT**, the City Council of the City of Lago Vista, Texas, does hereby appoint \_\_\_\_\_, with a term that expires in December 31,2023.

**AND, IT IS SO RESOLVED.**

**PASSED AND APPROVED** this 19th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Chelaine Marion, City Council

**Subject:** Discussion, consideration, and possible action regarding Resolution 23-1984; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member of the Board of Adjustment.

**Request:** Business Item

**Legal Document:** Resolution

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The City Council will need to appoint another individual to the Board of Adjustment due to the recent resignation of David Steele.

Councilor Marion is the liaison to the Board of Adjustment and has reviewed applicants from the most recent call for committee members back in December.

**Impact if Approved:**

A new BOA member will be appointed.

**Impact if Denied:**

The position on BOA will remain vacant.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action regarding Resolution 23-1984; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member of the Board of Adjustment.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 14:24:03 -06'00'

**CITY OF LAGO VISTA, TEXAS**

**RESOLUTION 23-1984**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS  
APPOINTING AN INDIVIDUAL TO FILL UNEXPIRED VACANT TERM AS A  
MEMBER OF THE BOARD OF ADJUSTMENT.**

**WHEREAS**, the Board of Adjustment has one vacancy due to a recent resignation; and

**WHEREAS**, it is important to appoint individuals who are objective, knowledgeable and that have acquired relevant experience; and

**WHEREAS**, it is prudent to fill the vacancies on the Board to maximize opportunities for a quorum and conducting business.

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

**THAT**, the City Council of the City of Lago Vista, Texas, does hereby appoint \_\_\_\_\_, with a term that expires in December 31,2024.

**AND, IT IS SO RESOLVED.**

**PASSED AND APPROVED** this 19th day of January 2023.

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Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 19, 2023

**From:** Gage Hunt, City Council

**Subject:** Discussion, consideration, and possible action regarding Resolution 23-1985; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member of the Golf Course Advisory Committee.

**Request:** Business Item

**Legal Document:** Resolution

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The City Council will need to appoint another individual to the Golf Course Advisory Committee due to the recent resignation of Mark Douglas.

Councilor Hunt is the liaison to the Golf Course Advisory Committee and has reviewed applicants from the most recent call for committee members back in December.

**Impact if Approved:**

A new GCAC member will be appointed.

**Impact if Denied:**

The position on GCAC will remain vacant.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action regarding Resolution 23-1985; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member of the Golf Course Advisory Committee.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.11 17:34:45 -06'00'

**CITY OF LAGO VISTA, TEXAS**

**RESOLUTION 23-1985**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS  
APPOINTING AN INDIVIDUAL TO FILL UNEXPIRED VACANT TERM AS A  
MEMBER OF THE GOLF COURSE ADVISORY COMMITTEE.**

**WHEREAS**, the Golf Course Advisory Committee has one vacancy due to a recent resignation; and

**WHEREAS**, it is important to appoint individuals who are objective, knowledgeable and that have acquired relevant experience; and

**WHEREAS**, it is prudent to fill the vacancies on the Committee to maximize opportunities for a quorum and conducting business.

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

**THAT**, the City Council of the City of Lago Vista, Texas, does hereby appoint \_\_\_\_\_, with a term that expires in December 31, 2023.

**AND, IT IS SO RESOLVED.**

**PASSED AND APPROVED** this 19th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor and City Council

**Council Meeting:** January 19, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration, and possible action on an Interlocal Agreement with Travis County Emergency Services District 1 (ESD 1).

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Between October 1, 2019 and September 30, 2020, the Chief of ESD 1 served as the City's Emergency Management Coordinator. During that time ESD 1 provided support services for Emergency Management to the City's Mayor. The cost for those services was an annual fee of \$18,000.

The City of Lago Vista would like to once again work cooperatively with the Travis County Emergency Services District 1 (ESD 1) for emergency management services. The Council discussed this topic during their September budget meeting and allocated funds for this purpose.

The Travis County ESD Board considered and approved this Interlocal Agreement at their January 11, 2023, board meeting. Included in this packet is the ILA considered by the board and signed by the Chief.

Staff is requesting Council approval the Interlocal Agreement for Emergency Management Services with Travis County ESD 1.

**Impact if Approved:**

Emergency Management Services will be provided by ESD 1.

**Impact if Denied:**

Emergency Management Services will remain the sole responsibility of the City and the Mayor.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:**

Development Services Professional Development 10-512-6100

**Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action on an Interlocal Agreement with Travis County Emergency Services District 1 (ESD 1).

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2023.01.12 15:50:59 -06'00'

**INTERLOCAL AGREEMENT FOR EMERGENCY MANAGEMENT SERVICES**  
**BETWEEN THE CITY OF LAGO VISTA, TEXAS AND TRAVIS COUNTY**  
**EMERGENCY SERVICES DISTRICT NO. 1**

**STATE OF TEXAS**  
**COUNTY OF TRAVIS**

This Interlocal Agreement for Emergency Management Services (the “Agreement”) is entered into by and among the City of Lago Vista, Texas, a Home Rule Municipality in Travis County, Texas (the “City”) and the Travis County Emergency Services District No. 1, an emergency services district operating pursuant to Chapter 775, Texas Health and Safety Code, as amended (the “District”) (the City and the District may be referred to herein as the “Parties” or each individually as a “Party”) in accordance with the Interlocal Cooperation Act, Chapter 791, Texas Government Code, as amended (the “Act”).

## Recitals

**WHEREAS**, the District is a political subdivision of the State of Texas that provides emergency services to the residents and property owners within its territory, which includes the corporate limits of the City; and

**WHEREAS**, the City's Mayor (the "Mayor") is the emergency management director for the City; and

**WHEREAS**, beginning February 1, 2023, the Mayor will appointed the District's Fire Chief (the "Chief") as the City's Emergency Management Coordinator pursuant to Subchapter E of Chapter 418, Texas Government Code for the purposes of assisting the Mayor in carrying out the City's comprehensive emergency management program; and

**WHEREAS**, the Board of Emergency Services Commissioners (the “Board”) of the District has agreed to allow the Chief to serve as the City’s Emergency Management Coordinator in accordance with the terms of this Agreement; and

**WHEREAS**, the City Council (the "City Council") of the City and the Board of Emergency Services Commissioners (the "Board") of the District desire to memorialize the terms of the services to be provided by the Chief and the District as set forth in this Agreement .

## Agreement

1. **Effective Date:** The effective date of this Agreement shall be February 1, 2023.
2. **Emergency Management Coordinator:** The City acknowledges and agrees that the Mayor has heretofore appointed the Chief as the City's Emergency Management Coordinator (the "Coordinator") and that the Chief or his designee will perform the duties, as set forth herein, of the Coordinator. Unless as otherwise provided herein, the Chief shall serve as the Coordinator.

for the duration of the term of this agreement. The Chief shall be authorized from time to time to employ one or more deputy emergency management coordinator. Nothing herein shall prohibit the Chief from serving as the Emergency Management Coordinator for other local governmental entities.

3. **Emergency Management Plan.** The City shall develop and maintain an Emergency Management Plan as required under Section 418.106, Texas Government Code, as amended (the “Emergency Management Plan”). The City agrees to update its Emergency Management Plan as necessary to be consistent with the terms of this Agreement.

4. **Emergency Operations Center.** The City acknowledges that the District has established an Emergency Operations Center (“EOC”) to serve as a centralized operations center for the area located in the boundaries of the District during times of emergency. The EOC will serve as the operations center for the City in times of emergency during the term of this Agreement.

5. **Duties of the Coordinator.** During the term of this Agreement, the Coordinator shall serve as the assistant to the Mayor for emergency management purposes as set forth in Section 418.1015, Texas Government Code, as amended. During times of emergency the Coordinator shall:

- a. Coordinate the response and duties of local agencies (i.e. police, fire and ems) on behalf of the City and the other local governmental entities for which the Coordinator serves as the emergency management coordinator;
- b. Make recommendations to the Mayor in connection with the execution of the Mayor’s duties as Emergency Management Director under Chapter 418, Texas Government Code, as amended;
- c. Manage the EOC;
- d. Assist the City with any necessary updates to the Emergency Management Plan;
- e. Maintain all applicable training and certification necessary to carry out the duties of Coordinator;
- f. Assist the City in coordinating the City’s responsibilities under its applicable mutual aid agreements; and
- g. Any other duties requested by the Mayor and agreed upon by the Coordinator.
- h. Assist the City in coordinating the City’s responsibilities under its applicable mutual aid agreements; and
- i. Assist the City and Mayor with response and duties outlined in the City’s Emergency Response Plan, the Travis County Emergency Response Plan, and the Emergency Response Plan Annexes (i.e. Warning, Communication, and Public Information Officer, etc.);
- j. Assist the City and Mayor with documentation, reports, and requests both to and from the County, State, and Federal agencies (i.e. DSOs and PStats);
- k. Assist the City and Mayor with volunteer coordination;
- l. Sponsor and train the regional Citizen Emergency Response Team (CERT);
- m. Any other duties requested by the Mayor and agreed upon by the Coordinator.

The Parties acknowledge and agree that the Mayor shall remain the Governor's designated agent for the purposes of Section 418.1015 (b), Texas Government Code, as amended.

6. **Obligations of the City.** During the term of this Agreement the City shall:
  - a. Cooperate with the Coordinator and the District in the execution of the Coordinator's duties hereunder;
  - b. Deliver to the Coordinator the Emergency Management Plan, all applicable mutual aid agreements of the City and all other documents, policies and procedures of the City requested by the Coordinator in connection with the execution of the Coordinator's duties hereunder (along with revisions and amendments to each from time to time as applicable);
  - c. Ensure that Coordinator's designation as the City's Emergency Management Coordinator is filed and remains current in accordance with applicable state law and regulation;
  - d. Make the necessary appropriations in the City's annual budget for the payment of the Fee; and
  - e. Deliver timely payment of the Fee to the District when due;

7. **Payment for Services.** The City agrees to pay the District an annual fee of Twenty Thousand and no/100 Dollars (\$20,000.00) (the "Fee") per year for the services set forth in this Agreement, including the City's share of the costs associated with the EOC. The Fee shall be payable in quarterly installments of Four Thousand Five Hundred and no/100 dollars (\$5,000.00) due and payable beginning on March 1, 2023 and continuing on each January 1, June 1, September 1 and December 1 thereafter during the term of this Agreement. If the date the last of the City Council and the Board approve this Agreement is after the Effective Date, the City agrees to pay to the District in, in one lump sum within five (5) days of the City's execution of this Agreement, those quarterly payments that have become between the Effective Date and the date this Agreement is executed by the City but remain unpaid.

8. **Term.** The Term of this Agreement shall begin on the Effective Date and shall expire on September 30, 2028. This Agreement shall renew for successive two (2) year terms unless either Party provides written notice of termination to the other Party at least thirty (30) days prior to the expiration of the then current term.

9. **Notices.** Any notice given under this Agreement shall be in writing, and may be effected by personal deliver, or by certified mail, return receipt requested or by any other means agreed upon by the parties, at the addresses of the respective parties indicated below:

District      Travis County Emergency Services District No. 1  
20624 FM1431, Suite 5  
Lago Vista, Texas 78645  
Telephone (512) 267-0080  
Attn: Fire Chief

City      City of Lago Vista

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

10. **Interlocal Cooperation.** The City and the District agree to cooperate with each other, in good faith, at all times during the term hereof in order to effectuate the purposes and intent of this Agreement. Each party acknowledges and represents that this Agreement has been duly authorized by its respective governing body. Any funds required to be paid by either party hereunder shall be from current funds.

11. **Entire Agreement; Amendments.** This Agreement contains the entire agreement between the parties respecting its subject matter, and supersedes all prior understandings and agreements between the parties regarding these matters. This Agreement may not be modified or amended except by written agreement duly executed by the parties hereto.

12. **Interpretation.** The parties acknowledge and confirm that this Agreement has been entered into pursuant to the authority granted under the Act. All its terms and provision shall be construed and interpreted consistently with the Act.

13. **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

14. **Applicable Laws.** This Agreement must be construed in accordance with the laws and constitution of the State of Texas. All obligations under this Agreement are performable in Travis County, Texas, and venue for any action arising under this Agreement will be in Travis County, Texas.

15. **Limits of Liability.** Neither the City nor the District shall be liable for any claims, damages or attorney's fees arising from the negligent or illegal acts of the other party or its respective employees or agents in relation to the services or responsibilities of the other party under this Agreement.

16. **Shared Liability.** If both the District and the City are liable for any claims, damages, or attorney's fees from the negligent or illegal acts of the City and District in relation

to the services provided under this Agreement, the District and the City are individually liable for the portion of the claims, damages, and attorney's fees attributable to each that arise from their negligent or illegal acts or those of their respective employees and agents as determined by a court adjudicating the matter or as agreed in any settlement.

**Executed below to be effective as of the Effective Date.**

**Travis County Emergency Services District No. 1**

By: Donald Norman  
Donald Norman, Chief

Date: 1/12/2023

**City of Lago Vista**

By: \_\_\_\_\_  
Ed Tidwell, Mayor

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

ATTEST

By: \_\_\_\_\_  
Lucy Aldrich, City Secretary

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